

## Chapter 5

# Making Room for Democracy in Intergovernmental Relations

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### I Introduction

The challenge of reconciling the practice and institutions of intergovernmental relations with basic democratic values has long been a matter of concern in Australia. It is more than 40 years since Geoffrey Sawer wrote of the tendency of intergovernmental relations ‘to erode responsible government’, and misgivings about accountability and transparency have been expressed intermittently ever since.<sup>1</sup> Notwithstanding the longstanding nature of these concerns, very little has been done by government to address them. This is despite the fact that both the Commonwealth and the states have during that same period displayed an appetite for reform to other aspects of intergovernmental relations. Not least of these was the formalisation of heads of government meetings through the establishment of the Council of Australian Governments (‘COAG’) and, more recently, the restructuring of federal financial relations through the *Intergovernmental Agreement on Federal Financial Relations*. The creation and subsequent expansion of the COAG Reform Council showed there was interest in making governments more accountable for their performance against agreed objectives. So far, though, the challenge of addressing the broader ‘democratic deficit’ of intergovernmental relations has never seriously made its way onto the agenda.

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1 Geoffrey Sawer, ‘Cooperative Federalism and Responsible Government in Australia’ (Alfred Deakin Lecture Trust, 1970) 7; Cheryl Saunders, ‘Accountability and Access in Inter-government Affairs: A Legal Perspective’ in Michael Wood, Christopher Williams and Campbell Sharman (eds), *Governing Federations: Constitution, Politics, Resources* (Hale & Iremonger, 1989) 123; Cheryl Saunders, ‘Constitutional and Legal Aspects of Intergovernmental Relations in Australia’ in Brian Galligan, Owen Hughes and Cliff Walsh (eds), *Intergovernmental Relations and Public Policy* (Allen and Unwin, 1991) 39; John Uhr, ‘Parliament and the Political Management of Federalism’ in Peter Carroll and Martin Painter (eds), *Microeconomic Reform and Federalism* (Federalism Research Centre, ANU, 1995) 267; Marian Sawer, Norman Abjorensen and Philip Larkin, *Australia: The State of Democracy* (Federation Press, 2009) 303; Paul Kildea and Andrew Lynch, ‘Entrenching “Cooperative Federalism”: Is it Time to Formalise COAG’s Place in the Australian Federation?’ (2011) 39 *Federal Law Review* 103.

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