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CHAPTER 1

DISCOVERY, COLONISATION AND FEDERATION OF AUSTRALIA

Early knowledge and discovery of Australia

The following paragraphs contain only a bare outline of the pre-history and of the more important facts relating to the early history of Australian discovery. A more detailed summary of the discovery of Australia may be found in Year Book No. 39 (*see* page 1) and earlier issues.

Pre-history

Man entered the Australian continent from the South-East Asian area during the last glaciation, some 30,000 years ago, when sea levels were lower than in recent times. Nevertheless these first migrations would have entailed sea voyages of at least some 60 kilometres. Settlement was well established at least 25,000 to 30,000 years ago, and by 20,000 years ago almost all the continent was inhabited.

The original Australians lived as hunters and gatherers, using tools of wood, bone and stone. The archaeological evidence indicates that originally there was a simple, pan-continental tool-making tradition characterised by stone core tools and scrapers used to make further tools of wood. This tradition persisted until 5,000 to 6,000 years ago, when a series of new influences became apparent. A range of more specialised and sophisticated small tools was added to the old technology. The dingo, the only animal domesticated by the Aborigines, also entered the continent at this time. These new influences never reached Tasmania, isolated for some 12,000 years by the post-glacial rising seas, where a few thousand Tasmanian Aborigines maintained the culture of the late Pleistocene period until the European settlement of the island.

The Aborigines probably achieved maximum exploitation of local resources within the limits of their technology. Population balance had apparently been attained long before European settlement, and anthropologists accept that there were at least some 250,000 to 300,000 Aborigines in Australia in 1788. They were divided into some 500 small groups, speaking a variety of languages and dialects. These 'tribes' were further divided into families or clusters of family groups; these 'bands' formed the basic self-sufficient economic unit, and ranged within territorial limits. Labour was divided between the sexes, the men hunting, while the women foraged for the roots, seeds and small animals which formed a basic part of their subsistence. When abundant food or water supplies were available, or when ceremonial obligations demanded, local groups would congregate; in leaner times they scattered. Ceremonial exchanges of goods at these gatherings led to their wide dispersal. Religious and ceremonial activities related to the land, were a vital part of Aboriginal life. There is evidence that they had developed the use of ochre as a ritual painting material as early as 25,000 years ago, while some form of ritual burial was also practised at this time.

The physical barriers of distance and aridity within Australia itself, were cause in part of the cultural isolation and linguistic diversity of its people. European exploration and settlement was for most Aboriginal societies their first contact with an outside culture. The impact of this settlement led rapidly to the disappearance of the traditional Aboriginal way of life in those areas where the colonists established themselves most successfully.

Terra Australis

Although references to an Austral land are found in the works of writers in the early centuries after Christ, and evidence appeared in maps, globes, and manuscripts from the Middle Ages onward, there is no definite evidence connecting this so-called *Terra Australis* with Australia. Cornelius Wytfliet's map of 1597, however, indicates roughly the eastern and western coasts of Australia, as well as the gulf of Carpentaria.

Early discoveries of Australia

The Portuguese may have discovered part of the Australian coast before 1542, and it has been suggested that the Arabs may have come to Australia even earlier, though there is no evidence to support this theory. For all practical purposes, however, the coastal exploration of Australia may be taken as having begun with the Spaniards and the Dutch.

In 1606 the Spaniard Quiros, on reaching the island that has retained the name of Espiritu Santo (the largest island of the New Hebrides group), thought he had discovered the great land of the south, and therefore named the group *La Australia del Spiritu Santo*. After leaving the New Hebrides Quiros sailed eastward, but Torres, his second-in-command, took a westerly course and passed through the strait that now bears his name. In all probability he sighted the Australian continent but no mention of it is made in his records. This voyage marks the close of Spanish activity in the work of discovery in the South Seas.

The Dutch discovered Australia when the Dutch East India Company sent the *Duyfken* from Bantam, Java, to explore the island of New Guinea. During March 1606 the *Duyfken* coasted along the southern shores of New Guinea and followed the west coast of Cape York peninsula as far as Cape Keer-Weer (Turn Again).

During the following thirty years there were nine visits by Dutch navigators to Australian waters; by 1636, through their efforts, the coast of Australia from Cape York westward around to the Great Australian Bight had been discovered.

In 1642 Abel Janszoon Tasman set out from Batavia to ascertain the extent of the great southern continent. He named Van Diemen's Land, imagining it to be part of Australia proper, and sailing north-easterly discovered New Zealand and returned to Batavia. In his second voyage in 1644 Tasman visited the northern coast of Australia, sailing round the Gulf of Carpentaria and along the north-west coast as far south as the tropic of Capricorn. This voyage of Tasman's may be said to have ended the period of Dutch discoveries, although there were subsequent visits by the Dutch to Australia (de Vlamingh in 1696 and Van Delft in 1705).

Discoveries by the English

In the meantime the English had made their first appearance on the Australian coast in 1688, when the north-westerly shores were visited by William Dampier, as supercargo of the *Cygnets*, a trading vessel whose crew had turned buccaneers. In 1699 he again visited Australia, in command of H.M.S. *Roebuck*, and on his return to England published an account in which a description is given of trees, flowers, birds, and reptiles observed, and of encounters with natives.

At the end of the seventeenth century it was uncertain whether Tasmania and New Zealand were parts of Australia or whether they were separated from it but themselves formed part of a great Antarctic Continent. Lieutenant (later Captain) James Cook's first voyage, though undertaken primarily for the purpose of observing the transit of Venus from Tahiti, had also the objective of ascertaining whether the unexplored part of the southern hemisphere was only an immense mass of water or contained another continent. In command of H.M.S. *Endeavour*, and accompanied by Sir Joseph Banks the botanist, Dr Solander the naturalist, Green the astronomer, draughtsmen, and servants, Cook, after observing the transit of Venus at Tahiti, turned towards New Zealand, sighting that land on 7 October 1769 in the neighbourhood of Poverty Bay. Circumnavigating the North and South Islands, he proved that New Zealand was connected neither with the supposed Antarctic Continent nor with Australia, and took formal possession thereof in the name of the British Crown.

Discovery of Australia by Captain Cook

On 20 April 1770* Cook sighted the Australian mainland at a place he called Point Hicks, naming it after his first-lieutenant, who first saw it. Coasting northwards, on 29 April 1770* he discovered Botany Bay, where he landed. Cook sailed along the coast in a northerly direction for nearly 2,100 kilometres until 11 June 1770, when the *Endeavour* was seriously damaged by striking a coral reef in the vicinity of Trinity Bay. Repairs occupied nearly two months, and the *Endeavour* then again set her course to the north sailing through Torres Strait and eventually anchoring in the Downs on 13 July 1771. In 1772 Cook was put in command of the ships *Resolution* and *Adventure* with a view to ascertaining whether a great southern continent existed. Having satisfied himself that, even if it did, it lay so far to the south as to be useless for trade and settlement, he returned to England in 1774. Cook's last voyage was undertaken in 1776, and he met his death on 14 February 1779, by which date practically the whole coast of Australia had been explored. The only remaining discovery of importance, the existence of a channel between Tasmania and Australia, was made by Bass and Flinders in 1798.

* Year Book No. 1 shows the dates of these events as '19th April' and '28th April' respectively. In Year Book No. 2 they have been changed to '20th of April' and '29th April', and the following footnote inserted:

1. *Correct dates of Captain Cook's Log.* About the 180° meridian of longitude had been passed, and owing to no allowance having been made for westing, the various log-books of this voyage are in error one day as to dates. Thus those in Captain Cook's private log in his official log, in Gunner Forwood's, Pickergill's, Clerke's, Wilkinson's, and Bootie's Journals, in the Pallister copy of Cook's log, and in Wharton's publication, all need correction by adding one day to the date given: that is, the 19th should read the 20th, etc. The anonymous log, doubtless Green's, is erroneously supposed by the author of the "Historical Records of New South Wales," to have been corrected for westing, see the footnote on page 269 therein. The facts are as follows:—What was known as "ship time" began a day earlier than under the present system of astronomical reckoning, that is to say, Jan. 1 began at noon Dec. 31. The "Astronomical day," however, was a whole day later than the ship's day: thus what would be assigned to the 24th in Cook's Journal would appear in Green's Journal as the 23rd. (See "Captain Cook's Journal," 1768-71, by Captain W. J. L. Wharton, R.N., F.R.S., London, 1893, preface pp. xii., xliii.). There can be no doubt as to the need of the correction in the dates, since on reaching Batavia the log reads:—"Wednesday 10th, according to our reckoning, but by the people here Thursday 11th." (Op. Cit., pp. 352-3.) Attention was drawn to this matter by Mr. P. de Jersey Grut in the "Argus," Melbourne, May 15, 18 and 22, 1907.

The annexation of Australia

Possession taken of eastern coast of Australia by Captain Cook

Although representatives of the nations mentioned in the previous section landed or claimed to have landed on the shores of Australia on various occasions during the sixteenth and seventeenth centuries, it was not until 22 August 1770† that the history of Australia was brought into definite political connection with western civilisation. It was on that date that Captain Cook took possession 'of the whole eastern coast, from latitude 38° S. to this place, latitude 10½° S. in right of His Majesty King George the Third', i.e. over only what are now the eastern parts of New South Wales, Victoria and Queensland.

Annexation of eastern part of Australian continent and Tasmania

Formal possession on behalf of the British Crown, of the whole of the eastern part of the Australian continent and Tasmania was not taken until 26 January 1788, when Captain Phillip's Commission, first issued to him on 12 October 1786 and amplified on 2 April 1787, was read to the people whom he had brought with him in the 'First Fleet'. The commission appointed Phillip 'Captain-General and Governor-in-Chief in and over our territory called New South Wales, extending from the Northern Cape or extremity of the coast called Cape York, in the latitude of ten degrees thirty-seven minutes south, to the southern extremity of the said territory of New South Wales or South Cape, in the latitude of forty-three degrees thirty-nine minutes south and of all the country inland westward as far as the one hundred and thirty-fifth degree of east longitude reckoning from the meridian of Greenwich, including all the islands adjacent in the Pacific Ocean within the latitudes aforesaid of ten degrees thirty-seven minutes south and forty-three degrees thirty-nine minutes south'.

Extension of New South Wales westward

On 17 February 1824 Earl Bathurst notified Sir Thomas Brisbane that he had recommended to His Majesty the dispatch of a ship of war to the north-west coast of New Holland for the purpose of taking possession of the coast between the western coast of Bathurst Island and the eastern side of Coburg Peninsula. Captain James J. Gordon Bremer of H.M.S. *Tamar*, who was selected for the purpose, took possession on 20 September 1824 of the coast from the 135th to the 129th degree of east longitude. On 16 July 1825 the whole territory between those boundaries was described in Darling's commission as being within the boundaries of New South Wales.

Annexation of Western Australia

An expedition under Major Lockyer, sent by Lieutenant-General Sir Ralph Darling, then Governor of New South Wales, to found a settlement at King George Sound, sailed from Sydney on 9 November 1826, landed at the Sound on 26 December following, and on 21 January 1827 hoisted the British flag. Captain Stirling, in command of H.M.S. *Success*, arrived at Sydney a few weeks after the departure of the expedition to King George Sound. He obtained the Governor's permission to visit Swan River with a view to seizing a position on the western coast and reporting upon its suitability as a place of settlement. Captain Stirling left Sydney on 17 January 1827, and on his return in the following April submitted a glowing report on what he described as a 'rich and romantic country', urging its occupation for the purpose of settlement. He left for England in July 1827, continuing his advocacy, notwithstanding much discouragement, with unabated enthusiasm. He was at last successful, the result being due mainly to the formation of an association of prospective settlers having capital at their disposal. He was appointed Lieutenant-Governor and with a party of settlers arrived at Garden Island, near the Swan River, in the ship *Parmelia* in June 1829. On the second of the preceding month Captain Fremantle, in command of H.M.S. *Challenger*, arrived and hoisted the British flag on the south head of Swan River, again asserting possession of 'all that part of New Holland which is not included within the Territory of New South Wales'. Thus before the middle of 1829 the whole territory now known as Australia had been constituted a dependency of the United Kingdom.

The creation of the several Colonies

New South Wales

In Governor Phillip's commission of 1786 the mainland of Australia was divided by the 135th meridian of east longitude into two parts. The earliest colonists believed that the present State of Tasmania was actually joined to the mainland, and it was not until 1798 that the contrary was known. In that year Bass and Flinders proved that it was an island by sailing through Bass Strait. The territory of New South Wales, as originally constituted (3,834,565 square kilometres, including Van Diemen's Land 67,897 square kilometres), and of New Zealand (269,000 square

† In all issues up to Year Book No. 56 this date was incorrectly shown as 23 August 1770.

kilometres), which may be included although Cook's annexation was not properly given effect to until 1840, consisted of 4,103,568 square kilometres. A further area of 1,341,971 square kilometres was added in 1825 when the western boundary was extended to 129th east meridian. The territory was subsequently reduced by the separation of various areas to form the other colonies, and at the time of the establishment of the Commonwealth the area of New South Wales was 803,863 square kilometres. Following the transfer of the Australian Capital Territory and an area at Jervis Bay to the Commonwealth in 1911 and 1915 respectively the area was further reduced to 801,431 square kilometres.

Lord Howe Island, which is a dependency of New South Wales, and for political purposes is included in one of the electorates of Sydney, is situated in latitude 31° 32' south, longitude 159° 05' east, about 800 kilometres east-north-east of Sydney, and has an area of 1,625 hectares.

Tasmania

Van Dieman's Land, first settled in 1803, was politically separated from New South Wales in 1825 being constituted a separate colony on 14 June. The area of the colony was 67,897 square kilometres. The name of the colony was officially changed to Tasmania in 1856 when responsible government was established. Following a resurvey of local government areas, the area of Tasmania was determined at 68,332 square kilometres at the end of 1964.

Macquarie Island, about 1,550 kilometres south-east of Hobart, together with a few rocky islets nearby, has been a part of Tasmania since the nineteenth century. In December 1911 five members of the Australiasian Antarctic Expedition landed on the island and remained there until 1915. On 3 March 1948 another party was landed to man a new station which has been since maintained as a scientific base. The island is about 33 kilometres long and 6 kilometres wide.

Western Australia

The territory westward of the 129th meridian, comprising 2,527,633 square kilometres was constituted a colony under the name of Western Australia in June 1829. It was always distinct and independent of New South Wales, except for the settlement on King George Sound (*see* page 3), which remained under the jurisdiction of New South Wales until 1831.

South Australia

On 15 August 1834 the Act 4 and 5 William IV., cap. 95, was passed, creating South Australia a 'province', and settlement took place towards the end of the year 1836. The first Governor, Captain Hindmarsh, R.N., arrived at Holdfast Bay on 28 December 1836, and on the same day the new colony was officially proclaimed. The new colony embraced 802,512 square kilometres of territory, lying south of the 26th parallel of south latitude and between the 141st* and 132nd meridians of east longitude. On 10 December 1861, by authority of the Imperial Act 24 and 25 Vict., cap. 44, the western boundary of South Australia was extended to coincide with the eastern boundary of Western Australia, namely, the 129th east meridian. The area of the extension was approximately 181,870 square kilometres. Nearly two years later on 6 July 1863, the Northern Territory, comprising 1,356,176 square kilometres, was brought under the jurisdiction of South Australia, which thereupon controlled an area of 2,340,557 square kilometres. The Territory was transferred to the Commonwealth on 1 January 1911 (*see* page 5). Following a resurvey of Northern Territory notified in 1964 the area was reduced by 8,651 square kilometres.

New Zealand

Although Captain Cook had taken possession of the North Island of New Zealand in November 1769, and of the South Island in January 1770, it is doubtful whether at the time when Captain Phillip's commission was drawn up New Zealand was considered as one of the 'islands adjacent in the Pacific Ocean' (*see* page 3). The fact that under the Supreme Court Act (Imperial) of 1823 British residents in New Zealand were brought under the jurisdiction of the Court at Sydney, and that in 1839 there was a proposal on the part of the British Government to appoint a consul in New Zealand, leaves this an open question, as nothing more than extra-territorial jurisdiction may have been intended. New Zealand does not appear to have become British territory unequivocally until 1840, when Captain Hobson arrived at the Bay of Islands, and on 30 January read his commissions, which extended the boundaries of the Colony of New South Wales so as to embrace and comprehend the islands of New Zealand. In February 1840 the Treaty of Waitangi, made with the native chiefs, was signed. Finally, on 21 May 1840 British sovereignty over the islands of New Zealand was explicitly proclaimed. New Zealand remained a dependency of New South Wales until, by letters patent of 16 November 1840, it was constituted a separate colony under the powers of the Act 3 and 4 Vict., cap. 62, of 7 August 1840. Proclamation of the separation was made on 3 May 1841. The area of the colony was 269,000 square kilometres. The present area of New Zealand, which acquired responsible government on 7 May 1856 and Dominion status on 26 September 1907, exclusive of island territories but including minor islands, is 268,667 square kilometres.

* The actual surveyed boundary between South Australia and Victoria is at 140° 58' east longitude.

Victoria

In 1851 the 'Port Phillip District' of New South Wales was constituted the colony of Victoria, 'bounded on the north and north-west by a straight line drawn from Cape Howe to the nearest source of the River Murray and thence by the course of that river to the eastern boundary of the colony of South Australia'. The area of the new colony was 227,620 square kilometres, and its separate existence took effect from 1 July 1851.

Queensland

The northern squatting districts of Moreton, Darling Downs, Burnett, Wide Bay, Maranoa, Leichhardt, and Port Curtis, together with the reputed county of Stanley, were granted an independent administration and formed into a distinct colony under the name of Queensland by letters patent dated 6 June 1859, although separation from New South Wales was not completed until 10 December of the same year. The territory comprised by the new colony was 'so much of the colony of New South Wales as lies northwards of a line commencing on the sea-coast at Point Danger in latitude about 28° 8' south, running westward along the Macpherson and Dividing Ranges and the Dumaresq River to the MacIntyre River, thence downward to the 29th parallel of South latitude, and following that parallel westerly to the 141st meridian of east longitude, which is the eastern boundary of South Australia, together with all the adjacent islands, their members, and appurtenances in the Pacific Ocean'. The area of the colony thus constituted was 1,435,637 square kilometres. By letters patent dated 13 March 1861, forwarded by the Colonial Secretary to the Governor of Queensland on 12 April 1862 the area of Queensland was increased by the annexation of 'so much of the colony of New South Wales as lies to the northward of the 26th parallel of south latitude, and between 141st and 138th meridians of east longitude, together with all the adjacent islands, their members, and appurtenances, in the Gulf of Carpentaria'. With this addition the area of Queensland became 1,736,595 square kilometres. Following a thorough revision of the area of each local government area of Queensland, based on the most recent maps available, the Surveyor-General in 1958 determined the area of Queensland as 1,727,530 square kilometres—a reduction of 9,065 square kilometres from the area previously determined.

The establishment of the Commonwealth of Australia**Federation**

On 1 January 1901 the colonies mentioned, with the exception of New Zealand, were federated under the name of the 'Commonwealth of Australia', the designation of 'Colonies'—except in the case of the Northern Territory, to which the designation 'Territory' applied—being at the same time changed to that of 'States'.

Transfer of the Northern Territory to the Commonwealth

On 7 December 1907 the Commonwealth and the State of South Australia entered into an agreement for the transfer of the Northern Territory to the Commonwealth, subject to approval by the Parliaments of the Commonwealth and the State. This approval was given by the South Australian Parliament under The Northern Territory Surrender Act, 1907 and by the Commonwealth Parliament under the *Northern Territory Acceptance Act* 1910. The Territory was formally transferred to the Commonwealth on 1 January 1911, and became the Northern Territory of Australia.

By Imperial Order in Council dated 23 July 1931 Ashmore Islands, known as Middle, East and West Islands, and Cartier Island, situated in the Indian Ocean off the north-west coast of Australia, were placed under the authority of the Commonwealth. The islands were accepted by the Commonwealth on 10 May 1934, in the *Ashmore and Cartier Islands Acceptance Act* 1933, under the name of the Territory of Ashmore and Cartier Islands. The Act authorised the Governor of Western Australia to make ordinances having the force of law in and in relation to the Territory. An amendment to the Act in July 1938 annexed the islands to the Northern Territory, whose laws, ordinances, and regulations, wherever applicable, thereupon applied.

The area of Ashmore Reef is approximately 150 square kilometres (to the limit of the reef), and it is situated 350 kilometres off the western coast of Australia and 850 kilometres west of Darwin. Cartier Island is approximately 9 square kilometres in area (to the limit of the reef), and is situated 290 kilometres off the western coast of Australia and 790 kilometres west of Darwin.

Transfer of the Australian Capital Territory to the Commonwealth

On 18 October 1909 the Commonwealth and the State of New South Wales entered into an agreement for the surrender to and acceptance by the Commonwealth of an area of 2,359 square kilometres as the Seat of Government of the Commonwealth. In December 1909, Acts were passed by the Commonwealth and New South Wales Parliaments approving the agreement, and on 5 December 1910 a proclamation was issued vesting the territory in the Commonwealth on and from 1 January 1911. By the *Jervis Bay Territory Acceptance Act* 1915 an area of 73 square kilometres at Jervis Bay, surrendered by New South Wales according to an agreement made in 1913, was accepted by the Commonwealth, and was transferred as from 4 September 1915.

Present composition of Australia

In 1973 the total area of Australia and of the individual States and Territories was determined by the Division of National Mapping as 7,682,300 square kilometres. (*For a description of the method used in calculation of the areas see Chapter 2, page 26*). The years in which the respective areas were annexed, the years of first permanent settlement, and the years in which responsible government was granted to the Colonies, and the present areas of the several States and Territories and of Australia are shown below.

AUSTRALIA: COMPONENT STATES AND TERRITORIES

<i>State or Territory</i>	<i>Year of annexation</i>	<i>Year of first permanent settlement</i>	<i>Year of formation into separate Colony or Territory</i>	<i>Year in which responsible government was granted</i>	<i>Present area in km²</i>
New South Wales	1770	1788	1786	1855	801,600
Victoria	1770	1834	1851	1855	227,600
Queensland	1770	1824	1859	(a)1859	1,727,200
South Australia	1788	1836	1834	1856	984,000
Western Australia	1829	1829	1829	1890	2,525,500
Tasmania	1788	1803	1825	1855	67,800
Northern Territory . . . . .	..	..	(b)1863	..	1,346,200
Australian Capital Territory . . . . .	..	..	(c)1911	..	2,400
Australia . . . . .	..	..	..	(d)	7,682,300

(a) As part of New South Wales in 1855; as a separate colony in 1859. (b) Previously part of New South Wales then brought under the jurisdiction of South Australia in 1863—transferred to the Commonwealth in 1911. (c) Previously part of New South Wales. (d) Constituted as from 1 January 1901.

The Constitution of the Commonwealth of Australia

Information regarding the development of the Constitutions of the various Colonies (now States), together with a brief history of the federal movement in Australia, was embodied in this chapter in issues of the Year Book up to and including No. 22.

Commonwealth Constitution Act

The Commonwealth of Australia Constitution Act, 63 and 64 Vict., Chapter 12, namely: 'An Act to constitute the Commonwealth of Australia', as amended by the *Constitution Alteration (Senate Elections)* 1906, the *Constitution Alteration (State Debts)* 1909, the *Constitution Alteration (State Debts)* 1928, the *Constitution Alteration (Social Services)* 1946, and the *Constitution Alteration (Aboriginals)* 1967, is given *in extenso* hereunder, and the text contains all the alterations of the Constitution which have been made up to and including 31 December 1973.

**THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT.
63 & 64 VICT., 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.

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.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation 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.

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.

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.

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.

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 as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

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.

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

THE CONSTITUTION.

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.

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 hereinafter called "The Parliament", or "The Parliament of the Commonwealth".

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.

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.

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.

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.

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.

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

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.

PART II.—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, 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.

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.

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 prescribing the method of choosing the senators for that State.

The Parliament of a State may make laws determining the times and places of elections of senators for the State.

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.

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

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 numbers 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.

* The Parliament has otherwise provided, by means of the *Representation Act 1948*, that the number of senators shall be ten for each State from the first meeting of Parliament after the first dissolution of the House of Representatives occurring after the commencement of the Act (18 May 1948).

† As amended by Section 2 of the *Constitution Alteration (Senate Elections) 1906*. The words in square brackets have been repealed; amendments are shown in italics.

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.

15. If the place of a senator becomes vacant before the expiration of his term of service, the House 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.

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

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.

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.

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.

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.

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.

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.

PART III.—THE 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.

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.

* As amended by Section 2 of the *Constitution Alteration (Senate Elections)* 1906. The words in square brackets have been repealed; amendments are shown in italics.

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

25. For the purpose 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.

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;	South Australia	six;
Victoria	twenty;	Tasmania	five;
Queensland	eight;		
Provided that if Western Australia is an Original State, the numbers shall be as follows:—			
New South Wales	twenty-six;	South Australia	seven;
Victoria	twenty-three;	Western Australia	five;
Queensland	nine;	Tasmania	five.

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

29. Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws 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.

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.*

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.

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.

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

- (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.

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.

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.

* The Parliament has otherwise provided, by means of the *Commonwealth Electoral Act 1918-1973*, Sections 39 and 39A (repealing an earlier provision made by the *Commonwealth Franchise Act 1902*). For present qualifications see Chapter 3, General Government.

† The Parliament has otherwise provided, by means of the *Commonwealth Electoral Act 1918-1973*, Section 69. For present qualifications see Chapter 3, General Government.

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.

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.

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.

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.

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 authorized by him, an oath of affirmation of allegiance in the form set forth in the schedule to this Constitution.

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.

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.

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.

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.

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.*

* The Parliamentary allowance has been varied from time to time. For current allowances, see Chapter 3, General Government.

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.

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

- (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.*

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

- (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:

* Particulars of proposed laws which were submitted to referendums are referred to in Chapter 3, General Government, of this Year Book.

† Under Section 2 of the *Constitution Alteration (Social Services) 1946*, the Constitution was amended by the insertion of this paragraph.

‡ Under Section 2 of the *Constitution Alteration (Aboriginals) 1967*, the words in square brackets were omitted.

- (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:
- (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, 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—

- (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.

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.

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

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.

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.

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 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 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.

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.

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.

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.

CHAPTER II.—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.

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.

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.

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

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.

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.*

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.*

* The number of Ministers of State and the annual appropriation for their salaries have been varied from time to time. For current particulars, see Chapter 3, General Government.

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.

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.

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:	Lighthouses, lightships, beacons and buoys:
Naval and military defence:	Quarantine.

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

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.

CHAPTER III.—THE JUDICATURE.

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—

- (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.†

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—

- (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.

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, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

* The *Judiciary Act* 1903 provided for a Chief Justice and two other Justices, increased by subsequent amendments to six.
 † The *Judiciary Act* 1903 provided for the payment of a salary of £3,500 (\$7,000) a year to the Chief Justice and of £3,000 (\$6,000) a year to each other Justice. These amounts have been varied from time to time.

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.

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—

- (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.

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

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.

CHAPTER 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.

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.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made 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.

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.

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 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.

89. Until the imposition of uniform duties of customs—

- (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.

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 of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall 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.

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.

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.

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 sub-section, 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.

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.

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.

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.

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 wherever the Colony, or the Government or an officer of the Colony is mentioned.

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.

100. The Commonwealth shall not, by any law or regulation or 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.

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.

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.

103. The Members of the Inter-State Commission—

- (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.

105. The Parliament may take over from the States their public debts [as 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.

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 provisions of section one hundred and five of this Constitution.*

CHAPTER V.—THE STATES.

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.

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.

* Under Section 2 of the *Constitution Alteration (State Debts) 1909*, the words in square brackets were omitted.

† Under Section 2 of the *Constitution Alteration (State Debts) 1928*, the Constitution was amended by the insertion of this section.

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.

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.

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.

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.

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.

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.

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.

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

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.

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.

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.

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

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.

CHAPTER VI.—NEW STATES.

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.

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.

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.

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.

CHAPTER VII.—MISCELLANEOUS.

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 authorize the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies 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.

*[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.]

CHAPTER VIII.—ALTERATION OF THE CONSTITUTION.

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

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 to the electors qualified to vote for the election of members of the House of Representatives.

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 qualified to vote for the election of the House of Representatives.

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.

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.*)

* Under Section 3 of the *Constitution Alteration (Aboriginals) 1967* the section in square brackets was repealed.

The Royal Proclamation

The preceding Act received the Royal assent on 9 July 1900. This made it lawful to declare that the people of Australia should be united in a Federal Commonwealth. This proclamation, made on 17 September 1900, constituted the Commonwealth as from 1 January 1901; it read as follows.

BY THE QUEEN.

A PROCLAMATION.

(Signed) VICTORIA R.

WHEREAS by an Act of Parliament passed in the Sixty-third and Sixty-fourth Years of Our Reign, intitled "An Act to constitute the Commonwealth of *Australia*," it is enacted that it shall be lawful for the Queen, with the advice of the Privy Council, to declare by Proclamation, 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.

And whereas We are satisfied that the people of *Western Australia* have agreed thereto accordingly.

We therefore, by and with the advice of Our Privy Council, have thought fit to issue this Our Royal Proclamation, and We do hereby declare that on and after the First day of *January* One thousand nine hundred and one, the people of *New South Wales*, *Victoria*, *South Australia*, *Queensland*, *Tasmania*, and *Western Australia* shall be united in a Federal Commonwealth under the name of the Commonwealth of *Australia*.

Given at Our Court at *Balmoral* this Seventeenth day of *September*, in the Year of Our Lord One thousand nine hundred, and in the Sixty-fourth Year of Our Reign.

GOD SAVE THE QUEEN.

The External Territories of Australia**Norfolk Island**

In 1856 Norfolk Island was created a distinct and separate settlement under the jurisdiction of New South Wales. Later, in 1896, it was made a dependency under the Governor of that colony, and finally by the passage of the *Norfolk Island Act* 1913 it was accepted as a Territory of the Commonwealth of Australia. The island is situated in latitude 29° 03' S., longitude 167° 57' E., and comprises an area approximately 36 square kilometres.

Australian Antarctic Territory

In Imperial Order in Council of 7 February 1933 placed under Australian authority "all the islands and territories other than Adelie Land which are situated south of the 60th degree of South Latitude and lying between the 160th degree of East Longitude and the 45th degree of East Longitude'.

The Order came into force with a proclamation issued by the Governor-General on 24 August 1936, after the passing of the *Australian Antarctic Territory Acceptance Act* 1933 by the Commonwealth Parliament. The boundaries of Adelie Land were definitely fixed by a French Decree of 1 April 1938 as latitude 60° S., longitude 136° E., and longitude 142° E.

Heard and McDonald Islands

Heard and McDonald Islands, about 4,100 kilometres south-west of Fremantle, were transferred from United Kingdom to Australian control as from 26 December 1947. Heard Island is approximately 43 kilometres long and 20 kilometres wide, and McDonald Islands about 43 kilometres to the west of Heard Island, are small, rocky and precipitous.

Cocos [Keeling] Islands

The Cocos (Keeling) Islands Act 1955 provided for the acceptance of the Cocos Islands, in the Indian Ocean, as a Territory under the authority of the Commonwealth of Australia and was parallel to an Act of the United Kingdom Parliament transferring authority over the islands to the Commonwealth. Consequent on the passing of these Acts, Her Majesty, by Order in Council, specified 23 November 1955 as the date of transfer. From that date the islands came under Australian administration and an Official Representative of Australia was appointed to take charge of the local administration of the islands. Their area is about 14 square kilometres, and they are situated in the Indian Ocean in latitude 12° 05' S. and longitude 96° 53' E.

Christmas Island

The *Christmas Island Act* 1958 provided for the acceptance of Christmas Island, in the Indian Ocean, as a Territory under the authority of the Commonwealth of Australia. Complementary legislation having been passed by the Parliament of the United Kingdom, the island was transferred to the Australian administration on 1 October 1958, and an Official Representative was appointed to administer the Territory. The area of the island is about 140 square kilometres and it is situated in the Indian Ocean in latitude 10° 25' S. and longitude 105° 40' E.

Coral Sea Islands

The Coral Sea Islands were declared to be a Territory of the Commonwealth by the *Coral Sea Islands Act* 1969. The scattered reefs and islands, often little more than sandbanks, spread over a sea area of over 1 million square kilometres with only a few square kilometres of actual land area, between the Great Barrier Reef and longitude 157° 10' E.

Papua

Under the administration of the Australian Government, but not included in it, is British New Guinea or Papua, finally annexed by the British Government in 1884. This Territory was for a number of years administered by the Queensland Government, but was transferred to the Commonwealth by proclamation on 1 September 1906, under the authority of the *Papua Act* 1905. The area of Papua is about 221,300 square kilometres.

Trust Territory of New Guinea

In 1919 it was agreed by the Principal Allied and Associated Powers that a mandate should be conferred on Australia for the government of the former German territories and islands situated in latitude between the Equator and 8° S., and in longitude between 141° E. and 159° 25' E. The mandate was issued by the League of Nations on 17 December 1920. The Governor-General of the Commonwealth was authorised to accept the mandate by the *New Guinea Act* 1920, which also declared the area to be a Territory under the authority of the Commonwealth by the name of the Territory of New Guinea. The land area comprises about 237,000 square kilometres, and the administration under the mandate dated from 9 May 1921. New Guinea is now administered under a Trusteeship Agreement with the United Nations, approved on 13 December 1946.

