

Singular Belief About Separate Bicameral Elections in Japan: A Comparison with Australian Simultaneous Elections

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ABSTRACT

An overwhelming number of countries have chosen to adopt simultaneous bicameral elections, whereas only Japan and Australia have had some experiences of separate bicameral elections in their history. Why do Japanese politicians choose a practice of separate bicameral election? This study historically explores this issue which has yet to be fully addressed in the existing body of research. To make the singularity of Japanese practice clearer, we compare it with the Australian case. Separate elections are normal in Japan, while simultaneous elections are normal in Australia. We argue in the conclusion that a practice of separate elections resulted in one of a few *raisons d'être* for the House of Councillors as Japanese politicians originally intended to have a second chamber of occupational representation or indirect election but General Headquarters of Allied Powers rejected them.

Introduction

The people in a world that is closed by a language sometimes develop a singular belief unwittingly. The practice of separate bicameral election in Japan is an example. Japanese elections of the Houses of Representatives and Councillors have been held separately in different years; the practice has been taken for granted among Japanese politicians. When looking at the practice in other countries, however, simultaneous election has been overwhelmingly common.

Why do Japanese politicians choose a practice of separate bicameral election? This study historically explores this issue. When we look for precedent research, we can find that few studies have explored the reasons why separate/simultaneous bicameral elections exist. Patterson and Mughan (1999: 15) successfully characterised two primary functions of bicameralism as being 'representation and redundancy'. They posit that second chambers represent interests of social classes, occupational groups, or territorial diversity and redundancy refers to checks on the democratic lower house, while Passaglia (2018: 1-2) concludes after reviewing cases of European bicameralism that 'reliable norms are difficult to identify' among them. However, the reasons why some countries have chosen to adopt

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separate/simultaneous bicameral elections have yet to be fully addressed in the existing body of research.

To make the singularity of Japanese practice clearer, we compare it with the Australian case. An overwhelming number of countries have chosen to adopt simultaneous elections, whereas only Japan and Australia have had some experiences of separate bicameral elections in their history. Separate elections are normal in Japan, while simultaneous elections are normal in Australia; however, politicians in each country strongly believed that each way was normal for each understanding on bicameralism. We aim to unpack beliefs that express reasoning and understanding of politicians in Japan, compared with Australian cases. We argue in the conclusion that a practice of separate elections resulted in one of a few *raisons d'être* for the House of Councillors as Japanese politicians originally intended to have a second chamber of occupational representation or indirect election but General Headquarters (GHQ) of Allied Powers rejected them.

We will first examine the Japanese belief and practice of separate bicameral elections in the Meiji time, at the end of the Second World War, and at the crucial time of controversy over a simultaneous bicameral election in 1986. Finally, we will review what belief was embedded in their practice of simultaneous/separate bicameral election.

Next, we will summarise the basic provisions such as terms, electoral systems, the system of a double dissolution, etc., on bicameralism in the Australian Constitution and the practice of simultaneous bicameral elections before 1953. An examination will then be conducted on the Australian separate bicameral elections between the first Senate election of 1953 and the last House election of 1972. Finally, we will find the Australian belief against/for simultaneous bicameral elections between 1953 and 1977, when the referendum for simultaneous election was held.

The Japanese belief and practice of separate bicameral elections

Separate bicameral elections under the Meiji Constitution

The Imperial Diet under the 1889 Meiji Constitution/The Constitution of the Empire of Japan consisted of the House of Representatives and the House of Peers. The House of Representatives was an entirely elected chamber, and though it operated for four-year terms (Shūgiin senkyōhō [the House of Representatives Election Act] 1889, art. 66), it could be dissolved by the Emperor at any time (The Constitution of the Empire of Japan 1889, art. 7). The House of Peers was mostly appointed, though a part of it was reserved for privileged individuals elected into their positions. Males of the Emperor's family and peers of higher hereditary ranking over twenty years old automatically became life members of the House of Peers, whereas lower peers of hereditary ranking, academics and local higher taxpayers were elected within each circle, their terms being equal (seven-years). These elections were held completely separate from the House of Representatives elections. For

example, polling days within each circle were different, not simultaneous (Nishio, 2016).

Itō Hirobumi, the first Prime Minister of Japan and a main drafter of the Meiji Constitution, published the explanatory book on this titled *Teikoku kempō gige* in the original Japanese and *Commentaries on the constitution of the empire of Japan* in English. Two original ideas can be found in the explanation about the House of Peers in *Commentaries*. First, the purpose of the House of Peers is to avoid the ‘despotism of the majority’ and, second, for the representation of ‘the prudence, experience, and perseverance’ (Itō, 1906: 70-71).

The Japanese belief during the enactment of the 1947 Constitution

In 1946, just after the surrender of the Japanese army to the Allied forces, the framework of the 1947 Constitution was discussed between the GHQ and the Japanese government. Originally the GHQ recommended a unicameral system as the Diet; however, Japanese minister Matsumoto Jōji strongly opposed. His explanatory note from 2 March 1946, which was submitted to the GHQ, stated, ‘Under a bicameral system an arbitrary proposal by a majority party in the House of Representatives cannot only be controlled to some degree in the House of Councillors but the very realisation that such a checking mechanism exists should serve to restrain a majority party from arbitrary acts from the outset’ (Matsumoto, 1946).

Following his zeal, the GHQ allowed the Japanese government to adopt the House of Councillors only if it was a completely and directly elected second chamber.¹⁾ At this moment, the 5 March Draft on which the Japanese government and the GHQ agreed, stated the following: the term of the House of Councillors would be six years; half of the House of Councillors would be elected every three years; and the term of the House of Representatives was four years but it can be dissolved by the Emperor with the advice and consent of cabinet.

After this, the Japanese government agonised over how the Councillors should be elected by different ways from the House of Representatives. Kita Reikichi, a member of the House of Representatives at the time, states, ‘[B]oth Houses shall consist of elected members, representatives of all the people. Here is a serious question.... [If] members of the House of Councillors are to be elected on a regional basis, the House will become similar to the House of Representatives and the basis for the bicameral system will be weakened.... If learned and experienced persons are to be elected, the Imperial Academy or universities may be made electoral districts, but it will contradict the provision that the members shall be elected by all the people’ (House of Representatives, 1946, 25 Jun). Courtney Whitney, then Chief of the Government Section at the GHQ, knew well that some

1) Initially, the GHQ was prepared for a concession to ‘a more important issue’. See Government Section (1946).

Japanese sought a second chamber of occupational representation or indirect election, but rejected this approach in writing: 'I will continue to take the position that there must be no discrimination between electors for the House of Councillors and electors to the House of Representatives' (Whitney, 1946). Charles Louis Kades, Whitney's deputy, expressed to the Japanese his interest in what kind of bicameralism would be adopted because Japan had no choice but to take 'an utterly new trial' without choosing the British or the American type of bicameralism either (Satō & Satō, 1994: 298).

Following significant discussions between the GHQ and the Japanese government, the House of Councillors Act 1947 stipulated that the House of Councillors would be elected by a hybrid system, consisting of two to eight prefectural seats, nationally elected 100 seats and candidates with a minimum age of thirty (Kizokuin [House of Peers], 1946 December 4: 53). Such scarcity of clear differences between the House of Councillors and the House of Representatives inevitably engendered some criticisms that the House of Councillors only played its role of 'a carbon copy' of the House of Representatives and arguments in favour of abolishing it altogether (Bearwald, 1974: 29; Takahara, 2004).

Three points in which members of the Japanese government understood elections of both chambers would be held separately are listed below.

i) *Emergency session of Councillors during a dissolution of the House of Representatives*

Leading up to the final draft of the 1947 Constitution, the Japanese government successfully inserted a new clause which, according to a cabinet minister's explanation in the House of Peers, 'provides for an emergency session of the House of Councillors, so that an unforeseen eventuality occurring while the other House stands dissolved may be coped with' (House of Peers, 1946, 2 Sep). This proposal resulted in the formation of Article 54. Certainly, an emergency session could be held even during simultaneous bicameral elections, but the cabinet minister's insistence on making it available during dissolution was clearly due to the fact that he expected an emergency session with all Councillors without their half election.

ii) *The House of Councillors election must be held just within thirty days before its expiry.*

As will be explored in greater detail later on in the paper, an Australian Senate election can be held within one year before a terms' expiry; therefore, it is relatively easier to hold a simultaneous bicameral election. On the other hand, pursuant to the House of Councillors Election Act 1947, an election of the Japanese House of Councillors must be held within thirty days before its expiry. It would be very difficult to hold an election for the House of Representatives during such a short period. This statute itself is a testimony of the idea which ruled out the possibility of simultaneous election.

iii) *An obvious intention of senior servants that a timing of both elections would not be accorded*

Bicameral elections were held separately from the outset of post-war Japan. Satō Tatsuo, senior servant of the Legislative Bureau—a legal advisory body for the government—also made it clear that elections of both chambers would not be accorded.

On 6 February 1947, Douglas MacArthur, Supreme Commander for the Allied Powers, sent a letter to Prime Minister Yoshida Shigeru, in which MacArthur wrote, ‘I believed the time has come for a general election’, but ‘the exact time and details are matters which I leave to the discretion of the Japanese government’.

In February 1947, the Yoshida government decided on 20 April to be the polling day of the House of Councillors election and 25 April to be that of the House of Representatives election. Then, 5 April became the polling day of elections for local governors and mayors. Thus, three types of national and local elections were scheduled for the same month. In the same month and year as mentioned above, with reference to the Diet Bill, Satō Tatsuo said, ‘The term of Councillors would end on 2 May, and it does not have a system of dissolution; therefore, I expect that the date would be no change in the future’, although the House of Representatives ‘would irregularly have a dissolution so that the date would not be accorded some time’ (Kizokuin, 1947, 25 Feb: 1). He obviously expected that elections of two chambers would be held at different times in the future.

Beliefs and practices in the government for simultaneous bicameral elections in 1986

Since the enactment of the 1947 Constitution, elections of two chambers were held largely in different years. Although both elections were held almost simultaneously in 1953 because of the passage of no confidence vote against the Yoshida government, they were still separated by different polling dates in April.

The first case of simultaneous bicameral elections occurred in 1980 when the opposition voted down the Ōhira government in the House of Representatives, thanks to massive abstentions by the internal revolt of the Liberal Democratic Party (LDP) and Ōhira Masayoshi finally chose the dissolution of the House. However, Ōhira was hospitalised for exhaustion during his electoral campaign and died of a massive heart attack 12 days later (Stockwin, 1999: 60).

This simultaneous bicameral election was held after a vote of no confidence was passed; therefore, there was not much criticism toward this simultaneous election then. However, when the Nakasone government held another simultaneous bicameral election in 1986, the opposition parties as well as some senior politicians in the LDP expressed massive discontent. Simultaneous bicameral elections have not been held since 1986.

Five beliefs were identified when reviewing remarks and understandings of politicians and servants of the Nakasone government.

i) *Belief 1: a simultaneous election is good for cost-saving or soaring turnout.*

Before 1986, Nakasone Yasuhiro frequently stated that a simultaneous election would be good for a utility, which meant cost-saving or soaring turnout.

In 1982, Nakasone replied the following to a Councillor: ‘The effect of a double election has a merit and a demerit, but cost-saving for elections would be a merit’ (Sangiin [House of Councillors], 1982, 22 Dec: 12).

In April 1983, a Councillor questioned whether Nakasone would hold a ‘double election’ to increase the voting turnout, which was expected to decrease under the proportional representation system that was newly introduced to the 1983 Councillors election. Nakasone responded, ‘It is significant that a soaring turnout means an increase of opportunities in democratic politics. I do not mean, however, that I will try to hold a double election’ (Sangiin [House of Councillors], 1983, 4 Apr: 21).

ii) *Belief 2: the power of dissolving the House of Representatives cannot be limited by a statute law.*

The 1947 Constitution of Japan provided that the cabinet solely retained the dissolution power of the House of Representatives based on Article 7, by which the Emperor may dissolve the House of Representatives only ‘with the advice and approval of the cabinet’. In July 1985, however, the Japanese Supreme Court ruled the current gap of a vote weight between constituencies of the Public Offices Election Act reached an unconstitutional level (Saikō Saibansho [Sup. Ct.], 1985, 17 July). It was a moot point whether the Nakasone government could dissolve the House of Representatives before fixing the ‘unconstitutional situation’. In this process, Nakasone made the following remark on the dissolution of the House of Representatives:

The power of dissolution is the significant function which the Constitution vested to the cabinet as a means to appeal to the people when faced with critical issues in national politics. There has been no provision in the Constitution to restrict the exercise of power to dissolve; in addition, the conduct of each general election is another matter which is held upon another legal provision. The power of dissolution, therefore, cannot be restricted by any statute law (Shūgiin [House of Representatives], 1985, 16 Oct: 35).

Controversy over the reform continued in 1986. In early May, the Speaker of the House of Representatives acted as an arbitrator between the government and oppositions, which led to an agreement to reform constituencies; expectedly, this caused difficulties in holding a simultaneous bicameral election in the prospective schedule. Soon afterwards, Nakasone’s close ally revealed his prospect that the government would decline a simultaneous election, and the Chief Cabinet Secretary issued his statement on 9 May in 1986, in which it would be impossible to schedule a simultaneous election. There was wide media coverage of this news (‘Dōjitsusen’, 1986, 9 May; Shushō, 1986, 9 May). The reform

bill for constituencies was finally passed in the Diet on 22 May. The cabinet immediately tendered its advice to the Emperor to dissolve the House of Representatives on the final sitting day, which would be called later ‘a blank day’ (‘Shūin’, 1986, 6 Jun). The House of Representatives was dissolved, and the polling day of simultaneous bicameral election was decided on 6 July 1986.

This practice of simultaneous bicameral elections brought about massive arguments among politicians in the LDP as well as opposition parties, and they blamed Nakasone for undermining the meaning of bicameralism.

iii) *Belief 3: a simultaneous bicameral election is not unconstitutional.*

Nakasone stated repeatedly in the Diet debates that holding a simultaneous bicameral election was not unconstitutional. In 1983, he stated, ‘You asked whether a simultaneous election would be unconstitutional, but we have already had a precedent and that is why we think it is not unconstitutional’ (Shūgiin, 1983, 19 May: 13). In 1986 he also said, ‘Holding a simultaneous bicameral election is possible under the Constitution’ (Shūgiin, 1986, 17 Feb: 3).

iv) *Belief 4: a simultaneous bicameral election is not common practice.*

Nakasone stated that a simultaneous bicameral election should not be intentionally held and ruled it out for common use. In November 1986, he said, ‘We believe that the government as well as the Diet had to be soon prepared for a solution of the unconstitutional situation. Then a Councillors election was imminent, and we had to solve the unconstitutional House of Representatives as quickly as possible; so, both elections happened to be overlapped’ (Shūgiin, 1986, 5 Nov: 3). In 1987 he said, ‘I have been suspicious of a way of thinking in which a simultaneous election is originally bad or should be avoided, whereas also relatively suspicious of aiming to plan it’ (Shūgiin, 1987, 14 Jul: 4).

According to Nakasone, both chamber elections should be held separately as a principle but happened to be held simultaneously under a contingent condition. However, it is widely known for Japanese people that this attempt at a simultaneous election was shrewdly planned by Nakasone. He later revealed that his plan had been elaborated from the beginning of 1986 (‘Sengoseiji’, 2003, 26 Jun).

v) *Belief 5: Takeshita’s vigilance against simultaneous elections as common practice.*

Takeshita Noboru, Prime Minister Nakasone’s successor, also served Nakasone as Financial Minister in the Nakasone cabinet. Later, as Prime Minister he expressed his opposition to a simultaneous election as common practice more clearly than Nakasone did. In 1988 he stated the following twice: ‘The so-called simultaneous election, if this becomes common practice, would promote an atmosphere in which a bicameralism itself would be

denied; therefore, I think it should not be attempted without serious consideration' (Shūgiin, 1988, 5 Feb: 25), and 'it might lead to a denial of bicameralism that simultaneous election would become a common use. That is why I frequently say that it should not be attempted intentionally' (Sangiin, 1988, 11 Mar: 5).

Beliefs against the simultaneous bicameral election in 1986

We will next look at the beliefs of politicians, newspapers and scholars who criticised the 1986 simultaneous bicameral elections. First, their criticisms were grounded in the understanding that a simultaneous bicameral election might be held without fixing a gap of vote weight between constituencies, which was deemed unconstitutional by the Supreme Court. Second, they argued that only half of the Councillors could attend an emergency session occasionally held during a simultaneous election as another half is already focused on election campaigns under a simultaneous bicameral election. Third, and more fundamentally, they believed that the Constitution did not expect a simultaneous bicameral election; therefore, holding simultaneous elections is a denial of the specialty of the House of Councillors and the bicameralism as such.

i) Criticism against a dissolution of the House of Representatives that leaves the 'unconstitutional situation' intact.

In 1985, the Supreme Court held the following regarding the House of Representatives election of December 1983: 'The provision on the distribution of seats to each constituency should be accounted as a total entity in its nature; therefore, we should understand that not just a part which produced the inequality but also a total entity assumed a fault which breached the Constitution' (Saikō Saibansho [Sup. Ct.], 1985: 1122). This ruling urged the reform on the distribution of seats, whereas Prime Minister Nakasone manifested in his view that an exercise of the dissolution power by the cabinet would not be restrained.

Scholars, newspapers and some politicians in the LDP, as well as opposition parties, criticised this attitude of the government; for example, Ashibe Nobuyoshi, then Professor at Gakushuin University, said, 'When the Supreme Court held the present distribution of Representatives reached an unconstitutional situation, and the reform was recommended at the view of Representatives' Speaker, then a dissolution will not be accepted without any reform' ('Dōjitsusen', 1986, 18 Apr). Sugihara Yasuo, Professor at Hitotsubashi University, said, 'The election itself should have been annulled by that ruling; and the present House of Representatives should have not existed' (Ibid).

Asahi Newspaper wrote in the editorial of 25 March 1986, that 'repeating unconstitutional elections is an act to neglect much the electorate' ('Dōjitsusen', 1986, 25 Mar). Mainichi Newspaper wrote in the editorial of 3 May 1986, that 'the House of Representatives should not be dissolved without reforming unconstitutional distribution of seats and we oppose it' ('Kenpō', 1986, 3 May).

Opposition parties were altogether against a dissolution of the House of Representatives, whereas they encountered a dilemma in allowing the government to hold a simultaneous election if they have an early agreement for a new distribution plan of seats ('Teisūzesei-mondai', 1985, 10 Nov).

ii) *Criticism that a simultaneous bicameral election would undermine the meaning of an emergency session*

As seen above, the criticism that the House of Representatives should not be dissolved without a reform cannot stop a dissolution after the reform. Some politicians, including powerful figures in the LDP, were also critical that a simultaneous election would undermine an emergency session provided in Article 54 (2) of the Constitution: 'The cabinet may in time of national emergency convoke the House of Councillors in emergency session'. They strongly argued that this provision did not expect a simultaneous bicameral election.

Scholars, newspapers and some politicians shared this concern, along with two former prime ministers, Fukuda Takeo, Suzuki Zenkō and a future prime minister, Miyazawa Kiichi. The leader of Fukuda's fraction in the LDP strongly insisted the opposition to the simultaneous election, and as a result, mobilised young Diet members against a simultaneous election.

We can find some clear opinions of Fukuda from newspaper articles. Fukuda stated, 'When we have a serious disaster like Kantō major earthquake, how can Japan cope with it despite of the fact that every Diet member goes to election campaigns? The Constitution never expected it' ('Fukuda-shi', 1986, 31 Mar). The next month he asked the following: 'When national disasters like major typhoons or huge earthquakes occur, how can we cope with them? The Constitution never expected that all Representatives went to their election campaigns and half Councillors were empty' ('Dōjitsusen', 1986, 21 Apr).

However, another view exists of the relationship between a simultaneous bicameral election and an emergency session; for example, Mogushi Shun, Commissioner of the Cabinet Legislation Bureau, indicated that when a simultaneous election is held after the expiry of half Councillors, 'another half still work, and the quorum is one third for business and votes; so, we can still hold an emergency session. On this point an implementation of the so-called simultaneous bicameral election does not breach the meaning of Article 54 of the Constitution, we think' (Shūgiin, 1985, 3 Dec: 28).

In fact, 6 July was the polling day of this simultaneous bicameral election and the expiry of half Councillors was 7 July; so even if an emergency session becomes necessary, all Councillors would have attended it unless they have chosen election campaigns instead.

A similar case can be found in the Australian Senate. The latest version of *Australian Senate Practice* stated, 'The Senate has not met during a period when the House was dissolved, but Senate committees have often done so, and have also often met after a

prorogation' (Evans, 2016: 199). We cannot, however, find a case where those arguments have been used to avoid simultaneous elections in Australia.

iii) *Criticism that a simultaneous bicameral election undermines the meaning of bicameralism*

Finally, critics suggested that a simultaneous bicameral election undermined the meaning of bicameralism, even if other problems of unfair seat distribution or obstacles of emergency sessions were sorted out.

First, several newspaper editorials have criticised attempts at simultaneous bicameral elections. Mainichi Newspaper wrote in its editorial: 'If a simultaneous election becomes a common use, a Representatives election would be held every three year. That violates the meaning of the Constitution which provides the four-year term of the House of Representatives' ('Kenpō', 1986, 3 May). Asahi Newspaper criticised bicameral elections in editorials on 25 March, 11 April, 1 May and 21 May. Among them Asahi stated, 'a simultaneous election is an evil way which undermines the meaning of the bicameralism provided in the Constitution' ('Attewanaranu', 1986, 11 Apr): 'a simultaneous election would undermine the significance of the bicameralism provided in the Constitution' ('Sairon', 1986, 1 May). These editorials emphasised more generally that a simultaneous bicameral election undermined the meaning of the bicameralism provided in the Constitution.

Second, some electorate sued the government, claiming that the dissolution for simultaneous bicameral election was a breach of the Constitution. The plaintiff claimed that the Prime Minister 'must avoid a simultaneous bicameral election which denies the meaning of bicameralism because he has an obligation to maintain the specialty of the House of Councillors' (Nagoya Kōtō Saibansho [High Ct.], 1987, 25 Mar). The High Court, however, dismissed the plaintiff's claim on 25 March 1987 and held that it was not justiciable whether this dissolution was justiciable. The plaintiff appealed to the Supreme Court, but the claim was dismissed on 24 November 1987.

Third, in 1988, the Commission on the System of the House of Councillors, a consultative body under the Speaker of the House of Councillors, launched an important report: 'The Opinion about Ways and Reforms of the House of Councillors'.

In the Opinion, the Commission stated, 'It might be understood that, if polling days happened to be overlapped between a Councillors election and a Representatives election after a dissolution, this would not be a breach of the Constitution immediately'. It also warned against customary and common uses of simultaneous bicameral election, as below:

If the timing of a dissolution of the House of Representatives were to be intentionally decided under the expectation that a simultaneous election would be a merit, and consequently it were to become a customary and common way that an

election day of a Representatives election would be intentionally harmonised to a periodical election of Councillors, that would be seriously problematic because it may assume common that the four-year term provided in the Constitution for Representatives would become in fact three year.... The election of the House of Councillors should be held separately with the House of Representatives in its nature, since the Constitution provided the House of Councillors as an independent organ equally compatible with the House of Representatives (Sangiin-seido-kenkyukai, 1988).

Of course, the Opinion referred to other concrete reasons like the incompatibility of simultaneous election to an emergency session; however, it was very important to issue a strong warning against ‘a customary and common way’ in general.

Japanese Constitutional scholars also expressed some doubts toward this dissolution in a famous academic journal at that time. For example, Hasebe Yasuo recognised that simultaneous elections were held in some countries like Belgium, the Netherlands and Italy, but warned ‘this strong way gives too much advantage to the government and its political party in recent Japan’ (Hasebe 1986: 15). Equally, Tsujimura Miyoko stated, ‘We must be critical of the attitude to make a practice of simultaneous election a common use’ (Tsujimura, 1986: 23).

Reviewing the reason for separate elections in Japan

Even Nakasone, who chose the simultaneous election in 1986, conceded that it remained ‘a solution to the unconstitutional situation’, and not for common use. His concession derives from the Japanese belief of ‘free dissolution’ of the House of Representatives. Japanese politicians and academics traditionally understood that the Japanese government was able to dissolve the House of Representatives without restrictions and at any time in the same way of the British cabinet (Kobori, 2020: 147-48). Japanese politicians posited every country did the same. Gotōda Masaharu, Chief Cabinet Secretary of the Nakasone government, explains his understanding below:

If you think about a tactics, some data show that a simultaneous bicameral election would make it difficult that oppositions cooperate in election, or would soar a voting turnout, as a result, so that we can dig out potential LDP voters. When we expect those effects by a simultaneous election, it is better to choose it. Whenever the government party which comprises a cabinet thinks fit to dissolve the House of Representatives, it can do it. That is the case with every foreign country. It is ridiculous to think this is a problem (Gotōda, 1989: 197-198).

According to Gotōda, it would be beneficial to hold a simultaneous election whenever they like, and any standardisation would hinder their free choice, hence the decision to not adopt the same standardisation as every other country. In fact, in 1989 when a periodical

election of the House of Councillors was scheduled, opposing parties fiercely demanded a dissolution of the House of Representatives, which the LDP avoided. Corruption scandals and criticism toward the introduction of a new consumer tax dominated political scenes; and the LDP lost majority of the House of Councillors at this election. If the LDP standardised simultaneous election, it would have lost the government itself, then.

This is, however, a reason to avoid a standardisation of simultaneous elections. The logical reason for which some politicians clung to separate elections was still unclear. The necessities of an emergency session and a reform for fixing the unconstitutional distribution of seats do not logically prevent the implementation of a simultaneous election. Nevertheless, the belief that the practice of separate bicameral elections was essential at the 1947 Constitution of Japan remained outstanding. What we can say clearly is that there was a consensus among Japanese politicians from the LDP or other parties regarding maintaining a practice of separate elections. If they did not, they would lose one of a few specialties of the House of Councillors.

The history and beliefs of simultaneous bicameral elections in Australian Federal Parliament

Next we will review what beliefs Australian politicians had about simultaneous/separate bicameral elections. We will first look at the basic system and history of Australian bicameral elections, followed by their beliefs on separate bicameral elections from 1950s to 1970s as well as the 1977 referendum and later.

The system and history of Australian bicameral elections

The history of Australian bicameral elections is complicated and is therefore summarised in the following subsection.

i) *The system of Australian bicameralism*

The Commonwealth of Australia Constitution Act (the Australian Constitution) adopts bicameralism, which consists of the Senate and the House of Representatives and is explained as follows: ‘The Senate is the States’ Council’ based on the principle of equal status between States (Cramp, 1913: 162). The House of Representatives is elected on a population basis; and their numbers allotted to each State being proportional to their respective populations (Ibid, 167).

Senators serve for six years and half are elected every three years. The length of service of the House of Representatives is also three years, but one’s term can be ‘dissolved by the Governor-General’ (Australian Constitution s 28). Members of both chambers are directly elected by the electorate. Pursuant to Section 13 of the Australian Constitution, the Senate election ‘shall be made within one year before the places are to become vacant’;

therefore, a dissolution of the House ‘within one year’ can accompany a simultaneous bicameral election. Mostly bicameral elections have been held simultaneously for half the Senate and a dissolution of the House. Section 57, however, provides a double dissolution in which ‘the Governor-General may dissolve the Senate and the House of Representatives simultaneously’ if the Senate consistently disagrees with a bill passed by the House. Although a senator’s term begins on the first day of July after the elections, in the case of a double dissolution their term begins on the first day of July before the day of the election, and the term of senators would then be curtailed (Australian Constitution s 13).

Pursuant to Section 9, an electoral system for senators ‘shall be uniform for all the States’, but ‘the Parliament of a State may make laws for determining the times and places of elections of senators for the State’. Also, according to Section 12, ‘The Governor of any State may cause writs to be issued for elections of senators for the State’, except the case of a dissolution of Senate. The timing to issue writs would become a crucial point in the Gair affair of 1974.

The electoral system of the House of Representatives is the Alternative Vote (AV) from 1918, and that of the Senate is the Single Transferrable Vote (STV) from 1948. In both cases, a voter must rank-order candidates on the ballot (Farrell & McAllister, 2006: 3-6).

In the AV system, if a candidate gains a majority of votes on first choice, the candidate wins. If not, then a candidate with the fewest votes is eliminated, and the second preference of the eliminated candidate adds other candidates. This work would continue until a candidate reaches a majority of total voters. The AV system is one of majoritarianism.

In the STV, a voter must rank-order candidates completely or otherwise choose a rank-ordering set by the party organisation, referred to as ticket voting. Ballot papers are counted in each State with a quota based on numbers of votes and seats. Seats in each State are distributed according to a proportional representation system (Ibid, 61). Gaining a majority of seats in the Senate has become difficult since the adoption of the STV. According to *Australian Senate Practice*, ‘Since 1949 there have been only four relatively short periods (1951–56, 1959–62, 1976–81, 2005–07) in which governments have gained a majority in the Senate’ (Evans, 2016: 13).

ii) *The history of bicameral elections since the Australian Constitution in 1900*

Elections of both chambers were held simultaneously since the first federal elections of 1901 until a separate Senate selection in 1953, save for a House of Representatives election in 1929. Most simultaneous bicameral elections were held by a dissolution of the House and a half-Senate election.

The Senate dissolution was held in April 1951 by the provision of Section 57; therefore, according to the provision of Section 13 of the Constitution, the term of half-Senate was curtailed and must expire at the end of June 1953. Then Prime Minister Robert

Menzies gave up a simultaneous election, and instead held the Senate election in May 1953, which was the first separate Senate election in Australian history. Prime Minister Menzies held the House of Representatives election in May 1954, but soon afterwards an early dissolution of the House of Representatives in November 1955 brought the cycle back into a simultaneous bicameral election.

The cycle collapsed again in 1963. The Menzies government reduced the House majority to one seat and lost the Senate majority after the 1961 House and half-Senate election. He must await a simultaneous election until July 1964, one year prior to the next expiry of the half-Senate. Menzies dissolved the House on 15 October 1963 and held the separate House of Representative election on 30 November. Almost one year later, the Menzies government held the Senate election in December 1964. After Menzies' resignation, Harold Holt succeed as Prime Minister in January 1966. The House was elected in November 1963, but the term started from February 1964 as Section 28 of the Constitution provided the term from the first meeting of the House. This meant it would be expired in February 1967 before July 1967 when a next Senate election can be held according to Section 13.²⁾ Holt, therefore, held a separate House election in November 1966. The next Senate election was held in December 1967 when the government's seats decreased from 16 to 14. On 17 December, just after polling day, Holt disappeared while swimming in the sea. In the end, the Liberal Party elected a new leader, John Gorton, who was inaugurated as Prime Minister after a caretaker government by John McEwen.

The next Senate election was scheduled from July 1970 to June 1971, while the expiry of the House would come at the time of its expiry in February 1970 (Parliamentary Library, 2020: 462). Gorton held the House election on 25 October 1969 but lost many seats: from 82 to 66. The Senate election was held in November 1970, but the government kept only the previous 13 seats, so still experienced losing a majority in the entire Senate. The Labor Party was not a winner in this election because it kept only the previous 14 seats. The Democratic Labor Party (DLP) won a small victory, gaining three seats.

The Labor Party won the House elections in 1972, and Gough Whitlam became the first Labor Prime Minister in 23 years. Whitlam also proposed an alteration of the Constitution for simultaneous election after the recommendation of the Constitutional Convention 1973. Meanwhile, the Liberal Party and the Country Party used Articles 7 and 9 to block the resignation of MP Vince Gair (DLP), by which Whitlam attempted to get one seat in the next Senate election. In the wake of his failure to do so, he finally decided to choose a double dissolution in 1974 while the referendum for a simultaneous election took place on the same polling day with a double election. Whitlam kept his government but failed to get a majority in the Senate and lost the referendum (Davey, 2010: 148–62).

2) The 25th Parliament was opened on 25 February 1964. See Parliamentary Library (2020: 463) The Duration of the House of Representatives is provided as 'three years from the first meeting of the House', according to the Section 13 of the Australian Constitution.

In 1975, when the Whitlam government suffered defeat from several votes, including an appropriation bill in the Senate, John Kerr, the Governor-General, suddenly dismissed Whitlam as Prime Minister and appointed Malcom Fraser, leader of the Liberal Party, in his place. Soon afterwards, Fraser advised a double dissolution and won both elections, gaining majorities of both chambers for the first time since 1958 (Ibid, 163-69).

Fraser, however, was also concerned about the practice of separate bicameral elections. He called referendums for four issues, including a simultaneous election after the Constitutional Convention recommended them to the Fraser government in 1976. Most federal parties, such as the Liberal Party, the Country Party and the Labor Party, led the Yes campaign in 1977 referendums for these proposals; but only the proposal of 'simultaneous elections' was rejected while other proposals such as Senate casual vacancies, territorial voting rights and retirement of federal judges were approved. The proposal of 'simultaneous elections' gained 62.22% of the total vote, but lost Queensland, Western Australia and Tasmania, although it must have held four majorities in six states (Parliamentary Library, 2020: 435).

Later, similar referendums for simultaneous elections were rejected in 1984 and 1988 (Ibid, 438-40.); however, every federal election was held simultaneously on the same polling day of both chambers, whether a House and half-Senate election or a double dissolution.

iii) *System factor of separate bicameral elections between 1953 and 1972*

Pursuant to Sections 13 and 57, a double dissolution could curtail a new Senate term by a maximum of one year, as a Senate term after its dissolution 'shall be taken to begin on the first day of July preceding the day of his election' (Australian Constitution s 13); consequently, it would be difficult to hold a simultaneous bicameral election in this case unless a premature House election was held. This was true after the 1951 double dissolution. After the separate Senate election in 1953, the Cabinet Minute of the Menzies government acknowledged the following: 'As a result of the double dissolution, the Senate and the House of Representatives were obliged to be elected at different times' (Cabinet, 1953).

Once separate bicameral election occurs, it would be very difficult for successive governments to bring both elections into kilter. Harold Holt could have held a theoretical yet very premature House election together with the 1967 Senate election, despite the fact that the House election was held in November 1966. Likewise, John Gorton could have held a very premature House election together with the 1970 Senate election, despite the fact that the House election were held in October 1969. In the end, Holt and Gorton accepted separate elections. It was not until the 1974 double dissolution that both elections have been brought back into kilter.

Belief of simultaneous bicameral elections in Australia

Here we will explore the beliefs of politicians on simultaneous or separate bicameral elections.

i) Simultaneous elections are efficient.

At the National Australasian Convention of 1891 in Sydney, Samuel Griffith, then Premier of Queensland, did not believe both chamber elections would not be held on the same polling day: ‘The parliaments of the different states meet at different times; some meet in June, some early in the year, and New South Wales at various times-sometimes in February, often in November. The election of the senators must be during a session of parliament’ (National Australasian Convention, 1891: 599-601). Consequently, in the ‘Draft of a Bill as adopted by the National Australasian Convention, 9 April 1891’, it was written that ‘the Senate shall be composed of eight members for each State, directly chosen by the Houses of the Parliament of the several States during a Session thereof’ (Ibid, 946-49).

Initially the term of the House was three years in the Draft in 1891. However, it was changed to four years in the Draft of Bill of 12 April 1897 because Edmund Barton, a delegate from New South Wales, claimed that it should be in accordance with the provision of ‘the first four years’ in Section 88 of that Draft in which the expenditure was limited to a span of ‘the first four years’ (National Australasian Convention, 1897: 447). Soon after, George Turner, then Premier of Victoria, also proposed changing it to three years at the Conference on 21 April. Regarding his reasoning behind the suggested change, Turner stated that simultaneous election ‘means save a considerable amount of expense’, and his proposition was accepted (Ibid, 1031).

The belief that a simultaneous election is efficient was also found in the 1977 referendum for simultaneous elections. Leading up to the 1977 referendum, Lionel Bowen said in the 1976 Australian Constitutional Convention: ‘We are now put to the enormous trouble and expense of arranging Senate elections in different times. People are put to the inconvenience of having to vote more frequently than they would need to do if election were running simultaneously’ (Australian Constitutional Convention, 1976: 71). One of official reasons for voting Yes for simultaneous elections in this referendum was efficiency. According to a Liberal Party’s internal document, a simultaneous election would ‘save money’ by ensuring ‘fewer elections’; the Liberal Party claimed that \$4.5 million would be saved (Liberal Party of Australia, 1977).

ii) Simultaneous election is normal.

After separate elections of the 1953 Senate and the 1954 House, Menzies dissolved the House and held a premature House election with half-Senate election in 1955. Menzies expressed concerns about separate elections in the letter of 19 October 1955 to then

Governor-General William Slim. Menzies tendered the advice of the dissolution of the House of Representatives and wrote, 'Until the time of the double dissolution in 1951, the *normal rule* for elections for the House of Representatives and for the retiring half of the Senate to occur on the one day' (Menzies, 1955, emphasis added). He recognised 'the rule' has 'obvious advantages' which 'avoids a large double outlay on the cost' (Ibid). He also complained that the situation in which the government had to hold two kinds of elections almost every year was an 'intolerable position' because it was 'not conducive to long term policies not to a proper concentration of Parliament or Cabinet upon the great executive and legislative problems of the nation' (Ibid). Finally, he added, 'We believe that the Australian people are conscious of these considerations and that they would welcome on opportunity to synchronise once more the election for the two houses' (Ibid). It is worth noting that Menzies recognised simultaneous elections as 'normal'.

The Menzies government created the Joint Committee on Constitutional Review, which launched two reports in 1958 and 1959. The Committee recommended that 'the Constitution be altered to omit the provisions now made for senators to be chosen for the term of six years and to provide instead that senators should hold their places until the expiry of the dissolution of the second House of Representatives' (Parliament of the Commonwealth of Australia, 1959: 34), unless both chambers experienced earlier dissolution according to Section 57. Nevertheless, Menzies became unenthusiastic about the reform as to this issue, and finally stopped pursuing it (Turner, 1993: 188).

Conversely, Menzies destroyed the cycle of simultaneous bicameral elections. The Menzies government reduced the House majority to just one seat and lost its majority in the Senate in the 1961 House and half-Senate election. Afterwards, he was defeated on several bills in the House. Menzies finally presented his view that the defeat of government bills forced a premature dissolution of the House of Representatives without a Senate election: 'The opposition has five times sought to force an election which would be one for the House of Representatives alone' (Commonwealth, 1963: 1791). Although, Arthur Calwell, Australian Labor Party Leader, criticised that a simultaneous election between two chambers is constitutional practice and separate House election would mean a wasteful expenditure of £500,000 (Ibid). Menzies dissolved the House, and his government succeeded in increasing its majority of 60 to 72 by the election.

iii) *Separate elections are disadvantageous for major parties like a by-election.*

Another reason that contradicts separate elections was a belief that a Senate election was the same as a by-election, attracting protest votes. Holt pointed out an anti-government nature in by-elections one month before the Senate election of 1967, writing in a memo: 'By-elections notoriously run against governments and there can be few on record when a government actually gained a better percentage of the vote than it did at the preceding general election' (Holt, 1967). He also submitted a complaint to a newspaper just after the

1967 Senate election: 'You get a sort of by-election atmosphere in a Senate campaign because the result cannot change the government' ('Bit of a nudge', 1967, 27 Nov).

Also, in 1967, newspapers admitted that separate elections assumed an atmosphere as a kind of by-elections; for example, 'a large proportion of the voters approached the Senate election as if it were a by-election, where the government could be rebuked without being unseated, the warning is unmistakable' ('A rap', 1967, 27 Nov). A journalist wrote in *The Sydney Morning Herald* just after the 1970 Senate election that 'the government could not be removed by the Senate poll, so that the election took on some of the characteristics of a by-election' (Stubbs, 1970, 24 Nov).

iv) *Separate elections are powerless, just good for minority parties.*

Newspapers and politicians pointed out that some voters supported minority parties with protest votes but criticised that separate elections were powerless and a systematic flaw.

First, most newspapers agreed that separate Senate elections were good for the DLP or independents: 'Most of the lost votes, however, did not go to the ALP, but rather to the DLP, the Australia Party and other minority groups' ('Protest Vote', 1970, 23 Nov). This belief was shared by Liberal senator Alan Missen, who warned the following in a letter to Fraser: separate elections 'facilitate the emergence of Independents and small Parties in the Senate' (Missen, 1977).

Second, several newspapers never thought those separate elections would be good for the entire politics. They lamented lack of enthusiasm: 'Voting for the Senate is never a chore to be performed with any enthusiasm. Tomorrow it will be more irksome than usual' ('Tomorrow's choice', 1967, 24 Nov); One day before the vote, *The Sydney Morning Herald* published an article stating the following: 'It is a safe guess that most will be bored. It has been, on the whole, a boring campaign' ('Tomorrow's Poll', 1970, 20 Nov). An article pointed out that separate Senate elections were powerless: 'Some people were likely to take this opportunity, knowing they were not going to displace the government, of giving it a bit of a nudge' ('PM disappointed', 1967, 27 Nov).

v) *Belief against simultaneous elections in Australia: No to Canberra*

Senior federal politicians and some newspapers criticised the practice of separate bicameral elections, but anti-Canberra sentiment in some States exploded and succeeded in rejecting the constitutional alteration for simultaneous election in the 1977 referendum.

The No side to the above-mentioned four proposals in the referendum gathered to mainly defend the powers of the states behind the Senate. Despite the fact that federal organisation of the main three parties endorsed the four proposals, some MPs, senators and State Premiers heavily opposed them. No campaigns of Queensland Premier Joh Bjelke-Petersen and Western Australia Premier Charles Court were outstanding among them.

Criticisms against referendum proposals were concentrated where the four proposals meant the reduction of Senate powers; for example, the Queensland government published a newspaper ad detailing the following: ‘Say No to Canberra: All referendums are designed to give more and more to Canberra’ (Bjelke-Petersen & Knox, 1977, 14 May). In the run-up to the referendum vote, Robert Menzies, who had previously written in 1955 that simultaneous election was a ‘normal rule’, described the proposal in a statement on 29 March 1977 as ‘a serious attack upon the powers and functions of the Senate’, and so ‘this provision will be defeated’ (Menzies, 1977). Also, we knew that complaints against attempts to change the Constitution for simultaneous elections were accumulated; for example, Clerk of Senate Harry Evans later made it clear that ‘in a truly bicameral system there is no requirement at all for synchronisation of elections’ (Evans 1995: 121).

Conclusion

The Japanese House of Peers was a limited and privileged chamber. At the end of the Second World War, Japan sought a different identity by occupational representation or indirect election but was unsuccessful. From the outset of the post-war period, Japanese politicians and senior servants habitually held separate bicameral elections, and they strongly believed that the practice of holding separate elections was in accordance with the spirit of the 1947 Constitution of Japan. It was no doubt that a practice of separate elections resulted in one of a few *raisons d’être* for the House of Councillors. Even Nakasone, who had successfully held a simultaneous election, conceded that elections of two chambers ought to be held separately. Politicians in the Nakasone government agreed that the standardisation of simultaneous election would not be appropriate in the Japanese bicameralism. It seemed that maintaining a free choice rather than standardisation was much more important. Such a settlement justified simultaneous elections as an exception and cemented a normal practice of separate election.

Conversely, the practice of separate elections was not necessary for the formation of Senate’s identity in Australia as the Senate has had a clear identity as States’ chamber. It was also no doubt that people, including government politicians and journalists, agreed with simultaneous elections as a way to save money, whereas government politicians have recognised that simultaneous elections would be a benefit to a government party, whether the Liberal–Country Coalition or the Labor Party.

Consensus has been achieved between some Japanese politicians and Australian politicians or parliamentarians: they all believed that each chamber with tenure of considerable duration should mitigate a sudden flux of change and equally emphasised the role of double checking on government bills. Nevertheless, dominant beliefs on bicameral elections in both countries are in opposition: separate elections in Japan and simultaneous elections in Australia. Both Japanese politicians and Australian politicians used the term

bicameralism, but they envisaged different bicameralisms.

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