

---

Chapter Two

# Government

Contents	Page
PARLIAMENTARY GOVERNMENT	45
Scheme of parliamentary government	45
The Sovereign	45
The Governor-General	46
Powers and functions	46
Holders of office	46
Administrators	46
Governors of the States	46
Powers and functions	46
Commonwealth Government Ministries	47
COMMONWEALTH GOVERNMENT	48
Numbers and salaries of Commonwealth Government Ministers	50
PARLIAMENTS AND ELECTIONS	51
Commonwealth Parliaments since Federation	51
Qualifications for membership and for franchise — Commonwealth Parliament	51
Commonwealth Parliaments — representation and elections	52
Parliamentary salaries and allowances	54
Referendums	54
The Parliaments of the States	55
ACTS OF THE COMMONWEALTH PARLIAMENTS	56
The enactment of Commonwealth Parliament legislation	56

---

<b>Contents</b>	<b>Page</b>
<b>NATIONAL ANTHEM AND COLOURS OF AUSTRALIA</b>	<b>57</b>
<b>THE CONSTITUTION</b>	<b>59</b>

There are three levels of government in Australia.

The six Australian colonies federated in 1901 to form the Commonwealth of Australia. Most of the Commonwealth Parliament's legislative powers are enumerated in section 51 of the Constitution. Areas of power not specified remain the responsibility of the States and Territories. A system of local government, established under State legislation, creates a third tier of government in Australia. In 1991, Australia had 842 elected members of Parliament, of whom 224 were Commonwealth and 618 State and Territory members.

Both the State and the Commonwealth systems of government derive from the British Westminster system, although many features of the Commonwealth Constitution (including the federal structure) are based on the United States Constitution. Generally, however, the salient features of the Westminster system have been retained. Ministers are members of Parliament, and are required to be accountable and answerable to it. In the twentieth century, Australia has been characterised by a strong party system and adversarial style of politics between the government and opposition.

This chapter outlines the basic features of the constitutional structure of the Commonwealth Parliament and Government and its electoral system, and provides details of the Ministry, and other political leaders. It also contains, at its end, the Australian Constitution.

A chapter outlining Australia's pre-history to Federation was contained in the 1991 and earlier Year Books.

## **PARLIAMENTARY GOVERNMENT**

### **Scheme of parliamentary government**

Under the Australian Constitution the legislative power of the Commonwealth of Australia is vested in the Parliament of the Commonwealth, which consists of the Queen, the Senate and the House of Representatives. The Queen is represented throughout the Commonwealth by the Governor-General. In each Australian State there is a State Governor, who is the representative of the Queen for the State. The Governor has such

powers within the State as are conferred upon him by the Letters Patent constituting his office, and he exercises these powers in accordance with instructions issued to him by the Queen, detailing the manner in which his duties are to be fulfilled.

No Act of the Parliament of the United Kingdom passed after the commencement of the *Australia Act 1986* extends, or is deemed to extend, to the Commonwealth of Australia or to an Australian State or Territory as part of the law of the Commonwealth, of the State or of the Territory. Further, the restrictions that formerly existed on the legislative powers of the Parliaments of the States were removed by the Act.

In the Commonwealth Parliament the Upper House is known as the Senate, and in the bicameral State Parliaments as the Legislative Council. The Legislature in all States was bicameral until 1922 when the Queensland Parliament became unicameral upon the abolition of the Upper House. In the Commonwealth Parliament the Lower House is known as the House of Representatives; in the State Parliaments of New South Wales, Victoria and Western Australia as the Legislative Assembly; and in the State Parliaments of South Australia and Tasmania as the House of Assembly. The single House of Parliament in Queensland, the Northern Territory and the Australian Capital Territory is known as the Legislative Assembly. The extent of the legislative powers of each of the seven Parliaments is defined by the Australian and State Constitutions respectively. In those States that have a bicameral legislature, the Legislative Assembly or House of Assembly, as the case may be, is the larger House.

The members of the Parliaments of each State are elected by the people, the franchise extending to Australian citizens who are at least 18 years of age and possess certain residential qualifications. For the Commonwealth Parliament the qualifications for the franchise are identical for both Houses, extending to Australian citizens and British subjects who are on the Commonwealth Electoral Roll and who are not less than 18 years of age.

### **The Sovereign**

On 7 February 1952 the then Governor-General of the Commonwealth of Australia, acting with advice of members of the Federal Executive Council, proclaimed

Princess Elizabeth as Queen Elizabeth the Second, Queen of this Realm and of all Her other Realms and Territories, Head of the Commonwealth, Defender of the Faith, Supreme Liege Lady in and over the Commonwealth of Australia. By the *Royal Style and Titles Act 1973*, which Her Majesty assented to in Canberra on 19 October 1973, the Commonwealth Parliament assented to the adoption by Her Majesty, for use in relation to Australia and its Territories, of the Style and Titles set out in the Schedule to that Act. On the same day, also in Canberra, Her Majesty issued a Proclamation, under the Great Seal of Australia, appointing and declaring that Her Majesty's Style and Titles should henceforth be, in relation to Australia and its Territories, 'Elizabeth the Second, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth'.

## The Governor-General

### Powers and functions

Under the Australian Constitution, the Governor-General exercises the executive power of the Commonwealth of Australia, and certain other powers and functions conferred by the Constitution that include, among others, the powers to appoint times for holding the sessions of the Parliament, to prorogue Parliament, and to dissolve the House of Representatives; to cause writs to be issued for general elections of members of the House of Representatives; to assent in the Queen's name to a proposed law passed by both Houses of the Parliament; to choose and summon Executive Councillors, who hold office during the Governor-General's pleasure; and to appoint Ministers of State for the Commonwealth of Australia. In addition, the Governor-General, as the Queen's representative, is Commander-in-Chief of the Defence Forces.

Many Acts of the Commonwealth Parliament provide that the Governor-General may make regulations to give effect to the Acts. The Governor-General may also be authorised by statute to issue proclamations, e.g., to declare an Act in force. The Governor-General has been given power by statute to legislate for certain of the Australian Territories. Under the provisions of the Constitution, as well as by the conventions of responsible government in British Commonwealth countries, the Governor-General's executive functions are exercised on the advice of Ministers of State.

The present Governor-General is His Excellency the Honourable William George Hayden, AC.

### Holders of office

Those persons who have held the office of Governor-General from the inception of the Commonwealth of Australia are pictured in *Year Book Australia 1988*.

### Administrators

In addition to the holders of the office of Governor-General, certain persons have, from time to time, been appointed by the Queen to administer the Government of the Commonwealth of Australia. These persons are appointed in the event of the death, incapacity, removal from office or absence from Australia of the Governor-General.

## Governors of the States

### Powers and functions

The Queen is represented in each of the Australian States by a Governor, the office having been constituted by Letters Patent issued under the Great Seal of the United Kingdom on various dates. The Governors of the States exercise prerogative powers conferred on them by these Letters Patent, their commissions of appointment and the Governor's Instructions given to them under the Royal Sign Manual and Signet or other instrument, as specified in the Letters Patent. In addition, they have been invested with various statutory functions by State Constitutions and the *Commonwealth Australia Act 1986*, as well as under the Acts of the Parliaments of the States.

A Governor of a State assents in the Queen's name to Bills passed by the Parliament of the State. Since the enactment of the *Australia Act 1986*, an Act of Parliament of a State that has been assented to by the Governor of the State is no longer subject to disallowance by the Queen or suspension pending signification of the Queen's pleasure. The Governor administers the prerogative of mercy by the reprieve or pardon of criminal offenders within his jurisdiction, and may remit fines and penalties due to the Crown in right of the State. In the performance of his functions generally, particularly those conferred by statute, the Governor of a State acts on the advice of Ministers of State for the State.

## STATE GOVERNORS, HOLDERS OF OFFICE, NOVEMBER 1991

New South Wales	His Excellency REAR ADMIRAL PETER ROSS SINCLAIR, AO
Victoria	His Excellency JUSTICE RICHARD MCGARVIE
Queensland	His Excellency the Honourable SIR WALTER BENJAMIN CAMPBELL, AC KT QC
Western Australia	His Excellency the Honourable SIR FRANCIS THEODORE PAGE BURT, AC, KCMG, QC
South Australia	Her Excellency the Honourable DAME ROMA FLINDERS MITCHELL, AC, DBE
Tasmania	His Excellency GENERAL SIR PHILLIP BENNETT, AC, KBE, DSO
Northern Territory	The Honourable JAMES HENRY MUIRHEAD, AC QC

Source: *Department of the Parliamentary Library.*

## Commonwealth Government Ministries

office since 1 January 1901 and the dates of its term of office.

The following list shows the name of each Commonwealth Government Ministry to hold

## COMMONWEALTH GOVERNMENT MINISTRIES, 1901 TO 1991

(i)	BARTON MINISTRY	1 January 1901 to 24 September 1903
(ii)	DEAKIN MINISTRY	24 September 1903 to 27 April 1904
(iii)	WATSON MINISTRY	27 April 1904 to 17 August 1904
(iv)	REID-McLEAN MINISTRY	18 August 1904 to 5 July 1905
(v)	DEAKIN MINISTRY	5 July 1905 to 13 November 1908
(vi)	FISHER MINISTRY	13 November 1908 to 2 June 1909
(vii)	DEAKIN MINISTRY	2 June 1909 to 29 April 1910
(viii)	FISHER MINISTRY	29 April 1910 to 24 June 1913
(ix)	COOK MINISTRY	24 June 1913 to 17 September 1914
(x)	FISHER MINISTRY	17 September 1914 to 27 October 1915
(xi)	HUGHES MINISTRY	27 October 1915 to 14 November 1916
(xii)	HUGHES MINISTRY	14 November 1916 to 17 February 1917
(xiii)	HUGHES MINISTRY	17 February 1917 to 8 January 1918
(xiv)	HUGHES MINISTRY	10 January 1918 to 9 February 1923
(xv)	BRUCE-PAGE MINISTRY	9 February 1923 to 22 October 1929
(xvi)	SCULLIN MINISTRY	22 October 1929 to 6 January 1932
(xvii)	LYONS MINISTRY	6 January 1932 to 7 November 1938
(xviii)	LYONS MINISTRY	7 November 1938 to 7 April 1939
(xix)	PAGE MINISTRY	7 April 1939 to 26 April 1939
(xx)	MENZIES MINISTRY	26 April 1939 to 14 March 1940
(xxi)	MENZIES MINISTRY	14 March 1940 to 28 October 1940
(xxii)	MENZIES MINISTRY	28 October 1940 to 29 August 1941
(xxiii)	FADDEN MINISTRY	29 August 1941 to 7 October 1941
(xxiv)	CURTIN MINISTRY	7 October 1941 to 21 September 1943
(xxv)	CURTIN MINISTRY	21 September 1943 to 6 July 1945
(xxvi)	FORDE MINISTRY	6 July 1945 to 13 July 1945
(xxvii)	CHIFLEY MINISTRY	13 July 1945 to 1 November 1946
(xxviii)	CHIFLEY MINISTRY	1 November 1946 to 19 December 1949
(xxix)	MENZIES MINISTRY	19 December 1949 to 11 May 1951
(xxx)	MENZIES MINISTRY	11 May 1951 to 11 January 1956
(xxxi)	MENZIES MINISTRY	11 January 1956 to 10 December 1958
(xxxii)	MENZIES MINISTRY	10 December 1958 to 18 December 1963
(xxxiii)	MENZIES MINISTRY	18 December 1963 to 26 January 1966
(xxxiv)	HOLT MINISTRY	26 January 1966 to 14 December 1966
(xxxv)	HOLT MINISTRY	14 December 1966 to 19 December 1967
(xxxvi)	McEWEN MINISTRY	19 December 1967 to 10 January 1968
(xxxvii)	GORTON MINISTRY	10 January 1968 to 28 February 1968
(xxxviii)	GORTON MINISTRY	28 February 1968 to 12 November 1969

... continued

COMMONWEALTH GOVERNMENT MINISTRIES, 1901 TO 1991 — *continued*

(xxxix)	GORTON MINISTRY	12 November 1969 to 10 March 1971
(xl)	McMAHON MINISTRY	10 March 1971 to 5 December 1972
(xli)	WHITLAM MINISTRY	5 December 1972 to 19 December 1972
(xlii)	WHITLAM MINISTRY	19 December 1972 to 11 November 1975
(xliii)	FRASER MINISTRY	11 November 1975 to 22 December 1975
(xliv)	FRASER MINISTRY	22 December 1975 to 20 December 1977
(xlv)	FRASER MINISTRY	20 December 1977 to 3 November 1980
(xlvi)	FRASER MINISTRY	3 November 1980 to 7 May 1982
(xlvii)	FRASER MINISTRY	7 May 1982 to 11 March 1983
(xlviii)	HAWKE MINISTRY	11 March 1983 to 13 December 1984
(xlix)	HAWKE MINISTRY	13 December 1984 to 24 July 1987
(l)	HAWKE MINISTRY	24 July 1987 to 4 April 1990
(li)	HAWKE MINISTRY	4 April 1990 to 20 December 1991
(lii)	KEATING MINISTRY	20 December 1991

Source: *Department of the Parliamentary Library.*

In *Year Book Australia 1924*, the names are given of each Ministry up to the Bruce–Page Ministry together with the names of the successive holders of portfolios therein. *Year Book Australia 1953* contains a list which covers the period between 9 February 1923, the date on which the Bruce–Page Ministry assumed power, and 31 July 1951, showing the names of all persons who held office in each Ministry

during that period. The names of members of subsequent Ministries are listed in issues of the *Year Book Australia*, 1953 to 1975-76 inclusive, and in successive issues from 1980.

This issue shows particulars of the First Keating Ministry at June 1992.

## LEADERS OF THE GOVERNMENT, JUNE 1992

Commonwealth	THE HON. P. J. KEATING, MP, (NSW) (ALP)
New South Wales	THE HON. N. F. GREINER, MLA (LP)
Victoria	THE HON. J. KIRNER, MLA (ALP)
Queensland	THE HON. W. K. GOSS, MLA (ALP)
Western Australia	THE HON. C. M. LAWRENCE, MLA (ALP)
South Australia	THE HON. J. C. BANNON, MP (ALP)
Tasmania	THE HON. R. J. GROOM, MHA (LP)
Northern Territory	THE HON. M. PERRON, MLA (CLP)
Australian Capital Territory	THE HON. R. FOLLETT, MLA (ALP)

Source: *Department of the Parliamentary Library.*

COMMONWEALTH  
GOVERNMENT

## FIRST KEATING MINISTRY, AT JUNE 1992

* Prime Minister	THE HON. P. J. KEATING, MP
Parliamentary Secretary to the Prime Minister	THE HON. L. BRERETON, MP
* Minister for Health, Housing and Community Services	THE HON. BRIAN HOWE, MP
Minister Assisting the Prime Minister for Social Justice	(Deputy Prime Minister)
Minister Assisting the Prime Minister for Commonwealth–State Relations	
Minister for Aged, Family and Health Services	THE HON. PETER STAPLES, MP
Parliamentary Secretary to the Minister for Health, Housing and Community Services	THE HON. GARY JOHNS, MP

For footnotes see end of table.

FIRST KEATING MINISTRY, AT JUNE 1992 — *continued*

* <b>Minister for Veterans' Affairs</b> Minister Assisting the Prime Minister for Northern Australia	<b>THE HON. BEN HUMPHREYS, MP</b>
* <b>Minister for Industry, Technology and Commerce</b> Minister for Science and Technology Minister Assisting the Prime Minister Minister for Small Business and Construction and Customs	<b>SENATOR THE HON. JOHN BUTTON</b> (Leader of the Government in the Senate) <b>THE HON. ROSS FREE, MP</b>  <b>THE HON. DAVID BEDDALL, MP</b>
* <b>Minister for Foreign Affairs and Trade</b>  Minister for Trade and Overseas Development Parliamentary Secretary to the Minister for Foreign Affairs and Trade	<b>SENATOR THE HON. GARETH EVANS, QC</b> (Deputy Leader of the Government in the Senate) <b>THE HON. JOHN KERIN, MP</b>  <b>THE HON. STEPHEN MARTIN, MP</b>
* <b>Treasurer</b> Parliamentary Secretary to the Treasurer	<b>THE HON. J. S. DAWKINS, MP</b> <b>SENATOR THE HON. BOB MCMULLAN</b> (Manager of Government Business in the Senate)
* <b>Minister for Finance</b>	<b>THE HON. RALPH WILLIS, MP</b> (Vice-President of the Executive Council)
* <b>Attorney-General</b> Minister for Justice Minister Assisting the Minister for Immigration, Local Government and Ethnic Affairs Parliamentary Secretary to the Attorney-General	<b>THE HON. MICHAEL DUFFY, MP</b> <b>SENATOR THE HON. MICHAEL TATE</b>  <b>THE HON. PETER DUNCAN, MP</b>
* <b>Minister for Employment, Education and Training</b>  Minister for Higher Education and Employment Services Minister Assisting the Treasurer Minister for Aboriginal and Torres Strait Islander Affairs Minister Assisting the Prime Minister for Aboriginal Reconciliation Parliamentary Secretary to the Minister for Employment, Education and Training	<b>THE HON. KIM C. BEAZLEY, MP</b> (Leader of the House) <b>THE HON. PETER BALDWIN, MP</b>  <b>THE HON. ROBERT TICKNER, MP</b>  <b>THE HON. WARREN SNOWDON, MP</b>
* <b>Minister for Social Security</b> Minister for Family Support Parliamentary Secretary to the Minister for Social Security	<b>THE HON. NEAL BLEWETT, MP</b> <b>THE HON. DAVID SIMMONS, MP</b>  <b>THE HON. CON SCIACCA, MP</b>
* <b>Minister for Transport and Communications</b> Minister for Land Transport	<b>SENATOR THE HON. ROBERT COLLINS</b> <b>THE HON. BOB BROWN, MP</b>
* <b>Minister for Defence</b> Minister for Defence Science and Personnel Parliamentary Secretary to the Minister for Defence	<b>SENATOR THE HON. ROBERT RAY</b> <b>THE HON. GORDON BILNEY, MP</b>  <b>THE HON. ROGER PRICE, MP</b>

For footnotes see end of table.

FIRST KEATING MINISTRY, AT JUNE 1992 — *continued*


---

* <b>Minister for Immigration, Local Government and Ethnic Affairs</b>	<b>THE HON. GERRY HAND, MP</b>
Minister Assisting the Prime Minister for Multicultural Affairs	
Minister for Family Support and Minister for Local Government	<b>THE HON. DAVID SIMMONS, MP</b>
Minister for Consumer Affairs	<b>THE HON. JEANETTE McHUGH, MP</b>
* <b>Minister for the Arts, Sport, the Environment and Territories</b>	<b>THE HON. ROS KELLY, MP</b>
Minister for the Arts and Territories	<b>THE HON. WENDY FATIN, MP</b>
Minister Assisting the Prime Minister for the Status of Women	
* <b>Minister for Industrial Relations</b>	<b>SENATOR THE HON. PETER COOK</b>
Minister for Shipping and Aviation Support	
Minister Assisting the Prime Minister for Public Service Matters	
* <b>Minister for Administrative Services</b>	<b>SENATOR THE HON. NICK BOLKUS</b>
* <b>Minister for Primary Industries and Energy</b>	<b>THE HON. SIMON CREAN, MP</b>
* <b>Minister for Tourism and Minister for Resources</b>	<b>THE HON. ALAN GRIFFITHS, MP</b>

---

NOTE: \* Portfolio Ministers, all of whom are in the Cabinet, are shown in bold type. A Department with a title reflecting the portfolio Minister's title is administered by the Ministers within each grouping. Mr Simmons administers both the Department of Social Security, with Dr Blewett as portfolio minister, and the Department of Immigration, Local Government and Ethnic Affairs, with Mr Hand as portfolio Minister.

Source: *Department of the Parliamentary Library.*

## LEADERS OF THE OPPOSITION, JUNE 1992

---

Commonwealth	<b>DR J. R. HEWSON, MP (LP)</b>
New South Wales	<b>R. J. CARR, MLA (ALP)</b>
Victoria	<b>THE HON. J. G. KENNETT, MLA (LP)</b>
Queensland	<b>R. E. BORBRIDGE, MLA (NP)</b>
Western Australia	<b>R. COURT, MLA (LP)</b>
South Australia	<b>THE HON. D. C. BROWN, MHA (LP)</b>
Tasmania	<b>THE HON. M. W. FIELD, MHA (ALP)</b>
Northern Territory	<b>B. R. EDE, MLA (ALP)</b>
Australian Capital Territory(a)	<b>THE HON. T. T. KAINE, MLA (LP).</b>

---

(a) Election for the ACT Legislative Assembly was held on 15 February 1992. After an election, the Leader of the Opposition of the Legislative Assembly shall be the leader of the largest non-government party.

Source: *Department of the Parliamentary Library.*

**Numbers and salaries of Commonwealth Government Ministers**

Under sections 65 and 66, respectively, of the Australian Constitution the number of Ministers of State was not to exceed seven, and the annual sum payable for their salaries was not to exceed £12,000, each provision to operate, however, 'until the Parliament otherwise provides'.

Subsequently, the number and salaries have increased from time to time, and as at 15 August 1991 the number of Ministers was 30 and ministerial salaries ranged from \$106,848 for the Prime Minister, \$69,503 for the Deputy Prime Minister, \$56,503 for the Treasurer and for the Leader of the Government in the Senate, \$50,144 for the Leader of the House, and \$46,722 for a



Minister other than the above. Where more than one office is held only one salary is payable, that being the higher salary.

All amounts shown in the foregoing paragraphs are in addition to amounts payable as Parliamentary salaries and allowances.

## PARLIAMENTS AND ELECTIONS

### Commonwealth Parliaments since Federation

The following table shows the number and duration of parliaments since Federation.

#### COMMONWEALTH PARLIAMENTS

<i>Number of Parliament</i>	<i>Date of opening</i>	<i>Date of dissolution</i>
First	9 May 1901	23 November 1903
Second	2 March 1904	5 November 1906
Third	20 February 1907	19 February 1910
Fourth	1 July 1910	23 April 1913
Fifth	9 July 1913	(a)30 July 1914
Sixth	8 October 1914	26 March 1917
Seventh	14 June 1917	3 November 1919
Eighth	26 February 1920	6 November 1922
Ninth	28 February 1923	3 October 1925
Tenth	13 January 1926	9 October 1928
Eleventh	6 February 1929	16 September 1929
Twelfth	20 November 1929	27 November 1931
Thirteenth	17 February 1932	7 August 1934
Fourteenth	23 October 1934	21 September 1937
Fifteenth	30 November 1937	27 August 1940
Sixteenth	20 November 1940	7 July 1943
Seventeenth	23 September 1943	16 August 1946
Eighteenth	6 November 1946	31 October 1949
Nineteenth	22 February 1950	(a)19 March 1951
Twentieth	12 June 1951	21 April 1954
Twenty-first	4 August 1954	4 November 1955
Twenty-second	15 February 1956	14 October 1958
Twenty-third	17 February 1959	2 November 1961
Twenty-fourth	20 February 1962	1 November 1963
Twenty-fifth	25 February 1964	31 October 1966
Twenty-sixth	21 February 1967	29 September 1969
Twenty-seventh	25 November 1969	2 November 1972
Twenty-eighth	27 February 1973	(a)11 April 1974
Twenty-ninth	9 July 1974	(a)11 November 1975
Thirtieth	17 February 1976	8 November 1977
Thirty-first	21 February 1978	19 September 1980
Thirty-second	25 November 1980	(a)4 February 1983
Thirty-third	21 April 1983	26 October 1984
Thirty-fourth	21 February 1985	(a)5 June 1987
Thirty-fifth	14 September 1987	19 February 1990
Thirty-sixth	8 May 1990	27 December 1992

(a) A dissolution of both the Senate and the House of Representatives was granted by the Governor-General under section 57 of the Constitution.

Source: *Department of the Parliamentary Library.*

### Qualifications for membership and for franchise — Commonwealth Parliament

Any Australian citizen, 18 years of age or over and who is, or is qualified to become, an elector of the Commonwealth Parliament is qualified for membership of either house of the Commonwealth Parliament. Any Australian citizen (or British subject who was on the Commonwealth Roll as at 25 January 1984) over 18 years of age is qualified to enrol and vote at federal elections. Residence in a

subdivision for a period of one month before enrolment is necessary to enable a qualified person to enrol. Enrolment and voting are compulsory for all eligible persons.

The principal reasons for disqualification of persons otherwise eligible for election as members of either Commonwealth House are: membership of the other House; allegiance to a foreign power; being attainted of treason; being convicted and under sentence for any offence punishable by imprisonment for one year or longer; being an undischarged bankrupt

or insolvent; holding an office of profit under the Crown (with certain exceptions); or having a pecuniary interest in any agreement with the public service of the Commonwealth except as a member of an incorporated company of more than 25 persons. Persons convicted of treason and not pardoned, or convicted and under sentence for any offence punishable by imprisonment for five years or longer, or of unsound mind, or persons who are holders of temporary entry permits under the Migration Act 1958 or are prohibited non-citizens under that Act, are excluded from enrolment and voting.

### Commonwealth Parliaments — representation and elections

From the establishment of the Commonwealth of Australia until 1949 the Senate consisted of 36 members, 6 being returned by each of the original federating States. The Australian Constitution empowers the Commonwealth Parliament to increase or decrease the size of the Parliament, and, as the population of Australia had more than doubled since its inception, the Parliament passed the *Representation Act 1948* which provided that there should be 10 Senators from each State instead of six, thus increasing the total to 60 Senators, enlarging both Houses of Parliament and providing a representation ratio nearer to the proportion which existed at Federation. The *Representation Act 1983* further provided for 12 Senators for each State from the first meeting of the thirty-fourth Parliament.

The *Senate (Representation of Territories) Act 1973* made provision for two Senators to be elected from both the Northern Territory and the Australian Capital Territory. Elections for the Territory Senators are held at the same time as general elections for the House of Representatives.

In accordance with the Constitution, the total number of State Members of the House of Representatives must be as nearly as practicable twice the total number of State Senators. Consequent upon the increase in the size of the Senate in 1949, the number of State Members was increased from 74 to 121. In 1955 there were 122 State Members; in 1969, 123; in 1974, 124; in 1977, 121; in 1980, 122. From the first meeting of the thirty-fourth Parliament, there was a further increase of 23 to 145 State Members flowing

from the increase in the number of State Senators to 72.

Since the redistribution of electorates in 1949 giving effect to the increase in the size of the House of Representatives, further redistributions have taken place in 1955, 1968, 1974 (Western Australia only), 1977, 1979 (Western Australia only), 1984, when the size of the Parliament was increased again, 1988–89 (Victoria and Western Australia only) and 1991 (New South Wales, Queensland, South Australia, Tasmania and the Australian Capital Territory). Redistributions must be held whenever the representation entitlement of a State changes, when more than one-third of the electorates in a State deviates from the quota by more than 10 per cent for more than two months, or every seven years. The quota (or average number) of electors is the basis for electoral distribution. There may be a deviation from the quota of up to 10 per cent in order to achieve equality of enrolment midway between redistributions. In determining boundaries, Redistribution Committees take account of economic, social and regional interests, means of communication and travel, the trend of population changes, physical features and area, and the existing boundaries of electoral divisions.

The Electoral Commissioner determines the representation entitlements of the States and Territories during the tenth month after the first meeting of a new House of Representatives. Determinations are based on the latest population statistics as provided by the Australian Statistician. The quota is ascertained by dividing the number of people of the Commonwealth by twice the number of Senators representing the States. The population of the Territories and all Senators representing the Territories are excluded from calculation when determining the quota. The population of each State and Territory is then divided by the quota to determine their representation entitlements. If there is a remaining fraction of over half a quota, the State or Territory is entitled to an additional seat. This accounts for the minor fluctuations in the size of the House of Representatives. The representation entitlements of the States at the three most recent determinations are shown in the following table, which also shows the Territorial representation and the total size of the Parliament. Under section 24 of the Constitution, Tasmania remains entitled to the five seats guaranteed to any original State in 1901.

## REPRESENTATION ENTITLEMENTS OF THE STATES AND TERRITORIES

<i>State/Territory</i>	<i>1981</i>	<i>1984</i>	<i>1988</i>	<i>1991</i>
State				
New South Wales	43	51	51	50
Victoria	33	39	38	38
Queensland	19	24	24	25
South Australia	11	13	13	12
Western Australia	11	13	14	14
Tasmania	5	5	5	5
Territories				
Northern Territory	1	1	1	1
Australian Capital Territory	2	2	2	2
<b>Total Parliament</b>	<b>125</b>	<b>148</b>	<b>148</b>	<b>147</b>

Source: Department of the Parliamentary Library.

From 1922 to 1968 the Northern Territory was represented in a limited capacity by one member in the House of Representatives. In May 1968 the *Northern Territory Representation Act 1922* was amended to give full voting rights to the Member for the Northern Territory effective from 15 May 1968, the day on which the Act received Royal assent.

From 1948 to 1967 the Australian Capital Territory was represented in a limited capacity by one member in the House of Representatives. The Member for the Australian Capital Territory was granted full voting rights on 21 February 1967.

Following the passing of the *Australian Capital Territory Representation (House of Representatives) Act 1973* the Australian Capital Territory was divided into two electoral divisions.

Members of the House of Representatives are elected for the duration of the Parliament, which is limited to three years. At elections for Senators the whole State constitutes the

electorate. For the purpose of elections for the House of Representatives the State is divided into single electorates corresponding in number to the number of members to which the State is entitled.

In 1948, amendments to the *Commonwealth Electoral Act 1918* changed the system of scrutiny and counting of votes in Senate elections from the alternative vote to that of proportional representation. The method of voting for both the Senate and the House of Representatives is preferential.

Particulars of voting at Senate elections and elections for the House of Representatives up to 1984 appear in earlier issues of *Year Book Australia*. Full details are contained in the *Election Statistics* issued by the Electoral Commissioner following each election.

The numbers of electors and of primary votes cast for the major political parties in each State and Territory at the latest election for each House of the Commonwealth Parliament were as follows:

## COMMONWEALTH PARLIAMENT ELECTIONS, 24 MARCH 1990

	NSW	Vic.	Qld	SA	WA	Tas.	NT	ACT	Australia
HOUSE OF REPRESENTATIVES									
Electors enrolled	3,630,841	2,781,547	1,805,141	966,431	982,901	310,076	78,994	172,200	10,728,131
Number of votes recorded for									
Australian Labor Party	1,380,780	951,674	695,291	339,218	316,186	115,053	34,106	71,830	3,904,138
Liberal Party	975,083	1,018,740	476,560	381,172	392,870	140,722	..	55,755	3,440,902
National Party	377,687	154,069	280,120	..	21,681	..	..	..	833,557
Country National Party	..	..	..	..	..	..	27,668	..	27,668
Australian Democrats	342,540	319,149	193,817	135,546	75,197	24,876	..	23,091	1,114,216
Call to Australia	21,646	52,554	..	22,297	..	..	..	..	96,497
Others	256,935	70,944	25,809	15,521	88,765	8,853	6,483	9,386	482,696
Formal votes	3,354,671	2,567,130	1,671,597	893,754	894,699	289,504	68,257	160,062	9,899,674
Informal votes	108,134	94,334	38,065	34,143	34,418	9,774	2,387	4,871	326,126
Total votes recorded	3,462,805	2,661,464	1,709,662	927,897	929,117	299,278	70,644	164,933	10,225,800
SENATE									
Electors enrolled	3,630,841	2,781,547	1,805,141	966,431	982,901	310,076	78,994	172,200	10,728,131
Number of votes recorded for									
Australian Labor Party	1,356,430	938,245	653,070	337,137	304,632	120,195	37,343	66,495	3,813,547
Liberal Party	..	..	490,523	376,073	392,820	128,374	..	58,082	1,445,872
National Party	..	..	227,696	3,667	26,801	..	..	..	258,164
Liberal-National Party	1,280,382	1,149,170	..	..	..	..	..	..	2,429,552
Country Liberal Party	..	..	..	..	..	..	29,045	..	29,045
Australian Democrats	393,521	365,376	209,030	149,158	85,324	22,888	..	28,510	1,253,807
Call to Australia	69,744	29,608	18,469	18,701	..	..	..	..	136,522
Western Australian Green Party	..	..	..	..	76,381	..	..	..	76,381
Environment Independents	27,046	16,655	30,967	23,387	22,140	19,835	2,335	8,584	74,668
Others	211,019	80,466	44,441	..	..	..	..	..	412,207
Formal votes	3,338,142	2,579,520	1,674,196	908,123	908,098	291,292	68,723	161,671	9,929,765
Informal votes	145,429	96,171	42,112	23,438	26,733	9,300	1,977	3,905	349,065
Total votes recorded	3,483,571	2,675,691	1,716,308	931,561	934,831	300,592	70,700	165,576	10,278,830

Source: Department of the Parliamentary Library.

The state of the parties in each House at the commencement of the thirty-sixth Parliament was: Senate (after 1 July 1990) — Australian Labor Party 32; Liberal Party of Australia 29; National Party of Australia 5; Australian Democrats 8; Independents 2; House of Representatives — Australian Labor Party 78; Liberal Party of Australia 55; National Party of Australia 14; Independents 1.

### Parliamentary salaries and allowances

The basic salary payable to a Senator or Member of the House of Representatives was \$66,387 at 15 August 1991. In addition, Senators or Members receive an electoral allowance of \$22,685 in the case of a Senator or a Member representing an electorate of less than 2,000 square kilometres, \$26,975 in the case of a Member representing an electorate of

2,000 square kilometres or more, but less than 5,000 square kilometres, or \$32,895 in the case of a Member representing an electorate of 5,000 square kilometres or more.

### Referendums

In accordance with section 128 of the Constitution, any proposed law for the alteration of the Constitution, in addition to being passed by an absolute majority of each House of Parliament, (except in circumstances specified in section 128 of the Constitution which permits a referendum to proceed if passed by only one chamber), must be submitted to a referendum of the electors in each State and Territory and must be approved by a majority of the electors in a majority of the States and by a majority of all the voters who voted before it can be presented for Royal assent.

Since 1901, 42 proposals have been submitted to referendums. The consent of the electors has been received in eight cases: the first in relation to the election of Senators in 1906, the second (1910) and third (1928) in respect of State Debts, the fourth in respect of Social Services in 1946 and the fifth in respect of Aborigines in 1967. The remaining three proposals in relation respectively to Senate casual vacancies, maximum retirement age for justices of the High Court and judges of other Federal Courts, and the right of electors in the Territories to vote in referendums for the alteration of the Constitution, were approved in May 1977. In addition to referendums for alterations of the Constitution, other Commonwealth referendums have been held — two prior to Federation regarding the

proposed Constitution and two regarding military service during the World War I. A National song poll was held on 21 May 1977. Voting was preferential and after the distribution of preferences *Advance Australia Fair* became the National song of Australia.

For further details of referendums see *Year Book Australia 1966*, pages 66–68, *Year Book Australia 1974*, pages 90–91, *Year Book Australia 1977–78*, pages 72–73 and *Year Book Australia 1986*, pages 55–56.

## The Parliaments of the States

This section contains summarised information; for greater detail refer to *State Year Books*.

### STATE OF THE PARTIES IN COMMONWEALTH AND STATE PARLIAMENTS JUNE 1992

#### Commonwealth

##### *House of Representatives*

ALP	77
LP	55
NPA	14
IND	2

##### *Senate*

ALP	32
LP	29
AD	8
NPA	5
IND	2

#### New South Wales

##### *Legislative Assembly*

ALP	47
LP	31
NPA	17
IND	4

##### *Legislative Council*

ALP	18
LP	13
NPA	7
IND	2
AD	2

#### Victoria

##### *Legislative Assembly*

ALP	46
LP	33
NPA	9

##### *Legislative Council*

ALP	18
LP	19
NPA	6
IND	1

#### Queensland

##### *Legislative Assembly*

ALP	54
NPA	26
LP	9

#### South Australia

##### *House of Assembly*

ALP	21
LP	22
NPA	1
IND	3

##### *Legislative Council*

ALP	10
LP	10
AD	2

#### Western Australia

##### *Legislative Assembly*

ALP	28
LP	19
NPA	6
IND	4

##### *Legislative Council*

ALP	16
LP	14
NPA	3
IND	1

For footnotes see end of table.

**STATE OF THE PARTIES IN COMMONWEALTH AND STATE PARLIAMENTS**  
**JUNE 1992 — continued**

<b>Tasmania</b>			
<i>House of Assembly</i>		<i>Legislative Council</i>	
LP	19	LP	1
ALP	11	ALP	1
IND	5	IND	17
<b>Northern Territory</b>			
<i>Legislative Assembly</i>			
CLP	14		
ALP	9		
IND	2		
<b>Australian Capital Territory</b>			
<i>Legislative Assembly</i>			
ALP	8		
LP	6		
IND	3		

NOTE: Explanation of abbreviations:

AD — Australian Democrats; ALP — Australian Labor Party; ASG — Abolish Self-Government; CLP — Country-Liberal Party; IND — Independent; LP — Liberal Party; NPA — National Party of Australia.

Source: Department of the Parliamentary Library.

## ACTS OF THE COMMONWEALTH PARLIAMENTS

In the Commonwealth Parliament all laws are enacted in the name of the Sovereign, the Senate, and the House of Representatives. The subjects with respect to which the Commonwealth Parliament is empowered to make laws are enumerated in the Australian Constitution. In all States, other than South Australia and Tasmania, laws are enacted in the name of the Sovereign by and with the consent of the Legislative Council (except in Queensland) and Legislative Assembly. In South Australia and Tasmania laws are enacted in the name of the Governor of the State, with the advice and consent of the Parliament in the case of South Australia, and of the Legislative Council and House of Assembly in the case of Tasmania. Generally, assent to Bills passed by the Legislatures is given by the Governor-General or State Governor acting on behalf of, and in the name of, the Sovereign. In certain special cases Bills are reserved for the Royal assent. The Parliaments of the States are empowered generally, subject to the Australian Constitution, to make laws in and for their respective States in all cases whatsoever. The power of the States to make laws was enhanced in 1986 by the enactment

by the Commonwealth Parliament of the *Australia Act 1986* and the accompanying *Australia (Request and Consent) Act 1986*. Subject to certain limitations they may alter, repeal, or vary their Constitutions. Where a law of a State is inconsistent with a law of the Commonwealth Parliament, the latter law prevails and the former law is, to the extent of the inconsistency, invalid.

### The enactment of Commonwealth Parliament legislation

The legislation passed by the Commonwealth Parliament between 1901 and 1973, and which was then still in operation, was published in a consolidated form entitled *Acts of the Parliament 1901–1973*. Since 1974, annual volumes of Acts have also been published. The consolidation contains a chronological table of Acts passed from 1901 to 1973, showing how they are affected by subsequent legislation or lapse of time, together with a table of legislation of the Commonwealth Parliament passed between 1901 and 1973 in relation to the several provisions of the Australian Constitution. Reference should be made to these for complete information.

In 1990 the number of enactments of the Commonwealth Parliament was 144.

## NATIONAL ANTHEM AND COLOURS OF AUSTRALIA

Details of the official proclamation issued on 19 April 1984 are as follows:

His Excellency, the Governor-General of the Commonwealth of Australia, issued the following Proclamation on 19 April 1984:

I, SIR NINIAN MARTIN STEPHEN,  
Governor-General of the Commonwealth of  
Australia, acting with the advice of the  
Federal Executive Council, hereby declare:

- (a) that the anthem 'God Save The Queen' shall henceforth be known as the Royal Anthem and be used in the presence of Her Majesty The Queen or a member of the Royal Family;
- (b) that the National Anthem shall consist of the tune known as 'Advance Australia Fair' with the following words:

*Australians all let us rejoice,  
For we are young and free,  
We've golden soil and wealth for  
toil;  
Our home is girt by sea;  
Our land abounds in nature's gifts  
Of beauty rich and rare,  
In history's page, let every stage  
Advance Australia Fair.*

*In joyful strains then let us sing,  
Advance Australia Fair.  
Beneath our radiant Southern Cross  
We'll toil with hearts and hands;  
To make this Commonwealth of ours  
Renowned of all the lands;  
For those who've come across the  
seas  
We've boundless plains to share;  
With courage let us all combine  
To Advance Australia Fair.  
In joyful strains then let us sing,  
Advance Australia Fair.*

- (c) that the Vice-Regal Salute to be used in the presence of His Excellency The Governor-General shall consist of the first four bars and the last four bars of the tune known as 'Advance Australia Fair';
- (d) that the National Anthem shall be used on all official and ceremonial occasions, other than occasions on which either the Royal Anthem or the Vice-Regal Salute is used; and
- (e) that green and gold (Pantone Matching System numbers 116C and 348C as used for printing on paper) shall be the national colours of Australia for use on all occasions on which such colours are customarily used.





# COMMONWEALTH OF AUSTRALIA

## CONSTITUTION ACT

*with alterations of the Constitution made by*

CONSTITUTION ALTERATION (SENATE ELECTIONS) 1906

(No. 1 of 1907)

CONSTITUTION ALTERATION (STATE DEBTS) 1928

(No. 3 of 1910)

CONSTITUTION ALTERATION (STATE DEBTS) 1928

(No. 1 of 1929)

CONSTITUTION ALTERATION (SOCIAL SERVICES) 1946

(No. 81 of 1946)

CONSTITUTION ALTERATION (ABORIGINALS) 1967

(No. 55 of 1967)

CONSTITUTION ALTERATION (SENATE CASUAL VACANCIES) 1977

(No. 82 of 1977)

CONSTITUTION ALTERATION (RETIREMENT OF JUDGES) 1977

(No. 83 of 1977)

CONSTITUTION ALTERATION (REFERENDUMS) 1977

(No. 84 of 1977)

*Note.—Words and phrases inserted by the Constitution Alterations specified above are shown in the text in bold type, while new sections and paragraphs may be identified from the marginal notes showing them as inserted, added or substituted.*

*Omitted words and phrases are ruled through in the text; repealed sections are shown in full in the Notes commencing on page 93.*

---

# THE CONSTITUTION

As Altered to 31 October 1986

(See Note 1 on page 93)

## TABLE OF PROVISIONS

### Covering Clause

1. Short title
2. Act to extend to the Queen's successors
3. Proclamation of Commonwealth
4. Commencement of Act
5. Operation of the Constitution and laws
6. Definitions
7. Repeal of Federal Council Act
8. Application of Colonial Boundaries Act
9. Constitution

## CHAPTER I

### THE PARLIAMENT

#### PART I—GENERAL

### Section

1. Legislative power
2. Governor-General
3. Salary of Governor-General
4. Provisions relating to Governor-General
5. Sessions of Parliament
  - Prorogation and dissolution
  - Summoning Parliament
  - First session
6. Yearly session of Parliament

#### PART II—THE SENATE

7. The Senate
8. Qualification of electors
9. Method of election of senators
  - Times and places
10. Application of State laws
11. Failure to choose senators
12. Issue of writs
13. Rotation of senators
14. Further provision for rotation
15. Casual vacancies
16. Qualifications of senator

## TABLE OF PROVISIONS—continued

17. Election of President
18. Absence of President
19. Resignation of senator
20. Vacancy by absence
21. Vacancy to be notified
22. Quorum
23. Voting in the Senate

## PART III—THE HOUSE OF REPRESENTATIVES

24. Constitution of House of Representatives
25. Provision as to races disqualified from voting
26. Representatives in first Parliament
27. Alteration of number of members
28. Duration of House of Representatives
29. Electoral divisions
30. Qualification of electors
31. Application of State laws
32. Writs for general election
33. Writs for vacancies
34. Qualifications of members
35. Election of Speaker
36. Absence of Speaker
37. Resignation of member
38. Vacancy by absence
39. Quorum
40. Voting in House of Representatives

## PART IV—BOTH HOUSES OF THE PARLIAMENT

41. Right of electors of States
42. Oath or affirmation of allegiance
43. Member of one House ineligible for other
44. Disqualification
45. Vacancy on happening of disqualification
46. Penalty for sitting when disqualified
47. Disputed elections
48. Allowance to members
49. Privileges, &c. of Houses
50. Rules and orders

## PART V—POWERS OF THE PARLIAMENT

51. Legislative powers of the Parliament
52. Exclusive powers of the Parliament
53. Powers of the Houses in respect of legislation
54. Appropriation Bills
55. Tax Bill

## TABLE OF PROVISIONS—continued

- 56. Recommendation of money votes
- 57. Disagreement between the Houses
- 58. Royal assent to Bills  
Recommendations by Governor-General
- 59. Disallowance by the Queen
- 60. Signification of Queen's pleasure on Bills reserved

## CHAPTER II

## THE EXECUTIVE GOVERNMENT

- 61. Executive power
- 62. Federal Executive Council
- 63. Provisions referring to Governor-General
- 64. Ministers of State  
Ministers to sit in Parliament
- 65. Number of Ministers
- 66. Salaries of Ministers
- 67. Appointment of civil servants
- 68. Command of naval and military forces
- 69. Transfer of certain departments
- 70. Certain powers of Governors to vest in Governor-General

## CHAPTER III

## THE JUDICATURE

- 71. Judicial power and Courts
- 72. Judges' appointment, tenure and remuneration
- 73. Appellate jurisdiction of High Court
- 74. Appeal to Queen in Council
- 75. Original jurisdiction of High Court
- 76. Additional original jurisdiction
- 77. Power to define jurisdiction
- 78. Proceedings against Commonwealth or State
- 79. Number of judges
- 80. Trial by jury

## CHAPTER IV

## FINANCE AND TRADE

- 81. Consolidated Revenue Fund
- 82. Expenditure charged thereon
- 83. Money to be appropriated by law
- 84. Transfer of officers
- 85. Transfer of property of State
- 86. Customs, excise, and bounties
- 87. Revenue from customs and excise duties
- 88. Uniform duties of customs
- 89. Payment to States before uniform duties
- 90. Exclusive power over customs, excise, and bounties
- 91. Exceptions as to bounties

## TABLE OF PROVISIONS—continued

- 92. Trade within the Commonwealth to be free
- 93. Payment to States for five years after uniform tariffs
- 94. Distribution of surplus
- 95. Customs duties of Western Australia
- 96. Financial assistance to States
- 97. Audit
- 98. Trade and commerce includes navigation and State railways
- 99. Commonwealth not to give preference
- 100. Nor abridge right to use water
- 101. Inter-State Commission
- 102. Parliament may forbid preferences by State
- 103. Commissioners' appointment, tenure, and remuneration
- 104. Saving of certain rates
- 105. Taking over public debts of States
- 105A. Agreements with respect to State debts

## CHAPTER V

## THE STATES

- 106. Saving of Constitutions
- 107. Saving of power of State Parliaments
- 108. Saving of State laws
- 109. Inconsistency of laws
- 110. Provisions referring to Governor
- 111. States may surrender territory
- 112. States may levy charges for inspection laws
- 113. Intoxicating liquids
- 114. States may not raise forces
- Taxation of property of Commonwealth or State
- 115. States not to coin money
- 116. Commonwealth not to legislate in respect of religion
- 117. Rights of residents in States
- 118. Recognition of laws, &c. of States
- 119. Protection of States from invasion and violence
- 120. Custody of offenders against laws of the Commonwealth

## CHAPTER VI

## NEW STATES

- 121. New States may be admitted or established
- 122. Government of territories
- 123. Alteration of limits of States
- 124. Formation of new States

## CHAPTER VII

## MISCELLANEOUS

- 125. Seat of Government
- 126. Power to Her Majesty to authorise Governor-General to appoint deputies
- 127. Aborigines not to be counted in reckoning population (Repealed by No. 55, 1967, s. 3)

TABLE OF PROVISIONS—continued

CHAPTER VIII

ALTERATION OF THE CONSTITUTION

128. Mode of altering the Constitution

SCHEDULE

Oath and affirmation of allegiance

---

# THE CONSTITUTION

## (63 & 64 VICTORIA, CHAPTER 12)

An Act to constitute the Commonwealth of Australia.

[9th July 1900]

WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Commonwealth of Australia Constitution Act.<sup>1</sup> Short title.

2. The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom. Act to extend to the Queen's successors.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation<sup>2</sup> that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth. Proclamation of Commonwealth.

4. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the several colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act. Commencement of Act.

5. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.<sup>3</sup> Operation of the constitution and laws.

## Definitions.

6. "The Commonwealth" shall mean the Commonwealth of Australia as established under this Act.

"The States" shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called "a State."

"Original States" shall mean such States as are parts of the Commonwealth at its establishment.

Repeal of  
Federal Council  
Act. 48 & 49  
Vict. c. 60.

7. The Federal Council of Australasia Act, 1885, is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth.

Any such law may be repealed<sup>4</sup> as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

Application of  
Colonial  
Boundaries Act.  
58 & 59 Vict.  
c. 34.

8. After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of that Act.

## Constitution.

9. The Constitution of the Commonwealth shall be as follows:—

## THE CONSTITUTION.<sup>1</sup>

This Constitution is divided as follows:—

Chapter	I. —The Parliament:
Part	I. —General:
Part	II. —The Senate:
Part	III. —The House of Representatives:
Part	IV. —Both Houses of the Parliament:
Part	V. —Powers of the Parliament:
Chapter	II. —The Executive Government:
Chapter	III. —The Judicature:
Chapter	IV. —Finance and Trade:
Chapter	V. —The States:
Chapter	VI. —New States:
Chapter	VII. —Miscellaneous:
Chapter	VIII. —Alteration of the Constitution.
	The Schedule.



## CHAPTER I. THE PARLIAMENT.

### PART I.—GENERAL.

Chap. I.

The Parliament.

Part I.  
General.

1. The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is herein-after called "The Parliament," or "The Parliament of the Commonwealth."

Legislative power.

2. A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.

Governor-General.

3. There shall be payable to the Queen out of the Consolidated Revenue fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until the Parliament otherwise provides, shall be ten thousand pounds.

Salary of Governor-General.

The salary of a Governor-General shall not be altered during his continuance in office.

4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

Provisions relating to Governor-General.

5. The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

Sessions of Parliament.  
Prorogation and dissolution.

After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

Summoning Parliament.

The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.

First Session.

6. There shall be a session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

Yearly session of Parliament.

Part II.  
The Senate.

---

## PART II.—THE SENATE.

The Senate.

7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate.

But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State,<sup>5</sup> but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

Qualification of electors.

8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

Method of election of senators.

9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws<sup>6</sup> prescribing the method of choosing the senators for that State.

Times and places.

The Parliament of a State may make laws<sup>6</sup> for determining the times and places of elections of senators for the State.

Application of State laws.

10. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

Failure to choose senators.

11. The Senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the Senate.

Issue of writs.

12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of ~~the third year~~ **three years**, and the places of those of the second class at the expiration of ~~the sixth year~~ **six years**, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

Rotation of  
senators.  
Altered by No.  
1, 1907, s. 2.

The election to fill vacant places shall be made ~~in the year at the expiration of which~~ **within one year before** the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of ~~January~~ **July** following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of ~~January~~ **July** preceding the day of his election.

14. Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.<sup>7</sup>

Further  
provision for  
rotation.

15.<sup>8</sup> If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen, sitting and voting together, or, if there is only one House of that Parliament, that House, shall choose a person to hold the place until the expiration of the term. But if the Parliament of the State is not in session when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days from the beginning of the next session of the Parliament of the State or the expiration of the term, whichever first happens.

Casual vacancies.  
Substituted by  
No. 82, 1977, s.  
2.

Where a vacancy has at any time occurred in the place of a senator chosen by the people of a State and, at the time when he was so chosen, he was publicly recognized by a particular political party as being an endorsed candidate of that party and publicly represented himself to be such a candidate, a person chosen or appointed under this section in consequence of that vacancy, or in consequence of that vacancy and a subsequent vacancy or vacancies, shall, unless there is no member of that party available to be chosen or appointed, be a member of that party.

Where—

- (a) in accordance with the last preceding paragraph, a member of a particular political party is chosen or appointed to hold the place of a senator whose place had become vacant; and
- (b) before taking his seat he ceases to be a member of that party (otherwise than by reason of the party having ceased to exist),

he shall be deemed not to have been so chosen or appointed and the vacancy shall be again notified in accordance with section twenty-one of this Constitution.

The name of any senator chosen or appointed under this section shall be certified by the Governor of the State to the Governor-General.

If the place of a senator chosen by the people of a State at the election of senators last held before the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977* became vacant before that commencement and, at that commencement, no person chosen by the House or Houses of Parliament of the State, or appointed by the Governor of the State, in consequence of that vacancy, or in consequence of that vacancy and a subsequent vacancy or vacancies, held office, this section applies as if the place of the senator chosen by the people of the State had become vacant after that commencement.

A senator holding office at the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977*, being a senator appointed by the Governor of a State in consequence of a vacancy that had at any time occurred in the place of a senator chosen by the people of the State, shall be deemed to have been appointed to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State that commenced or commences after he was appointed and further action under this section shall be taken as if the vacancy in the place of the senator chosen by the people of the State had occurred after that commencement.

Subject to the next succeeding paragraph, a senator holding office at the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977* who was chosen by the House or Houses of Parliament of a State in consequence of a vacancy that had at any time occurred in the place of a senator chosen by the people of the State shall be deemed to have been chosen to hold office until the expiration of the term of service of the senator elected by the people of the State.

If, at or before the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977*, a law to alter the Constitution entitled "*Constitution Alteration (Simultaneous Elections) 1977*" came into operation,<sup>9</sup> a senator holding office at the commencement of that law who was chosen by the House or Houses of Parliament of a State in consequence of a vacancy that had at any time occurred in the place of a Senator chosen by the people of the State shall be deemed to have been chosen to hold office—

- (a) if the senator elected by the people of the State had a term of service expiring on the thirtieth day of June, One thousand nine hundred and seventy-eight—until the expiration or dissolution of the first House of Representatives to expire or be dissolved after that law came into operation; or
- (b) if the senator elected by the people of the State had a term of service expiring on the thirtieth day of June, One thousand nine hundred and eighty-one—until the expiration or dissolution of the second House of Representatives to expire or be dissolved after that law came into operation or, if there is an earlier dissolution of the Senate, until that dissolution.

Qualifications of senator.

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.

Election of President.

17. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

18. Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence. Absence of President.

19. A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant. Resignation of senator.

20. The place of a senator shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate. Vacancy by absence.

21. Whenever a vacancy happens in the Senate, the President, or if there is no President or if the President is absent from the Commonwealth the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened. Vacancy to be notified.

22. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers. Quorum.

23. Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative. Voting in the Senate.

### PART III.—THE HOUSE OF REPRESENTATIVES.

Part III.  
House of  
Representatives.

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators. Constitution of House of Representatives.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides, be determined, whenever necessary, in the following manner:—

- (i.) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators:
- (ii.) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each Original State.

Provision as to  
races  
disqualified  
from voting.

25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

Representatives  
in first  
Parliament.

26. Notwithstanding anything in section twenty-four, the number of members to be chosen in each State at the first election shall be as follows:—

New South Wales.....	twenty-three;
Victoria.....	twenty;
Queensland.....	eight;
South Australia.....	six;
Tasmania.....	five;

Provided that if Western Australia is an Original State, the numbers shall be as follows:—

New South Wales.....	twenty-six;
Victoria.....	twenty-three;
Queensland.....	nine;
South Australia.....	seven;
Western Australia.....	five;
Tasmania.....	five.

Alteration of  
number of  
members.

27. Subject to this Constitution, the Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives.

Duration of  
House of  
Representatives.

28. Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

Electoral  
divisions.

29. Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws<sup>10</sup> for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate.

Qualification of  
electors.

30. Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

Application of  
State laws.

31. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

Writs for general  
election.

32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

Writs for vacancies.

34. Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:—

Qualifications of members.

(i.) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen;

(ii.) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

35. The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

Election of Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

36. Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence.

Absence of Speaker.

37. A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

Resignation of member.

38. The place of a member shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the House, fails to attend the House.

Vacancy by absence.

39. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

Quorum.

40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

Voting in House of Representatives.

#### PART IV.—BOTH HOUSES OF THE PARLIAMENT.

Part IV.  
Both Houses  
of the  
Parliament.

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

Right of electors of States.

Oath or affirmation of allegiance.

42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.

Member of one House ineligible for other.

43. A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

Disqualification.

44. Any person who—

- (i.) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or
- (ii.) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: or
- (iii.) Is an undischarged bankrupt or insolvent: or
- (iv.) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or
- (v.) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons:

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But sub-section iv. does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half pay, or a pension, by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

Vacancy on happening of disqualification.

45. If a senator or member of the House of Representatives—

- (i.) Becomes subject to any of the disabilities mentioned in the last preceding section: or
- (ii.) Takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors: or
- (iii.) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State:

his place shall thereupon become vacant.



46. Until the Parliament otherwise provides, any person declared by this Constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

Penalty for sitting when disqualified.

47. Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

Disputed elections.

48. Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

Allowances to members.

49. The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

Privileges, &c. of Houses.

50. Each House of the Parliament may make rules and orders with respect to—

Rules and orders.

- (i.) The mode in which its powers, privileges, and immunities may be exercised and upheld:
- (ii.) The order and conduct of its business and proceedings either separately or jointly with the other House.

## PART V.—POWERS OF THE PARLIAMENT.

Part V.  
Powers  
of the  
Parliament.

51. The Parliament shall, subject to this Constitution, have power<sup>11</sup> to make laws for the peace, order, and good government of the Commonwealth with respect to:—

Legislative powers of the Parliament.

- (i.) Trade and commerce with other countries, and among the States:
- (ii.) Taxation; but so as not to discriminate between States or parts of States:
- (iii.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:
- (iv.) Borrowing money on the public credit of the Commonwealth:
- (v.) Postal, telegraphic, telephonic, and other like services:
- (vi.) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:
- (vii.) Lighthouses, lightships, beacons and buoys:

- (viii.) Astronomical and meteorological observations:
- (ix.) Quarantine:
- (x.) Fisheries in Australian waters beyond territorial limits:
- (xi.) Census and statistics:
- (xii.) Currency, coinage, and legal tender:
- (xiii.) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:
- (xiv.) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:
- (xv.) Weights and measures:
- (xvi.) Bills of exchange and promissory notes:
- (xvii.) Bankruptcy and insolvency:
- (xviii.) Copyrights, patents of inventions and designs, and trade marks:
- (xix.) Naturalization and aliens:
- (xx.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:
- (xxi.) Marriage:
- (xxii.) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:
- (xxiii.) Invalid and old-age pensions:
- (xxiiiA.) The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances:
- (xxiv.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:
- (xxv.) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States:
- (xxvi.) The people of any race, ~~other than the aboriginal race in any State~~, for whom it is deemed necessary to make special laws:
- (xxvii.) Immigration and emigration:
- (xxviii.) The influx of criminals:
- (xxix.) External affairs:
- (xxx.) The relations of the Commonwealth with the islands of the Pacific:
- (xxxi.) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:

Inserted by No.  
81, 1946, s. 2.

Altered by No.  
55, 1967, s. 2

- (xxxii.) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:
- (xxxiii.) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:
- (xxxiv.) Railway construction and extension in any State with the consent of that State:
- (xxxv.) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:
- (xxxvi.) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:
- (xxxvii.) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States,<sup>12</sup> but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:
- (xxxviii.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:
- (xxxix.) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any Department or officer of the Commonwealth.

52. The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to—

Exclusive powers of the Parliament.

- (i.) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes:
- (ii.) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:
- (iii.) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

Powers of the Houses in respect of legislation.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Appropriation  
Bills.

54. The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

Tax Bill.

55. Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

Recommendation  
of money votes.

56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

Disagreement  
between the  
Houses.

57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and the House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

---

58. When a proposed law passed by both Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

Royal assent to Bill.

The Governor-General may return to the house in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation.

Recommendations by Governor-General.

59. The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

Disallowance by the Queen.

60. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.

Signification of Queen's pleasure on Bills reserved.

## CHAPTER II.

Chap. II.  
The Government.

### THE EXECUTIVE GOVERNMENT.

61. The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

Executive power.

62. There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

Federal Executive Council.

63. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

Provisions referring to Governor-General.

64. The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

Ministers of State.

Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.

After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.

Ministers to sit in Parliament.

Number of  
Ministers.

65. Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provision, as the Governor-General directs.

Salaries of  
Ministers.

66. There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until the Parliament otherwise provides, shall not exceed twelve thousand pounds a year.

Appointment of  
civil servants.

67. Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.

Command of  
naval and  
military forces.

68. The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.

Transfer of  
certain  
departments.

69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:—

Posts, telegraphs, and telephones:

Naval and military defence:

Lighthouses, lightships, beacons and buoys:

Quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

Certain powers of  
Governors to  
vest in Governor-  
General.

70. In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

Chap. III.  
The  
Judicature.

---

---

## CHAPTER III.

### THE JUDICATURE.

Judicial power  
and Courts.

71. The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.

72. The Justices of the High Court and of the other courts created by the Parliament—

Judges' appointment, tenure and remuneration.

- (i.) Shall be appointed by the Governor-General in Council:
- (ii.) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:
- (iii.) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

The appointment of a Justice of the High Court shall be for a term expiring upon his attaining the age of seventy years, and a person shall not be appointed as a Justice of the High Court if he has attained that age.

Paragraph added by No. 83, 1977, s. 2.

The appointment of a Justice of a court created by the Parliament shall be for a term expiring upon his attaining the age that is, at the time of his appointment, the maximum age for Justices of that court and a person shall not be appointed as a Justice of such a court if he has attained the age that is for the time being the maximum age for Justices of that court.

Paragraph added by No. 83, 1977, s. 2.

Subject to this section, the maximum age for Justices of any court created by the Parliament is seventy years.

Paragraph added by No. 83, 1977, s. 2.

The Parliament may make a law fixing an age that is less than seventy years as the maximum age for Justices of a court created by the Parliament and may at any time repeal or amend such a law, but any such repeal or amendment does not affect the term of office of a Justice under an appointment made before the repeal or amendment.

Paragraph added by No. 83, 1977, s. 2.

A Justice of the High Court or of a court created by the Parliament may resign his office by writing under his hand delivered to the Governor-General.

Paragraph added by No. 83, 1977, s. 2.

Nothing in the provisions added to this section by the *Constitution Alteration (Retirement of Judges)* 1977 affects the continuance of a person in office as a Justice of a court under an appointment made before the commencement of those provisions.

Paragraph added by No. 83, 1977, s. 2.

A reference in this section to the appointment of a Justice of the High Court or of a court created by the Parliament shall be read as including a reference to the appointment of a person who holds office as a Justice of the High Court or of a court created by the Parliament to another office of Justice of the same court having a different status or designation.

Paragraph added by No. 83, 1977, s. 2.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences—

Appellate jurisdiction of High Court.

- (i.) Of any Justice or Justices exercising the original jurisdiction of the High Court:
- (ii.) Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council:

(iii.) Of the Inter-State Commission, but as to questions of law only: and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

Appeal to Queen  
in Council.

74. No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits inter se of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits inter se of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked,<sup>13</sup> but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

Original  
jurisdiction of  
High Court.

75. In all matters—

- (i.) Arising under any treaty:
- (ii.) Affecting consuls or other representatives of other countries:
- (iii.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:
- (iv.) Between States, or between residents of different States, or between a State and a resident of another State:
- (v.) In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:

the High Court shall have original jurisdiction.

Additional  
original  
jurisdiction.

76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter—

- (i.) Arising under this Constitution, or involving its interpretation:
- (ii.) Arising under any laws made by the Parliament:
- (iii.) Of Admiralty and maritime jurisdiction:
- (iv.) Relating to the same subject-matter claimed under the laws of different States.



77. With respect to any of the matters mentioned in the last two sections the Parliament may make laws— Power to define jurisdiction.

(i.) Defining the jurisdiction of any federal court other than the High Court:

(ii.) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:

(iii.) Investing any court of a State with federal jurisdiction.

78. The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power. Proceedings against Commonwealth or State.

79. The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes. Number of judges.

80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes. Trial by jury.

## CHAPTER IV.

### FINANCE AND TRADE.

#### Chap. IV. Finance and Trade.

81. All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution. Consolidated Revenue Fund.

82. The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth. Expenditure charged thereon.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law. Money to be appropriated by law.

But until the expiration of one month after the first meeting of the Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

84. When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth. Transfer of officers.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

Transfer of  
property of State.

85. When any department of the public service of a State is transferred to the Commonwealth—

- (i.) All property of the State of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary:
- (ii.) The Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:
- (iii.) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament:
- (iv.) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

87. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

---

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

**88.** Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth. Uniform duties of customs.

**89.** Until the imposition of uniform duties of customs—

Payments to States before uniform duties.

(i.) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(ii.) The Commonwealth shall debit to each State—

(a) The expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;

(b) The proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth.

(iii.) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

**90.** On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive. Exclusive power over customs, excise, and bounties.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect, but any grant or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

**91.** Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods. Exceptions as to bounties.

**92.** On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free. Trade within the Commonwealth to be free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

Payment to States  
for five years  
after uniform  
tariffs.

93. During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides—

- (i.) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State:
- (ii.) Subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

Distribution of  
surplus.

94. After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

Customs duties of  
Western Australia.

95. Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia, if that State be an Original State, may, during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

Financial  
assistance to  
States.

96. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

Audit.

97. Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned.

Trade and  
commerce  
includes  
navigation and  
State railways.

98. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

Commonwealth  
not to give  
preference.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

Nor abridge  
right to use  
water.

101. There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

Inter-State  
Commission.

102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

Parliament may  
forbid  
preferences by  
State.

103. The members of the Inter-State Commission—

Commissioners'  
appointment,  
tenure, and  
remuneration.

(i.) Shall be appointed by the Governor-General in Council:

(ii.) Shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity:

(iii.) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

104. Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

Saving of  
certain rates.

105. The Parliament may take over from the States their public debts ~~existing at the establishment of the Commonwealth~~, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

Taking over  
public debts of  
States.  
Altered by No.  
3, 1910, s. 2.

Agreements with  
respect to State  
debts.

Inserted by No.  
1, 1929, s. 2.

**105A** —(1.) The Commonwealth may make agreements with the States with respect to the public debts of the States, including—

- (a) the taking over of such debts by the Commonwealth;
- (b) the management of such debts;
- (c) the payment of interest and the provision and management of sinking funds in respect of such debts;
- (d) the consolidation, renewal, conversion, and redemption of such debts;
- (e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and
- (f) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.

(2.) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3.) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

(4.) Any such agreement may be varied or rescinded by the parties thereto.

(5.) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.

(6.) The powers conferred by this section shall not be construed as being limited in any way by the provision of section one hundred and five of this Constitution.

Chap. V.  
The States.

## CHAPTER V.

### THE STATES.

Saving of  
Constitutions.

**106.** The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

Saving of Power  
of State  
Parliaments.

**107.** Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

108. Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

Saving of State laws.

109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Inconsistency of laws.

110. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

Provisions referring to Governor.

111. The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

States may surrender territory.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

States may levy charges for inspection laws.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

Intoxicating liquids.

114. A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

States may not raise forces.  
Taxation of property of Commonwealth or State.

115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

States not to coin money.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

Commonwealth not to legislate in respect of religion.

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

Rights of residents in States.

118. Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.

Recognition of laws, &c. of States.

119. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

Protection of States from invasion and violence.

Custody of  
offenders against  
laws of the  
Commonwealth.

120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

---

Chap. VI.  
New States.

---

## CHAPTER VI.

### NEW STATES.

New States may  
be admitted or  
established.

121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

Government of  
territories.

122. The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

Alteration of  
limits of States.

123. The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

Formation of new  
States.

124. A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

---

Chap. VII.  
Miscellaneous.

---

## CHAPTER VII.

### MISCELLANEOUS.

Seat of  
Government.

125. The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

---



Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meet at the seat of Government.

126. The Queen may authorise the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies<sup>14</sup> within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

Power to Her Majesty to authorise Governor-General to appoint deputies.

15\* \* \* \* \*

Section 127 repealed by No. 55, 1967, s. 3.

## CHAPTER VIII. ALTERATION OF THE CONSTITUTION.

Chap. VIII.  
Alteration of  
Constitution.

128. This Constitution shall not be altered except in the following manner:—

Mode of altering the Constitution.

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State and Territory to the electors qualified to vote for the election of members of the House of Representatives.

Paragraph altered by No. 84, 1977, s. 2.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State and Territory qualified to vote for the election of the House of Representatives..

Paragraph altered by No. 84, 1977, s. 2.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

Paragraph added by  
No. 84, 1977, s.  
2.

In this section, "Territory" means any territory referred to in section one hundred and twenty-two of this Constitution in respect of which there is in force a law allowing its representation in the House of Representatives.

---

## SCHEDULE.

---

### OATH.

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. SO HELP ME GOD!

### AFFIRMATION.

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

(NOTE.—*The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.*)

---

## NOTES

1. The Constitution as printed above contains all the alterations of the Constitution made up to 31 October 1986. Particulars of the Acts by which the Constitution was altered are as follows:

Act	Number and year	Date of Assent
<i>Constitution Alteration (Senate Elections) 1906</i> .....	1, 1907	3 Apr 1907
<i>Constitution Alteration (State Debts) 1909</i> .....	3, 1910	6 Aug 1910
<i>Constitution Alteration (State Debts) 1928</i> .....	1, 1929	13 Feb 1929
<i>Constitution Alteration (Social Services) 1946</i> .....	81, 1946	19 Dec 1946
<i>Constitution Alteration (Aboriginals) 1967</i> .....	55, 1967	10 Aug 1967
<i>Constitution Alteration (Senate Casual Vacancies) 1977</i> .....	82, 1977	29 July 1977
<i>Constitution Alteration (Retirement of Judges) 1977</i> .....	83, 1977	29 July 1977
<i>Constitution Alteration (Referendums) 1977</i> .....	84, 1977	29 July 1977

2. Covering Clause 3—The Proclamation under covering clause 3 was made on 17 September 1900 and is published in *Gazette* 1901, p. 1 and *infra* p. 41.
3. Covering Clause 5—*Cf.* the *Statute of Westminster Adoption Act 1942*, *infra* p. 47.
4. Covering Clause 7—The following Acts have repealed Acts passed by the Federal Council of Australasia:
- Defence Act 1903* (No. 20, 1903), s. 6.
- Pearl Fisheries Act 1952* (No. 8, 1952), s. 3.  
(*Pearl Fisheries Act 1952* repealed by  
*Continental Shelf (Living Natural Resources) Act 1968*, s. 3.)
- Service and Execution of Process Act 1901* (No. 11, 1901), s. 2. (S. 2 subsequently repealed by  
*Service and Execution of Process Act 1963*, s. 3.)
5. S. 7—The number of senators for each State was increased to 12 by the *Representation Act 1983*, s. 3.
6. S. 9—The following State Acts have been passed in pursuance of the powers conferred by s. 9:

State	Number	Short title	How affected
New South Wales	No. 73, 1900	Federal Elections Act, 1900	Ss. 2, 3, 4, 5 and 6 and the Schedule repealed by No. 9, 1903; wholly repealed by No. 41, 1912
	No. 9, 1903	Senators' Elections Act, 1903	Amended by No. 75, 1912 and No. 112, 1984
	No. 75, 1912	Senators' Elections (Amendment) Act, 1912	(Still in force)
	No. 112, 1984	Senators' Elections (Amendment) Act, 1984	(Still in force)
Victoria	No. 1715	Federal Elections Act 1900	Repealed by No. 1860

## NOTES—continued

State	Number	Short title	How affected
	No. 1860	<i>Senate Elections (Times and Places) Act 1903</i>	Repealed by No. 2723
	No. 2399	<i>Senate Elections (Times and Places) Act 1912</i>	Repealed by No. 2723
	No. 2399	<i>Senate Elections (Times and Places) Act 1912</i>	Repealed by No. 2723
	No. 2723	<i>Senate Elections (Times and Places) Act 1915</i>	Repealed by No. 3769
	No. 3769	<i>Senate Elections (Times and Places) Act 1928</i>	Repealed by No. 6365
	No. 6365	<i>Senate Elections Act 1958</i>	Amended by No. 10108
	No. 10108	<i>Senate Elections (Amendment) Act, 1984</i>	(Still in force)
Queensland	64 Vic. No. 25	<i>The Parliament of the Commonwealth Elections Act and The Elections Acts 1885 to 1898 Amendment Act of 1900</i>	Operation exhausted
	3 Edw. VII. No. 6	<i>The Election of Senators Act of 1903</i>	Repealed by 9 Eliz. II. No. 20
	9 Eliz. II. No. 20	<i>The Senate Elections Act of 1960</i>	Amended by No. 79, 1984
	No. 79, 1984	<i>Senate Elections Act Amendment Act 1984</i>	(Still in force)
South Australia	No. 834	<i>The Election of Senators Act, 1903</i>	Amended by No. 4, 1978, No. 37, 1981 and No. 80, 1984
	No. 4, 1978	<i>The Election of Senators Act Amendment Act, 1978</i>	(Still in force)
	No. 37, 1981	<i>Election of Senators Act Amendment Act, 1981</i>	(Still in force)
	No. 80, 1984	<i>Election of Senators Act Amendment Act, 1984</i>	(Still in force)
Western Australia	No. 11, 1903	<i>Election of Senators Act, 1903</i>	Amended by No. 27, 1912 and No. 86, 1984
	No. 27, 1912	<i>Election of Senators Amendment Act, 1912</i>	(Still in force)
	No. 86, 1984	<i>Election of Senators Amendment Act, 1984</i>	(Still in force)
Tasmania	64 Vic. No. 59	<i>The Federal Elections Act, 1900</i>	Repealed by 26 Geo. V. No. 3
	3 Edw. VII. No. 5	<i>The Election of Senators Act, 1903</i>	Repealed by 26 Geo. V. No. 3
	26 Geo. V. No. 3	<i>Senate Elections Act 1935</i>	Amended by No. 63, 1984
	No. 63, 1984	<i>Senate Elections Amendment Act 1984</i>	(Still in force)

## NOTES—continued

7. S. 14—For the provisions applicable upon the increase in the number of senators to 12 made by the *Representation Act 1983*, see s. 3 of that Act.
8. Section 15, before its substitution by the *Constitution Alteration (Senate Casual Vacancies) 1977*, provided as follows:
- “15. If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.
- “At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.
- “The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General.”
9. S. 15—The proposed law to alter the Constitution entitled “*Constitution Alteration (Simultaneous Elections) 1977*” was submitted to the electors in each State of the Commonwealth on 21 May 1977: it was not approved by a majority of all the electors voting in a majority of the States. See *Gazette 1977*, No. S100, p. 1.
10. S. 29—The following State Acts were passed in pursuance of the powers conferred by s. 29, but ceased to be in force upon the enactment of the *Commonwealth Electoral Act 1902*:

State	Number	Short title
New South Wales	No. 73, 1900	Federal Elections Act, 1900
Victoria	No. 1667	<i>Federal House of Representatives Victorian Electorates Act 1900</i>
Queensland	64 Vic. No. 25	The Parliament of the Commonwealth Elections Act and The Elections Acts 1885 to 1898 Amendment Act of 1900
Western Australia	64 Vic. No. 6	Federal House of Representatives Western Australian Electorates Act, 1900

## NOTES—continued

11. S. 51—The following Imperial Acts extended the legislative powers of the Parliament:

Whaling Industry (Regulations) Act, 1934, s. 15  
 Geneva Convention Act, 1937, s. 2  
 Emergency Powers (Defence) Act, 1939, s. 5  
 Army and Air Force (Annual) Act, 1940, s. 3.

12. S. 51 (xxxvii.)—The following Acts have been passed by the Parliaments of the States to refer matters to the Parliament under section 51 (xxxvii.):

State	Number	Short title	How affected
New South Wales	No. 65, 1915	Commonwealth Powers (War) Act, 1915	Expired 9 Jan 1921; see s. 5
	No. 33, 1942	Commonwealth Powers Act, 1942	Expired; see s. 4
	No. 18, 1943	Commonwealth Powers Act, 1943	Expired; see s. 4
	No. 48, 1983	Commonwealth Powers (Meat Inspection) Act, 1983	(Still in force)
Victoria	No. 3108	Commonwealth Powers (Air Navigation) Act 1920	Repealed by No. 4502
	No. 3658	Commonwealth Arrangements Act 1928 (Part III)	Repealed by No. 4502
	No. 4009	Debt Conversion Agreement Act 1931 (No. 2)	(Still in force)
	No. 4950	Commonwealth Powers Act 1943	Not proclaimed to come into operation and cannot now be so proclaimed
Queensland	12 Geo. V. No. 30	The Commonwealth Powers (Air Navigation) Act of 1921	Repealed by 1 Geo. VI. No. 8
	22 Geo. V. No. 30	The Commonwealth Legislative Power Act, 1931	Repealed by No. 46, 1983
	7 Geo. VI. No. 19	Commonwealth Powers Act 1943	Expired; see s. 4
	14 Geo. VI. No. 2	The Commonwealth Powers (Air Transport) Act of 1950	(Still in force)
South Australia	No. 1469, 1921	Commonwealth Powers (Air Navigation) Act, 1921	Repealed by No. 2352, 1937
	No. 2061, 1931	Commonwealth Legislative Power Act, 1931	(Still in force)
	No. 3, 1943	Commonwealth Powers Act 1943	Expired; see s. 5
Western Australia	No. 4, 1943	Commonwealth Powers Act, 1943	Repealed by No. 58, 1965
	No. 57, 1945	Commonwealth Powers Act, 1945	Repealed by No. 58, 1965
	No. 30, 1947	Commonwealth Powers Act, 1943, Amendment Act, 1947	Repealed by No. 58, 1965
	No. 31, 1947	Commonwealth Powers Act, 1945, Amendment Act, 1947	Repealed by No. 58, 1965
	No. 73, 1947	Commonwealth Powers Act, 1945, Amendment Act, (No. 2), 1947	Repealed by No. 58, 1965

## NOTES—continued

State	Number	Short title	How affected
	No. 81, 1947	<i>Commonwealth Powers Act, 1945–1947, Amendment (Continuance) Act, 1947</i>	Repealed by No. 58, 1965
Tasmania	11 Geo. V. No. 42	<i>Commonwealth Powers (Air Navigation) Act, 1920</i>	Repealed by 1 Geo. VI. No. 14
	No. 46, 1952	<i>Commonwealth Powers (Air Transport) Act 1952</i>	(Still in force)
	No. 62, 1966	<i>Commonwealth Powers (Trade Practices) Act 1966</i>	Expired; see s. 2

13. s. 74—See *Privy Council (Limitation of Appeals) Act 1968*, *Privy Council (Appeals from the High Court) Act 1975* and *Kirmani v Captain Cook Cruises Pty Ltd* (No. 2); *Ex parte Attorney-General (QLD)* (1985) 58 ALR 108.
14. S. 126—See clause IV of the Letters Patent relating to the Office of Governor-General, published in *Gazette* 1984, S334, pp. 3 and 4 and *infra* p. 44.
15. Section 127, before its repeal by the *Constitution Alteration (Aboriginals) 1967*, provided as follows:

“127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.”

