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## SECTION II.

DISCOVERY, COLONISATION, AND FEDERATION OF  
AUSTRALIA.

## § 1. Early Knowledge of Australia.

1. **Introduction.**—It is proposed to give here only a brief summary of the more important facts relating to the early history of Australian discovery. A more complete account of this subject, together with bibliographical references thereto, may be found in Year Book No. 1 (pp. 44 to 51).

2. **Early Tradition.**—It would appear that there was an early Chaldean tradition as to the existence of an Austral land to the south of India. Rumours to that effect in course of time found their way to Europe, and were probably spread by voyagers from Indian seas, more especially by the Greek soldiers who accompanied Alexander the Great [B.C. 356-323] to India. References to this *Terra Australis* are found in the works of Ælianus [A.D. 205-234], Manilius [probably a contemporary of Augustus or Tiberius Cæsar], and Ptolemy [A.D. 107-161]. The precise period at which Australia was first discovered by Europeans is not known. In some of the maps of the first period of the Middle Ages there is evidence which might warrant the supposition of the knowledge of the existence of a *Terra Australis*, while a less indefinite idea of the Austral land appears in the maps and manuscripts of the fourteenth and fifteenth centuries.

3. **Discovery of Australia.**—The Venetian traveller, Marco Polo [1254-1324], and Nicolo de' Conti [circa 1440], refer to a land called *Java Major*, which there is little doubt was Australia. On the Mappamundi in the British Museum, of not later date than 1489, there is a coast-line which can be none other than the west coast of Australia. Martin Behaim's globe, the oldest known globe extant, constructed in 1492, also shews part of Australia's coast-line, and a wooden globe in Paris bears an inscription to the effect that the *Terra Australis* was discovered in 1499. It is possible, however, that this term was also applied to the regions now known as Terra del Fuego, so that but little weight can be attached to this reference.

In the Dauphin map [about 1530-1536] Australia is referred to as *Jave la Grande*.

(i.) *Spanish and Portuguese Expeditions.* The last decade of the fifteenth century and the commencement of the sixteenth saw numerous expeditions equipped in the ports of Spain and Portugal for the purpose of exploiting the new world. The Portuguese rounded Cape Horn and pushed eastward. The Spaniards, relying on the scientific conclusion that the world was spherical, attempted to get to the east by deliberately starting out west, Magalhaens by so doing reaching the Philippine Islands in 1581. It would appear, however, that for some reason all definite information regarding the *Terra Australis* was suppressed.

It may be mentioned that in 1606, de Quiros, on reaching Espiritu Santo, thought that he had come to this great land of the South, and therefore named the island *La*

*Australia del Espiritu Santo.* De Torres, who was with him, passed through the straits which now bear his name, and proceeded to the Philippine Islands, thus marking the close of Spanish activity in the work of Australian discovery.

(ii.) *Discoveries by the Dutch.*—With the decline of Portuguese and Spanish naval supremacy came the opportunity of the Dutch for discovery. Cornelius Wytfliet's map, of which there was an English edition, published at Louvain in 1597, indicates roughly the eastern and western coasts of Australia, as well as the Gulf of Carpentaria. The following passage, which occurs in the book just referred to, is perhaps the first distinct account that we have of Australia:—"The *Australis Terra* is the most southern of all lands. It is separated from New Guinea by a narrow strait. Its shores are hitherto but little known, since, after one voyage and another, that route has been deserted and seldom is the country visited, unless when sailors are driven there by storms. The *Australis Terra* begins at one or two degrees from the equator, and is maintained by some to be so great an extent that, if it were thoroughly explored, it would be regarded as a fifth part of the world."

The Dutch East India Company in 1605, sent the *Duyfken* from Bantam to explore the Islands of New Guinea. During March in the following year the *Duyfken* coasted along that portion of *Terra Australis* lying in the Gulf of Carpentaria to the south-west of Cape York, her commander mistaking it for the west side of New Guinea, and thus, unconsciously, making the first authenticated discovery of the Great South Land. The country was found for the most part desert; some of the crew were murdered by the blacks, and from want of provisions the expedition was obliged to turn back. Dirck Hartogs, in the *Eendracht* in 1616, sailed along a considerable part of the west coast.

In 1618, a Dutch vessel called the *Mauritius* touched near the North-West Cape, and discovered the *Willems Rivier* (probably the Ashburton) in lat. 21° 45' S., and in the following year a fleet of eleven vessels, under the command of Frederik de Houtman, in the *Dordrecht*, discovered the reef off the west coast, now known as *Houtman's Abrolhos*.

In 1622 the Dutch vessel *Leeuwin* rounded the Cape at the south-west of the continent which now bears that name, and in 1623 the Dutch vessels *Pera* and *Arnhem* discovered Arnhem Land, the peninsula on the western side of the Gulf of Carpentaria, which was so named in compliment to Peter Carpenter, Governor to the Dutch East India Company.

English enterprise was early shewn, viz., by Sir William Courteen petitioning James I., in 1624, for the privilege of erecting colonies in the *Terra Australis*, a petition which probably was not granted.

In 1627, Pieter Nuyts, commander of the *Gulde Zeepaerd*, sailed from Cape Leeuwin and sighted the whole shore of the Great Australian Bight. In 1628, De Witt, commander of the *Vianen*, discovered land on the north-west, viz., in about latitude 21° S. The *Batavia*, commanded by Francis Pelsart, was wrecked on the western coast of Australia in 1629. Pelsart was the first to carry to Europe an authentic account of the west coast of Australia, which, however, he described in the most unfavourable terms. His journal contains what is probably the first description of the kangaroo given by any white explorer. Gerrit Pool, commanding the yachts *Amsterdam* and *Wesel*, visited the Gulf of Carpentaria in 1636.

Abel Janszoon Tasman, in command of two vessels, the *Heemskirk* and *Zeehaen*, set out in 1642 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. In his second voyage in 1644, Tasman visited the northern coasts of Australia, but made no discoveries of importance. The period of Dutch discoveries may be said to have ended with Tasman's second voyage, and, with the decline of Dutch maritime power, their interest in Australian discovery vanished. It may, however, be pointed out that William de Vlamingh landed at the mouth of the Swan River at the end of 1696, and in 1705 a Dutch exploring squadron under Martin van Delft visited and named parts of the north-west coast of Australia.

4. **Discoveries by the English.**—The north-western shores of Australia were first visited by William Dampier, in the *Cygnat*, in 1688. In describing the country Dampier stated that he was certain that it joined neither Asia, Africa, nor America. 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.

It was a question at the end of the seventeenth century 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. Captain James Cook's first voyage, though primarily undertaken for the purpose of observing the transit of Venus from Otaheite, had also for its objective to ascertain whether the unexplored part of the southern hemisphere be only an immense mass of water or contain another continent. In command of H.M.S. *Endeavour*, a barque of 370 tons burthen, carrying about eighty-five persons, and accompanied by Sir Joseph Banks, Dr. Solander the naturalist, Green the astronomer, draughtsmen, and servants, Cook, after observing the transit of Venus at Otaheite, turned towards New Zealand, sighting that land on the 8th October, 1769,<sup>1</sup> 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. On the 20th April, 1770,<sup>1</sup> at 6 a.m., Cook sighted the Australian mainland at a place he called Point Hicks, naming it after his first-lieutenant, who first saw it. Coasting northwards, Botany Bay was discovered on the 29th April, 1770.<sup>1</sup> The *Endeavour* dropped anchor, and Cook landed on the following day. On the 2nd May, 1770,<sup>1</sup> a seaman named Sutherland died and was taken ashore to be buried; he was probably the first British subject buried on Australian soil. Cook sailed along the coast in a northerly direction for nearly 1300 miles, until the 12th June, 1770,<sup>1</sup> 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 Straits and anchoring in the Downs on the 14th June, 1771.<sup>1</sup> In 1772 Cook was put in command of the ships *Resolution* and *Adventure*, with a view of ascertaining whether a great southern continent existed, and 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 the 14th February, 1779, by which date practically the whole coast of Australia had been explored. The only remaining discovery of importance to be made was the existence of a channel between Tasmania and Australia. This was discovered by Flinders and Bass in 1798.

The most complete examination of the early history of discovery in the region of Australia is the "Critical, Documentary, and Historical Investigation concerning the Priority of Discovery in Australasia by Europeans before the Arrival of Lieut. James Cook in the *Endeavour* in the year 1770," by George Collingridge, Esquire. 4to, pp. 376, +xv. Sydney, 1895.

1. *Correct dates of Captain Cook's Log.* After 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, Pickersgill's, Clerke's, Wilkinson's, and Bootie's Journals, in the Palliser 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 foot-note 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., xiii.) 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.

## § 2. The Taking Possession of Australia.

1. **Annexation of Eastern Part of Australia, 1770.**—Although as far back as 1503 a French navigator named J. Binot Paulmier, Sieur de Gonneville, claimed to have landed on the west coast of Australia, and similar claims were put forward by the French and Portuguese in respect of alleged discoveries in 1531 and 1601 by Guillaume le Testre and Manoel Godinho de Eredia respectively, it was not until the 23rd August, 1770, that the history of Australia was brought into political connection with western civilisation. It was on that date that Captain Cook took possession "of the whole eastern coast, from lat. 38° to this place, lat. 10½° S., in right of His Majesty King George the Third." Cook, however, proclaimed British sovereignty only over what are now the eastern parts of New South Wales and Queensland, and 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 the 26th January, 1788. It was on this last date that Captain Phillip's commission, first issued to him on the 12th October, 1786, and amplified on the 2nd April, 1787, was read to the people whom he had brought with him in the "First Fleet."

A full historical account of the period referred to may be found in the "Historical Records of New South Wales," vol. I., parts 1 and 2.

2. **Original Extent of New South Wales.**—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."

Although in November, 1769, Captain Cook had taken possession of the North Island of New Zealand, and in January, 1770, also of the South Island, it is a matter of doubt 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." The facts that under the Supreme Court Act (Imperial) of 1823 British residents in New Zealand were brought under the jurisdiction of the court at Sydney, while in 1839 there was a proposal on the part of the British Government to appoint a Consul in New Zealand, would leave this an open question, as nothing more than extra-territorial jurisdiction may have been intended. Various hoistings of flags notwithstanding, New Zealand does not appear to have unequivocally become British territory until 1840. In that year, on the 29th January, Captain Hobson arrived at the Bay of Islands. On the following day he read the commission, which extended the boundaries of the colony of New South Wales so as to embrace and comprehend the Islands of New Zealand. On the 5th February the Treaty of Waitangi, made with the native chiefs, was signed. Finally, on the 21st May, British sovereignty over the Islands of New Zealand was explicitly proclaimed. From that date until the 3rd May, 1841, New Zealand was indubitably a dependency of New South Wales.

3. **Annexation of Western Australia, 1829.**—In June, 1825, Lieut.-General Sir R. Darling, then Governor of New South Wales, sent Major Lockyer, with a party numbering about 75, to found a settlement at King George III. Sound. The expedition sailed from Sydney on the 9th November, 1826, and landed at the Sound on the 26th December following and hoisted the British flag. The settlement was at first governed from

Sydney, but on the 7th March, 1831, it was removed to the Swan River Settlement, and the convict portion of the population removed to Van Diemen's Land. In 1826 Captain James Stirling was sent in H.M.S. *Success* on special service in connection with the removal of the penal settlement from Melville Island, and was authorised to explore part of Western Australia. A party from this vessel explored the Swan River on the 8th March, and King George's Sound was reached on the 2nd April. In consequence of the favourable report made by Captain Stirling, the Imperial Government decided to establish a colony at Swan River. Captain Stirling was accordingly despatched as Lieutenant-Governor with a party of intending settlers in the *Parmelia*, and in the following month H.M.S. *Challenger*, under Captain Fremantle, was sent off from the Cape of Good Hope. On the 2nd May, 1829, Captain Fremantle hoisted the British flag on the south head of the Swan River, and took possession of "all that part of New Holland which is not included within the territory of New South Wales," and in the following month the *Parmelia* arrived off Garden Island. Thus, before the middle of 1829 the whole territory, now known as the Commonwealth of Australia, had been constituted a dependency of the United Kingdom.

For a fuller account of the discovery and annexation of Western Australia reference may be made to the Western Australian Year Book, 1905. Part I.

### § 3. The Creation of the Several Colonies.

1. **New South Wales as Original Colony.**—From what has been said, the mainland of Australia was, in Governor Phillip's commission of 1786, originally as shewn on map No. 1, that is, it was divided by the 135th meridian of east longitude into two parts. The earliest colonists believed that Van Diemen's Land—the present State of Tasmania—was actually joined to the mainland, and it was not till 1798 that the contrary was known. In that year, by sailing through Bass Straits, Flinders proved that it was an island. The territory of New South Wales, as originally constituted, and of New Zealand, which may be included, although Cook's annexation was not properly given effect to until 1840, was thus :

					Square Miles.
Australia, east of 135° longitude east	...	...	...	...	1,454,312
Van Diemen's Land	...	...	...	...	26,215
New Zealand	...	...	...	...	104,471
Total	...	...	...	...	1,584,998

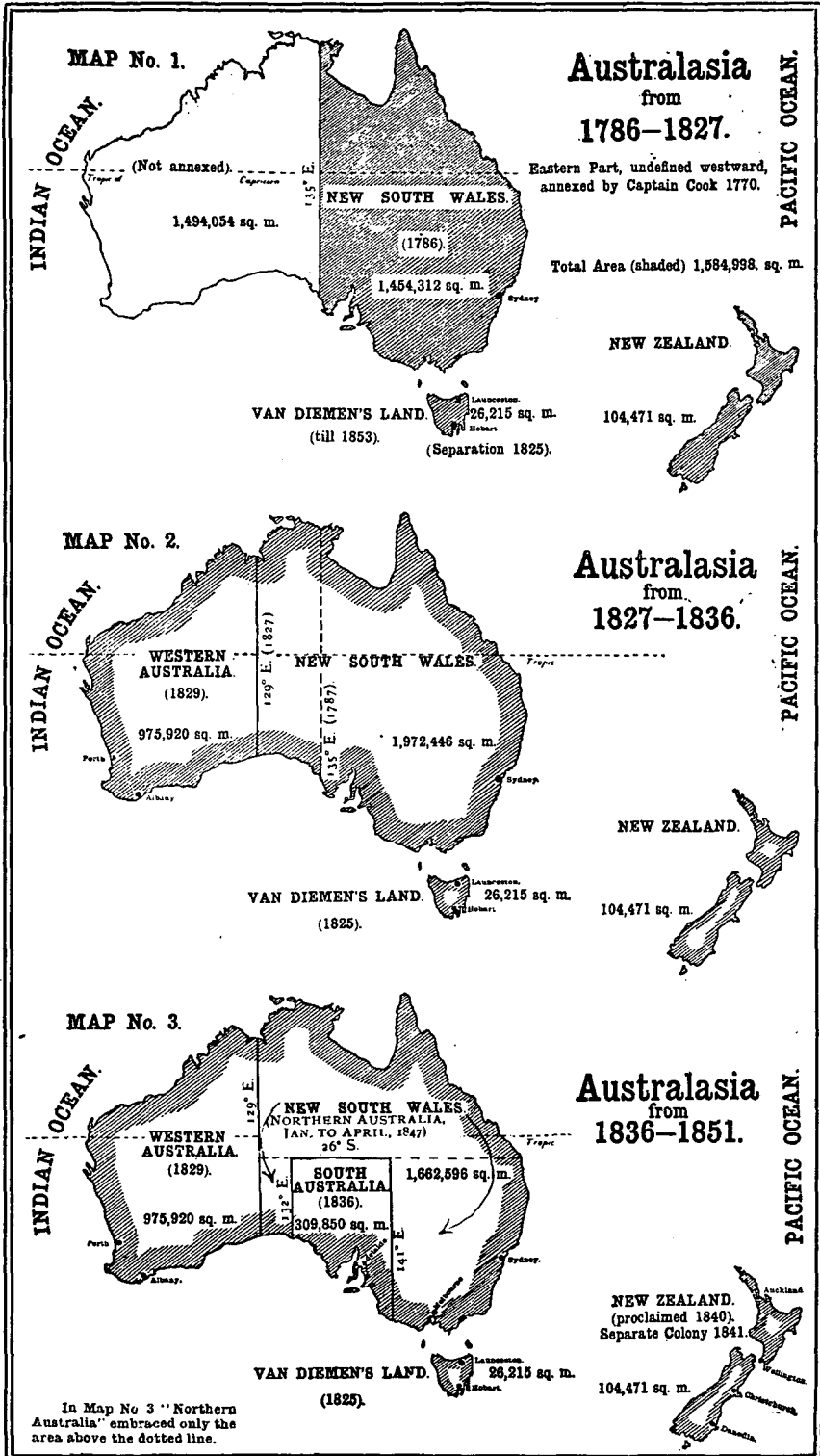
The western part of Australia, not then annexed, comprised originally 1,494,054 square miles.

2. **Separation of Van Diemen's Land, 1825.**—In 1825, Van Diemen's Land, as Tasmania was then called, was politically separated from New South Wales, being constituted a separate colony on the 14th June of that year. This reduced the area of New South Wales and its territorial dependencies by 26,215 square miles, that is, to 1,558,783 square miles.

3. **Extension of New South Wales Westward, 1827.**—In 1827 the western or inland boundary of New South Wales was extended westward to the 129th meridian,<sup>1</sup> thus increasing its area by 518,134 square miles, and making it, including New Zealand and excluding Tasmania, 2,076,917 square miles, or excluding also New Zealand, 1,972,446 square miles.

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<sup>1</sup> See "The Annotated Constitution of the Australian Commonwealth," by Quick and Garran 1901, page 35.

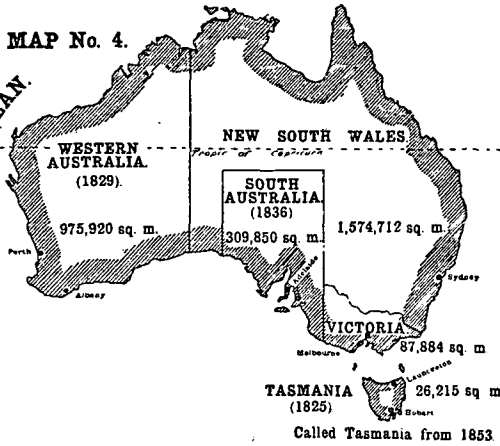


MAP No. 4.

# Australasia 1851-1859

INDIAN OCEAN.

PACIFIC OCEAN.

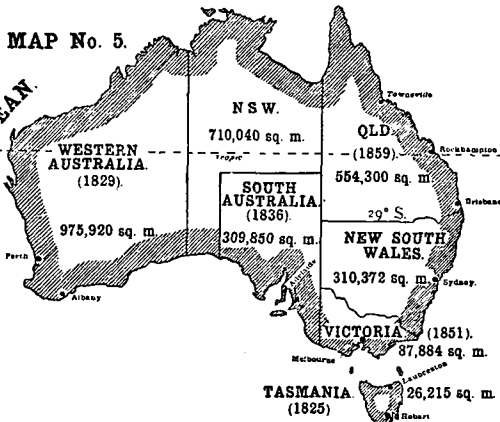


MAP No. 5.

# Australasia 1859-1861.

INDIAN OCEAN.

PACIFIC OCEAN.

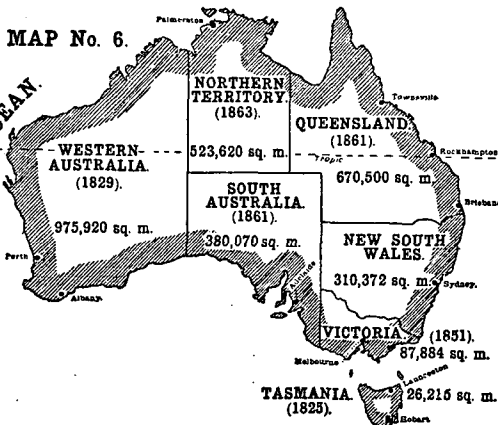


MAP No. 6.

# Australasia since 1861.

INDIAN OCEAN.

PACIFIC OCEAN.





4. **Western Australia constituted a Colony, 1829.**—The territory annexed by Captain Fremantle in 1829, viz., "all that part of New Holland which is not included within the territory of New South Wales," extended eastward to the 129th meridian, and comprised 975,920 square miles. The constitution of this area into the Colony of Western Australia, now one of the six States of the Commonwealth, was the consequence of Fremantle's act. By it the annexation of the whole of the Continent of Australia by the British Crown was completed. The Australian colonies at this time were as indicated in the following table, and illustrated by map No. 2:—

Colony.	Date of Annexation.	Date of Creation.	Date of First Permanent Settlement.	Area. Square Miles.
New South Wales (including New Zealand) ...	1770	1786	1788	2,076,917
Van Diemen's Land ...		1825	1803	26,215
Western Australia ...		1829	1829	975,920

5. **Creation of South Australia as a Province, 1836.**—On the 15th August, 1834, the Act 4 and 5 William IV., cap. 95, was passed, creating South Australia a "province," and on the 27th December, 1836, settlement took place. The new colony embraced 309,850 square miles of territory, which, lying south of the 26th parallel of south latitude, and between the 141st and 132nd meridians of east longitude, was up to that time included within the territory of New South Wales, as will be seen on reference to map No. 3. Thus the area of New South Wales and New Zealand was reduced to 1,767,067 square miles.

6. **Separation of New Zealand, 1840.**—New Zealand, nominally annexed by Captain Cook and formally declared by proclamation in 1840 as a dependency of New South Wales, was, by letters patent of the 16th November of that year, constituted a separate colony under the powers of the Act 3 and 4 Vic., cap. 62, of the 7th August, 1840. Proclamation of the separation was made on the 3rd May, 1841. The area of the colony is 104,471 square miles, and its position in reference to Australia is shewn on map No. 4. This separation reduced the political territory of New South Wales to 1,662,596 square miles. See map No. 3.

7. **The Colony of Northern Australia, 1847.**<sup>1</sup>—In the year 1846, at the time when the British Government had begun to feel nonplussed by the question of the transportation of convicts, an attempt was made by Mr. Gladstone, then Colonial Secretary, to establish a purely penal colony, without free settlers (at least at the outset), to be called Northern Australia. This colony did not succeed in securing a permanent place on the map, though its intended metropolis was successfully established and still bears Mr. Gladstone's name. The new colony comprised such of the territories of the colony of New South Wales as lay to the northward of latitude 26° S. Sir Charles Fitzroy, then Governor of New South Wales, was by letters patent appointed Governor of Northern Australia, the actual administration being left in the hands of a Superintendent, who was to be implicitly guided by instructions from the Governor. At the same time Northern Australia was constituted a perfectly distinct colony under a distinct Government, although the authority which the Secretary of State for the Colonies would otherwise exercise had been deputed in the first instance to the Governor of New South Wales. In the *London Gazette* of the 8th May, 1846, Colonel Barney, R.E., was appointed Lieutenant-Governor of Northern Australia, and on the 25th January, 1847, he reached Port Curtis, accompanied by other public officers of the new colony. On the 30th January the ceremony of swearing in the officials of Northern Australia was proceeded with, and on the same day the first *Government Gazette* of the new colony was

1. See "The Gladstone Colony," J. F. Hogan, M.P., T. Fisher Unwin, London; 1898.

issued in manuscript. This gazette contained a formal proclamation to the effect that all the land lying to the north of latitude  $26^{\circ}$  S. should thereafter be known as Northern Australia, and specified the names of the members of the Executive and Legislative Councils of the new colony. The headquarters of the Superintendent and other officials was established at Gladstone, though no other steps appear to have been taken towards securing a permanent settlement. In July, 1846, when Earl Grey succeeded Mr. Gladstone as Secretary of State for the Colonies, one of his first official steps was the complete reversal of the policy of his predecessor with respect to the founding of the new colony of Northern Australia, and by a despatch dated the 15th November, 1846, Sir Charles Fitzroy was informed that the letters patent under which the new colony was constituted had been revoked. This news was received at Gladstone on the 15th April, 1847, and on the 9th May following the settlement was broken up. The territories comprised in the Colony of Northern Australia then reverted to New South Wales.

**8. Separation of Victoria, 1851.**—In 1851, what was known as the "Port Phillip District" of New South Wales, was constituted the Colony of Victoria, "bounded on the north and north-east 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 is 87,884 square miles, and its separate existence took effect from the 1st July, 1851, upon the issuing of the writs for the first election of elective members of the Legislative Council. This reduced the territory of New South Wales to 1,574,712 square miles, as indicated on map No. 4.

**9. Separation of Queensland, 1859.**—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 the 6th June, 1859, although separation from New South Wales was not consummated until the 10th December of the same year, upon the assumption of office of the first Governor. The territory originally comprised in the new colony was described in the letters patent as being 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  $28^{\circ} 8'$  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. In Year Book No. 1 it was stated that the western boundary of the new colony was defined by the letters patent of the 6th June, 1859, as being "the 141st meridian of longitude from the 29th to the 26th parallel, and thence the 138th meridian north to the Gulf of Carpentaria." Further investigations have, however, shewn that this statement is incorrect, and that the western boundary was not specifically defined at all. The western limits of the new colony were, however, defined by inference from the fact that its area comprised the territory to the northward of a line extending as far west as the 141st meridian of east longitude, i.e., the 141st meridian was the western boundary. The area of the new colony thus constituted was 554,300 square miles. By this separation the remaining territory of New South Wales was divided into two parts, viz., one of 310,372 square miles, the present State, and another of 710,040 square miles, of which 116,200 square miles is now a part of Queensland, 523,620 square miles is the Northern Territory, and 70,220 square miles is now a part of South Australia. These facts are shewn on map No. 5.

**10. No further Creation of Colonies.**—Since the separation of Queensland, no other creation of colonies has taken place in Australia, though the boundaries of New South Wales, Queensland, and South Australia were altered later. The dates of foundation of the Australasian colonies, and their areas at the close of 1859, were therefore as hereunder:—

Colony.	Date of Annexation.	Date of Creation.	Date of First Permanent Settlement.	Area. Square Miles.
New South Wales ... ..	1770	1786	1788	904,212
Tasmania ... ..	1770	1825	1803	26,215
South Australia ... ..	1770	1834	1836	309,850
Victoria ... ..	1770	1851	1834	87,884
Queensland ... ..	1770	1859	1824	670,500
Western Australia ... ..	1829	1829	1829	975,920
New Zealand ... ..	1840	1841	1814	104,471 <sup>1</sup>

1. By proclamation dated 10th June, 1901, the area of the Dominion was increased by 280 square miles, making it now 104,751 square miles, by the inclusion of the Cook Group and other islands.

11. **The Changing Boundaries of the Colonies.**—When, on the 15th August, 1834, the Imperial Government constituted the province of South Australia, there lay between its western boundary and the eastern boundary of Western Australia (as proclaimed by Fremantle in 1829) a strip of country south of the 26th parallel of south latitude, and between the 132nd and 129th meridians of east longitude, legally included within the territory of New South Wales. The area of this territory, frequently but improperly referred to as “No Man’s Land,” has been calculated to cover approximately 70,220 square miles.<sup>1</sup> On the 10th October, 1861, by the authority of the Imperial Act 24 and 25 Vic., cap. 44, the western boundary of South Australia was extended so as to cover this strip, and to coincide with the eastern boundary of Western Australia—the 129th meridian. By letters patent dated the 13th March, 1861, forwarded by the Colonial Secretary to the Governor of Queensland on the 12th 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 the 141st and 138th meridians of east longitude, together with all and every the adjacent islands, their members, and appurtenances, in the Gulf of Carpentaria.” The area of South Australia was therefore increased by 70,220 square miles, and became 380,070 square miles, while the area of Queensland, increased by 116,200 square miles, became 670,500 square miles. The territories of these two States thus became as represented in map No. 6. Nearly two years after this accession of territory, viz., on the 6th July, 1863, the Northern Territory, containing 523,620 square miles—also formerly a part of New South Wales<sup>2</sup>—was, by letters patent, brought under the jurisdiction of South Australia, whose area was thus increased to 903,690 square miles; whilst that of New South Wales was diminished by these additions to South Australia, and by the separation of the colonies of New Zealand, Victoria and Queensland, till its area became only 310,372 square miles. The territories of Tasmania, Western Australia, and the three other separated colonies, with the exception of some minor islands added to Queensland, remain as originally fixed.<sup>3</sup>

12. **Australasia, 1863 to 1900.**—The immense area generally known as Australasia had thus, by 1863, been divided into seven distinct colonies, the areas of which are shewn on next page.

From the 1st January, 1901, the colonies mentioned above, with the exception of New Zealand, have become federated under the name of the “Commonwealth of Australia,” the designation of “Colonies” being at the same time changed into that of “States.” The total area of the Commonwealth is, therefore, 2,974,581 square miles, or

1. The calculation has been made in this Bureau. The area has usually been left unstated in references to the territory, but when approximations have been given the margin of error seems to have been somewhat large.

2. A military post had been formed on Melville Island in 1825. This was transferred about 1827 to Raffles Bay, and some years later to Port Essington. The settlement at Port Essington was like its predecessors, under the command of Sir Gordon Bremer, and was designed, in addition, as a harbour of refuge for distressed vessels. It was finally abandoned in 1849.

3. The facts and maps here given are in substantial though not in complete accordance with the illustrated statement shewing the subdivision of Australia between 1787 and 1863, issued by the Department of Lands, Sydney, 1904.

about equal to the area of the United States of America, exclusive of Alaska, or to that of all Europe, less about one-third of Russia.

#### DATE OF CREATING THE SEVERAL COLONIES.

Colony.	Year of Formation into Separate Colony.	Present Area in Square Miles.	Colony.	Year of Formation into Separate Colony.	Present Area in Square Miles.
New South Wales ...	1786	310,372	New Zealand ...	1841	104,471 <sup>1</sup>
Tasmania ...	1825	26,215	Victoria ...	1851	87,884
Western Australia ...	1829	975,920	Queensland ...	1859	670,500
South Australia (proper) <sup>2</sup>	1834	380,070	Northern Territory <sup>2</sup>	1863	523,620
Commonwealth ...		...	2,974,581 square miles.		
Australasia ...		...	3,079,052 square miles. <sup>3</sup>		

1. Now 104,751 square miles : increased 10th June, 1901.

2. South Australia with the Northern Territory is 903,690 square miles.

3. Now 3,079,332 square miles.

The evolution of the various States will be seen in the diagrams on pages 17 and 18.

**13. British New Guinea or Papua.**—Under the administration of the Commonwealth, but not included in it, is British New Guinea or *Papua*, finally annexed by the British Government in 1884, and for a number of years administered by the Queensland Government but transferred to the Commonwealth by proclamation on the 1st September, 1906, under the authority of the Papua Act (Commonwealth) of 16th November, 1905. The area of Papua is about 90,540 square miles.

**14. Proposed Transfer of the Northern Territory to the Commonwealth.**—On the 7th December, 1907, the Commonwealth and the State of South Australia entered into an agreement for the surrender to and acceptance by the Commonwealth of the Northern Territory, subject to approval by the Parliaments of the Commonwealth and the State. By the Northern Territory Surrender Act 1907, this agreement was approved by the South Australian Parliament, and in July, 1909, a Bill was introduced into the Commonwealth House of Representatives for the purpose of ratifying the agreement referred to. The most important provisions of the Bill were:—(a) That the Northern Territory is declared to be accepted by the Commonwealth as a territory under the authority of the Commonwealth, by the name of the Northern Territory of Australia. (b) That the Commonwealth should assume responsibility for the State loans in respect of the Northern Territory (the amount of which loans on the 30th June, 1908, was £2,725,761). (c) That the Commonwealth should construct a transcontinental railway from Pine Creek southwards to connect with the Port Augusta railway line, and (d) that the Commonwealth should, at the time of the acquisition of the Territory, purchase from South Australia the railway from Port Augusta to Oodnadatta.

According to official returns the following statement shews what the amount of capital invested by the Commonwealth in connection with the Northern Territory would be:—

#### AMOUNT OF CAPITAL PROPOSED TO BE INVESTED BY COMMONWEALTH IN NORTHERN TERRITORY.

Particulars.	Public Debt at 30th June, 1908.	Deficit.	Cost of Port Augusta to Oodnadatta Railway.	Estimated cost of Pine Creek to Oodnadatta Railway.	Total.
Amount ...	£2,725,761	£602,222	£2,242,343	£4,500,000	£10,070,326

During the first year or two after the completion of the transcontinental railway the annual expenditure would be approximately as follows :—

**ESTIMATED AMOUNT OF ANNUAL EXPENDITURE ON NORTHERN TERRITORY BY  
COMMONWEALTH.**

Particulars.	Deficit on Northern Territory.	Deficit and Sinking Fund, on Railway, Port Augusta to Oodnadatta.	Interest on Cost of Pine Creek to Port Augusta Railway.	Total.
Amount ...	£158,439	£77,694	£157,500	£393,633

## § 4. The Exploration of Australia.

1. **Introduction.**—A fairly complete, though brief, account of the Exploration of Australia was given in Year Book No. 2 (pp. 20 to 39). It is proposed to give here only a brief summary of the more important facts relating to the subject.

2. **Eastern Australia.**—The first steps towards the exploration of New South Wales were taken by Captain Phillip and his officers, who, during 1788 and the years immediately following, made a number of excursions in the neighbourhood of Port Jackson, to Broken Bay, and along the Hawkesbury and Nepean Rivers.

(i.) *French Voyages of Exploration, 1788 to 1802.* Towards the close of the 18th century the French, who were supposed to covet territory in Australia, sent out several exploring expeditions. In 1788 two vessels under the command of La Perouse put into Botany Bay to refit. In 1792 the French Admiral D'Entrecasteaux was in Australian waters with two vessels and discovered and named several places on the Tasmanian coasts. In 1800 an expedition, sent out by the French Republic, examined parts of the coasts of Van Diemen's Land and South Australia. It was chiefly in consequence of rumours to the effect that the French intended to establish a colony in Australia, that steps were taken by the British to form settlements at various places on the Australian coasts.

(ii.) *Bass and Flinders, 1796 to 1803.* In 1796 and 1797, Bass and Flinders explored the coast in a southerly direction from Port Jackson as far as Western Port. In 1798, Bass, accompanied by Flinders and eight seamen, circumnavigated the island of Tasmania, thus proving the existence of the straits which now bear his name. In 1801 Flinders again came to Australia in command of H.M.S. *Investigator*, which was the first vessel to completely circumnavigate the Australian continent.

(iii.) *Discovery of Port Phillip, 1802.* On the 5th January, 1802, Lieutenant Murray, who had been sent out to trace the coast between Point Schanck and Cape Otway, sighted the entrance to Port Phillip, which he did not however enter, owing to stress of weather, until the 15th February. Shortly afterwards Flinders entered Port Phillip, and in 1803 Charles Robbins explored the Yarra for some miles above the present site of Melbourne.

(iv.) *The Blue Mountains Crossed, 1813.* In 1813, Gregory Blaxland succeeded in effecting a passage over the Blue Mountains, which had previously proved an inaccessible barrier to all attempts to extend the infant colony in a westerly direction. G. W. Evans, following on Blaxland's tracks, soon penetrated further inland and discovered and named the Fish, Campbell, Macquarie, and Lachlan Rivers. In 1817 and 1818, John Oxley, Allan Cunningham, Charles Frazer, and others explored a considerable part of the Lachlan and Macquarie Rivers, and discovered and named the Castlereagh River, the Arbuthnot Range, the Liverpool Plains, the Hastings River, and Port Macquarie.

(v.) *Hamilton Hume, 1814 to 1824.* In 1816 Hamilton Hume, who two years previously had explored the country round Berrima, discovered and named the Goulburn Plains and Lake Bathurst. In 1824, accompanied by William Hilton Hovell, Hume, starting off from Lake George, reached the Murrumbidgee and sighted the Snowy Mountains. On the 16th December, 1824, he reached the Southern Ocean at the spot where Geelong now stands. This expedition had a great and immediate influence on the extension of Australian settlement.

(vi.) *Allan Cunningham, 1817 to 1829.* In 1823, Cunningham, who had accompanied Oxley in 1817, discovered and named Pandora's Pass, leading to the Liverpool Plains from the Upper Hunter, and in 1827 he discovered the Darling Downs.

(vii.) *Charles Sturt, 1828 to 1830.* In 1828 the Darling River was discovered by Sturt, who in the following year explored the Murray River, tracing it to its mouth at Lake Alexandrina in Encounter Bay. Sturt thus connected his overland journey with the discoveries of Flinders and other coastal explorers. In the meantime discovery on the Australian coasts had been followed up by Captains Wickham and Stokes in H.M.S. *Beagle*.

(viii.) *Sir Thomas Mitchell, 1831 to 1846.* In 1831 Mitchell discovered the lower courses of the Peel (Namoï), Gwydir, and Dumaresq Rivers, and identified the Upper Darling. Two years later he explored the country between the Bogan and Macquarie Rivers, and in 1835 he traced the Darling 300 miles down from Bourke. In 1836 he ascended the Murray and Loddon Rivers and discovered the Avoca, the Campaspe, and the Wimmera Rivers, reaching the coast near Cape Northumberland. On his return journey Mitchell visited Portland Bay, where he found the Henty family established, and ascending Mount Macedon, he saw and identified Port Phillip. In 1845 and 1846 Mitchell again set out, accompanied by Edmund B. Kennedy, and explored the Narran, Balonne, and Culgoa Rivers. Ascending the Balonne, he turned westward, exploring the Maranoa and the Warrego. Proceeding to the north he then discovered the Belyando and the Barcoo Rivers.

(ix.) *McMillan, Strzelecki, Leslie and Russell, 1839 to 1841.* In the meantime other explorers had been on the field and had made numerous discoveries. In 1839 and 1840 Angus McMillan discovered and named Lake Victoria, the Nicholson, Mitchell, and Macallister Rivers, and explored the country as far as the Latrobe River. In 1840 Strzelecki discovered Mount Kosciusko, the Latrobe River, and Lake King. In 1840 and 1841 Patrick Leslie and Stuart Russell explored the Condamine River.

(x.) *Leichhardt, 1844 to 1845.* In 1844 and 1845 Ludwig Leichhardt made a number of discoveries. Leaving the Condamine River he discovered the Dawson River, Peak Downs, the Planet and Comet Rivers, and Zamia Creek. Later on he found and named the Mackenzie, Isaacs, Suttor, Burdekin, Lynd, Mitchell, Leichhardt, Nicholson, McArthur and Roper Rivers, and after exploring part of the coast of the Gulf of Carpentaria, reached the settlement of Victoria at Port Essington. In 1848 Leichhardt equipped another expedition and set out from the Cogoon. No sure clue as to his fate or as to the fate of his companions has ever come to light.

(xi.) *Kennedy, 1847 to 1848.* In 1848, Edmund Kennedy, who had accompanied Mitchell in 1845 and 1846, and who had further explored the Barcoo and Victoria Rivers in 1847, attempted to make his way up the eastern coast of Cape York Peninsula. After great hardships he reached the Escape River, where he was murdered by the blacks.

(xii.) *A. C. Gregory, 1846 to 1858.* A. C. Gregory's earliest explorations were in Western Australia, where in 1846 he discovered Lake Moore. In 1855 Gregory explored the Fitzmaurice and Victoria Rivers and Sturt's Creek. He examined the Gilbert River and its tributaries, and made his way in a westerly direction across to Brisbane. In 1858 Gregory explored the districts near the Barcoo and Thompson Rivers, Strzelecki's Creek, and Lake Blanche.

(xiii.) *Later Exploration of the North-East, 1859 to 1872.* After Kennedy's ill-fated expedition the main portion of Eastern Australia was fairly well known. Certain parts of what is now Queensland, however, still remained unexplored. These were examined by G. E. Dalrymple in 1859, by Frederick Walker in 1862, by Frank and Alec Jardine in 1864, and by William Hann in 1872. Hann discovered the Tate, Walsh, Palmer and Normanby Rivers. This expedition practically completed the exploration of Eastern Australia. The gold discoveries on the Palmer River, in Queensland, following soon after, led to a considerable amount of minor exploration being carried out by prospectors, whose labours are, however, unrecorded.

3. **Central Australia.**—In 1836 Colonel Light surveyed the shores of St. Vincent's Gulf, and selected the site for the settlement at Adelaide. In the same year Mitchell (see 1, viii. *ante*) had succeeded in travelling overland from the Darling to Cape Northumberland, and the settlers found little difficulty in driving stock from various parts of New South Wales to the new country. A great deal of minor exploration was done by these pioneers, the first of whom to lead the way across to the Port Phillip settlement with sheep in 1837 was Charles Bonney. In 1838 the overlanding of stock was extended to Adelaide by Joseph Hawdon.

(i.) *Eyre, 1838 to 1841.* In 1841 Edward John Eyre, who had previously discovered Lake Hindmarsh, and had explored the country to the north-east of Spencer's Gulf, succeeded, after great hardship, in reaching Albany overland from Adelaide. After this expedition settlers soon spread in a northerly direction from Adelaide, and various expeditions in search of grazing country were carried out by these pioneers.

(ii.) *Sturt's Later Explorations, 1844 to 1845.* In 1844, Charles Sturt, whose explorations in eastern Australia have already been referred to (see p. 24, vii. *ante*), set off from the Darling on an expedition to reach the centre of the continent. He reached his furthest point in latitude 24° 30' S. and longitude 137° 58' E. in September, 1845, and, after enduring great privations, was compelled to retreat through want of water.

(iii.) *Stuart, 1858 to 1862.* John MacDouall Stuart accompanied Captain Sturt on his last expedition as draughtsman. After minor explorations in the vicinity of Lake Eyre, Stuart made an unsuccessful attempt to cross the continent from south to north in 1860. After discovering the Frew, Fincke, and Stevenson Creeks, Chambers Pillar, and the McDonnell Range, he camped at the centre of Australia on the 22nd April, 1860. In the following year Stuart was placed in command of an expedition equipped by the South Australian Government, and succeeded in crossing the continent, reaching the sea at Chambers Bay on the 25th July, 1862.

(iv.) *Burke and Wills Expedition, 1860 to 1861.* In 1860 Robert O'Hara Burke and William Wills led an expedition northward from Melbourne to explore the country to the Gulf of Carpentaria. Through their arrangements having miscarried both Burke and Wills perished in the bush, after having crossed the continent and returned to their dépôt at Fort Wills, only to find it deserted. Various relief expeditions were sent out, and among them may be specially mentioned Howitt's Relief Expedition, the Queensland Relief Expeditions under Walker and Landsborough, and the South Australian Relief Party under McKinlay. Though the actual work of exploration carried out by the Burke and Wills expedition was unimportant, the discoveries made by the relief parties sent out were of great value in opening up Central Australia.

(v.) *Giles, 1872 to 1876.* In 1872 Ernest Giles discovered Lake Amadeus and Mount Olga. In the same year and again in the following he made unsuccessful attempts to force his way through the deserts to the settlements of Western Australia. In 1875 Giles, accompanied by W. H. Tietkins, set off from Beltana, and after making his way in the vicinity of latitude 30° S., to the settled districts of Western Australia, returned to the Peake telegraph station by way of the Murchison, Gascoyne, and Ashburton Rivers.

(vi.) *Later Explorations.* Other explorations in Central Australia were carried out by Major Warburton (1873), W. C. Gosse (1873), W. O. Hodgkinson (1875), Nathaniel Buchanan (1878), Frank Scarr (1878), Ernest Favenc (1878-83), H. V. Barclay (1877), A. Johns and P. Saunders (1876), David Lindsay (1883), H. Stockdale (1884), W. H. Tietkins (1889), A. Searcy (1882-96), and Hubbe (1896).

4. **Western Australia.**—In 1791 George Vancouver, in command of H.M.S. *Discovery*, found and named St. George's Sound. On the 25th December, 1826, Major Lockyer, with a detachment of soldiers, landed at King George's Sound to form a settlement, under instructions from Sir Ralph Darling, then Governor of New South Wales. The settlement was established in order to forestall the French, who, it was rumoured, intended to occupy the harbour. Early in 1827 Captain James Stirling and Charles Frazer examined and reported upon the Swan River districts with a view to forming a settlement there. In 1829 Captain Fremantle landed at the mouth of the Swan River and took possession of the country. A month later Stirling arrived with the first settlers.

(i.) *Early Explorers.* In November, 1829, Alexander Collie and Lieutenant Preston explored the coast between Cockburn Sound and Géographe Bay, and in the following month Dr. J. B. Wilson, R.N., discovered and named the Denmark River.

In 1830 John Septimus Roe explored the country in the neighbourhood of Cape Naturaliste and between the Collie and Preston Rivers, and in 1835 examined the districts between the headwaters of the Kalgan and Hay Rivers. In 1836 and 1839 Roe explored the country north and east of Perth, and in 1848 traced the course of the Pallinup River for some distance.

Other early explorers in the West were Ensign R. Dale (1830), Captain Bannister (1831), W. K. Shenton (1831), J. G. Bussell (1831), Lieutenant Preston (1831), Alexander Collie (1832), F. Whitfield (1833), A. Hillman (1833), G. F. Moore (1834), and Lieutenant Bunbury (1836).

(ii.) *Grey, 1837 to 1839.* In 1837 Captain (afterwards Sir) George Grey discovered and traced the Glenelg River. In 1839 he explored the country between the Williams and Leschenault Rivers, and later succeeded in making his way along the coast from the mouth of the Gascoyne River to Perth.

(iii.) *F. T. Gregory, 1857 to 1861.* In 1857 and 1858 Frank T. Gregory examined the upper reaches of the Murchison River and reached the Gascoyne River, which he descended to its mouth, whence he made his way to Perth. In 1861 Gregory explored the north-western districts, discovering the Fortescue, Ashburton, Shaw, De Grey, and Oakover Rivers.

(iv.) *Sir John Forrest, 1869 to 1883.* In 1869 John (now Sir John) Forrest penetrated to the east some distance past Mount Margaret and discovered Lake Barlee. In 1870 he succeeded in making his way from Perth to Adelaide via Esperance Bay, Israelite Bay, and Eucla, and in 1874, accompanied by his brother Alexander and four others, he crossed from Geraldton to the overland telegraph line near Peake Station. In 1883 Forrest explored a large portion of the Kimberley Division, Cambridge Gulf and the lower part of the Ord River.

(v.) *Alexander Forrest, 1871 to 1879.* In 1879 Alexander Forrest, who had previously accompanied his brother on two expeditions, made his way from the De Grey River to the Daly Waters Station on the overland telegraph line, via Beagle Bay, the King Leopold Range, Nicholson Plains, and the Ord and Victoria Rivers.

(vi.) *L. A. Wells, 1892 to 1897.* In 1892 Wells examined practically the whole of the still unexplored districts between Giles' track of 1876 and Forrest's route of 1874, and in 1896 and 1897 he explored the country between the East Murchison and Fitzroy Rivers.



(vii.) *Later Explorations in Western Australia.* During the latter part of the 19th century various expeditions were sent out to explore those parts of Western Australia (chiefly in the north-western districts) which still remained unknown. Those whose names are connected with the later exploration of Western Australia are:—David Carnegie (1896-7), who discovered a practical stock route between Kimberley and Coolgardie; W. Carr-Boyd (1883-96), who explored the country near the Rawlinson Ranges and made several excursions between the southern goldfields of Western Australia and the South Australian border; H. F. Johnston, G. R. Turner, and E. T. Hardman (1884), who discovered the Mary and Elvire Rivers; F. S. Brockman, Charles Crossland, Gibb Maitland, and Dr. F. M. House (1901), who explored the extreme north of the State; F. H. Hann (1896-1907) who made various excursions in the north-west and between Laverton and Oodnadatta.

(viii.) *Other Explorers.* Other explorers whose names are connected with the exploration of Western Australia are:—George Eliot, who, in 1839, explored the country between the Williams and Leschenault; William Nairne Clark, who, in 1841, discovered immense jarrah and karri forests in the south-west; R. H. Bland (1842); H. Landor (1842); Lieutenant Helpmann (1844); Captain H. M. Denham (1858); B. D. Clarkson, C. E. and A. Dempster, and C. Harper (1861); C. C. Hunt and Ridley (1863); R. J. and T. C. Sholl (1865); A. McRae (1866); Phillip Saunders and Adam Johns (1876); H. Stockdale (1884); H. Anstey (1887); F. Newman and W. P. Goddard (1890); J. H. Rowe (1895); C. A. Burrows and A. Mason (1896); Hugh Russell (1897); and John Muir (1901).

## § 5. The Constitutions of the States.<sup>1</sup>

1. **Introduction.**—The subject of "General Government" is dealt with in Section XXV. of this Book, but it has been thought desirable to here give a brief statement of the constitutional history of Australia, with a view to shewing how the present Constitutions of the States have been built up.

2. **Early Constitutional History.**—The earliest statute relating to Australia was passed in the year 1784, for the purpose of empowering the King in Council to appoint places in Australia to which convicts might be transported. By an Order in Council dated the 6th December, 1786, His Majesty's "territory of New South Wales, situated on the east part of New Holland," was appointed such a place. Captain Phillip, who was appointed the first Governor and Vice-Admiral of the territory, was empowered by his commission and letters patent to make ordinances for the good government of the settlement. By an Act passed in 1787 authority was given for the establishment of a court of criminal jurisdiction at Sydney. In the early days of settlement the Governor's power was almost absolute, and his rule virtually despotic, tempered by his own discretion and by the knowledge that he was responsible to the Imperial authorities for any maladministration. By Acts passed in 1819, 1821, and 1822, the Governor was given limited powers to impose local taxation in the shape of Customs duties on spirits, tobacco, and other goods imported into the Colony.

(i.) *The First Constitutional Charter.* In 1823 an Act was passed authorising the creation of a Council, consisting of from five to seven persons charged with certain legislative powers of a limited character. This was the first constitutional charter of Australia, and was later improved and amended by an Act passed in 1828, and applying both to New South Wales and to Van Diemen's Land, which had been politically separated in 1825.

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1. See "The Annotated Constitution of the Australian Commonwealth," Quick and Garran; Jenks' "Government of Victoria"; Rusden's "History of Australia."

(ii.) *First Representative Legislature.* In 1842 an important measure was passed by the Imperial Government, establishing, for the first time in Australia, a Legislature partly, but not wholly, representative in character. It was enacted that there should be within the colony of New South Wales a Legislative Council, to consist of thirty-six members, twelve of whom were to be nominated by the Sovereign and twenty-four elected by the inhabitants of the colony. The Act contained provisions defining the legislative functions of the Council, and regulated the giving or withholding of the Royal assent to Bills passed by the Council. This Act did not grant responsible government to New South Wales; the heads of the Departments and other public officers continued to hold their offices at the pleasure of the Crown, as represented by the Governor. The new Council was opened by Sir George Gipps, on the 1st August, 1843.

(iii.) *The Australian Colonies Government Act, 1850.* The next important Act relating to representative government in Australia is the Australian Colonies Government Act, passed in 1850. The two main objects of this Act were (a) the separation of the Port Phillip District from New South Wales, and (b) the establishment of an improved system of government in all the Australian colonies. For New South Wales, for the separated Victoria, for Van Diemen's Land, and for South Australia, similar Legislatures were prescribed. The general provisions of the Act provided that the existing Legislature in New South Wales should decide the number of members of which a new Council was to consist in that colony, and should perform the same task for Victoria. On the issue of the writs for the first election in Victoria, separation was to be deemed complete. One-third of the number of members of the Council in each colony was to be nominated by the Crown. The existing Legislatures in Van Diemen's Land and South Australia were to decide as to the number of members in the new Council in each, but they were not to exceed twenty-four. Power was given to the Governor and Legislative Council in each colony to alter the qualifications of electors and members as fixed by the Act, or to establish, instead of the Legislative Council, a Council and a House of Representatives, or other separate Legislative Houses, to be appointed or elected by such persons and in such manner as should be determined, and to vest in such Houses the powers and functions of the old Council. The powers and functions of the Councils under this Act were as follows:—(a) To make laws for the peace, order, and good government of the colony; (b) to impose taxation, including the imposition of Customs duties; and (c) to appropriate to the public service the whole of the public revenue arising from taxes, duties, rates, and imposts. The restrictions on the powers and functions of the Councils were as follows:—(a) That no such law should be repugnant to the law of England, (b) that no such law should interfere with the sale and appropriation of Crown lands, (c) that no Customs duties of a differential character should be imposed, and d) that it should not be lawful for the Council to pass any Bill appropriating to the public service any sum of money for any purpose unless the Governor should have previously recommended that provision for such appropriation be made.

**3. The Constitution of New South Wales.**—After the Act just referred to had been proclaimed, an Electoral Bill for New South Wales was passed increasing the number of members of the Council from thirty-six to fifty-four, of whom thirty-six were to be elective and eighteen nominee members. The extraordinary increase in the wealth and prosperity of the colony owing to the discovery of gold, soon imparted new and unforeseen features to its political and social conditions. In 1851 a remonstrance was despatched by the Legislative Council of New South Wales to the Secretary of State for the Colonies, in which objection was taken to the form of Constitution which the Imperial authorities proposed to grant under the Act of 1850, on the grounds a) that it did not place the control of all revenue and taxation entirely in the hands of the Colonial Legislature, (b) that all offices of trust and emolument should be filled by the Governor and Executive Council, unfettered by instructions from the Secretary of State for the Colonies, and (c) that plenary powers of legislation should be conferred on the Colonial Legislature. In 1852 the Secretary of State for the Colonies, in a despatch to the Governor of New South Wales, promised to give effect to the wishes of the Legislative Council, and suggested

that the Legislative Council should proceed to frame a Constitution resembling that of Canada and based on a bi-cameral Legislature. A select committee of the Council was accordingly appointed to draft a Constitution, and as a result of the deliberations of this body the new Constitution was, on the 21st December, 1853, adopted by the Council and transmitted to the Secretary of State for the Colonies. As it contained provisions in excess of the powers conferred by the Act of 1850, the Bill could not receive the Royal assent, but had to be introduced into the Imperial Parliament. With some amendments the Bill was passed by the Imperial Government and received the Royal assent on the 16th July, 1855. It is now known as the New South Wales Constitution Act 1855, and under its provisions a fully responsible system of government was granted. The entire management and control of Crown lands was conferred on the New South Wales Parliament, while the provisions of former Acts respecting the allowance and disallowance of Bills were preserved. Subject to the provisions of the Act, power to make laws amending the Constitution was given to the New South Wales Parliament. The first Parliament, under the new Constitution, was opened by Sir William T. Denison, on the 22nd May, 1856. The Constitution was amended by Acts passed in 1857, 1884, and 1890, these Acts being repealed and consolidated by the Constitution Amendment Act of 1902. The last amending Act was passed in 1908.

**4. The Constitution of Victoria.**—After the proclamation of the Australian Colonies Government Act of 1850, the old Legislative Council of New South Wales met on the 28th March, 1851, for the purpose of making electoral and judicial arrangements required to bring the new Act into force in Victoria. Two Acts were passed specially concerning Victoria. The first provided for the continuation of the powers and functions of all public officers resident within the Port Phillip District until removed or reappointed by the Government of Victoria. The other Act provided that the Legislative Council of Victoria should consist of thirty members, ten nominees and twenty elective. On the 1st July, 1851, writs for the election of the elective members of the new Legislative Council of Victoria were issued and separation became complete. On the 15th July Mr. La Trobe was appointed the first Lieutenant-Governor of the colony. The powers and functions of the new Council were, under the Act of 1850, similar to those of the reorganised Legislative Council of New South Wales. The next important stage in the constitutional history of Victoria was that which was consummated by the attainment of a fully responsible system of government. Reference has already been made to the rapid advance in the population, wealth, and material prosperity of Australia consequent on the discovery of gold, and to the lead taken by the Legislature of New South Wales in the movement for an extension of constitutional power. In 1853 a despatch, similar to that received by the Governor of New South Wales (see above), was received by the Lieutenant-Governor of Victoria from the Secretary of State for the Colonies. A Constitution was drafted by a committee of the Legislative Council, and it was embodied in a Bill which was passed and reserved for the Queen's assent on the 28th March, 1854. This Bill contained clauses similar to those of the New South Wales Bill relating to the assent of the Governor to bills and the Sovereign's power to disallow the same; to the sale and appropriation of Crown lands; and to the amendment of the Constitution by the Victorian Parliament. As the new Constitution contained provisions beyond those authorised by the Act of 1850 a special Enabling Act was necessary. The Bill was passed and assented to on the 16th July, 1855, and the new Constitution was proclaimed on the 23rd November following. Several amendments have since been made, chiefly with reference to the term of membership and the qualifications of members and electors. The last amending Act was passed in 1903.

**5. The Constitution of Queensland.**—As part of New South Wales, the Moreton Bay District enjoyed the benefits of responsible government under the Constitution Act of 1855. For electoral purposes the district was, in 1856, divided into eight electorates, returning nine members to the Legislative Assembly of New South Wales.

By an Act passed in 1842 the Queen was empowered to erect into a separate colony any part of the territory of New South Wales lying to the northward of 26° south

latitude, which was altered by the Australian Colonies Government Act 1850 to 30° south latitude. By the New South Wales Constitution Act 1855 the power previously granted to alter the northern boundary of New South Wales was distinctly preserved, and Her Majesty was authorised, by letters patent, to erect into a separate colony any territory which might be so separated. It was further enacted that Her Majesty, either by such letters patent or by Order in Council, might make provision for the government of any such new colony, and for the establishment of a Legislature therein, in manner as nearly resembling the form of government and legislature established in New South Wales as the circumstances of the new colony would permit. The separation was effected by letters patent dated the 6th June, 1859, and the Constitution of the new colony was embodied in an Order in Council of the same date.

The Order in Council provided that there should be within the colony of Queensland a Legislative Council and a Legislative Assembly, with the advice and consent of which Her Majesty should have power to make laws for the peace, welfare, and good government of the colony in all cases whatsoever. The powers and functions granted to this Legislature were substantially the same as those granted to New South Wales and Victoria under their respective Constitution Acts, and similar restrictions were imposed. The first Parliament under the new Constitution was convened on the 29th May, 1859. There have been several amendments of the Constitution, the dates of the amending Acts being as follows:—1867, 1871, 1874, 1890, 1896, and 1905.

**6. The Constitution of South Australia.**—The creation of South Australia as a Province has already been referred to above (see p. 19.) In the exercise of the provisions of the Act by which the Province was created, a governor, a judge, seven commissioners, and other officials were appointed. The Governor, with the concurrence of the Chief Justice, the Colonial Secretary, and the Advocate-General, or two of them, was authorised to make laws and impose taxes. The control of the Crown lands was placed in the hands of the Commissioners. In 1841 the settlement being involved in financial difficulties, a loan was advanced by the British Government. Under an Act passed in 1842 the system of government was remodelled; the colonisation commissioners were abolished, and the Province became a Crown colony. The Queen was empowered to constitute a nominated Legislative Council, consisting of the Governor and seven other persons resident in the colony, with power to make laws for the good government thereof. This system of government continued in force until the inauguration of a new scheme under the provisions of the Australian Colonies Government Act 1850, referred to above.

In 1853 the Legislative Council of South Australia, in pursuance of the powers conferred by the Act of 1850, passed a Bill to establish a bi-cameral Legislature for South Australia. The Royal assent was, however, refused on the grounds that the Bill contained a provision limiting the right of the Crown in respect to the disallowance of Bills, which provision was in excess of the powers conferred by the Act of 1850. In 1855 a new Legislative Council, partly elective and partly nominee, having been duly constituted, a second Bill, based on the Tasmanian Constitution Bill, to create a bi-cameral Legislature, was passed and duly received the Royal assent in 1856. This Act, known as the South Australian Constitution Act 1856, confers no legislative powers except by reference to the Act of 1850. In order to ascertain the principal legislative powers and functions of the Parliament of South Australia reference must therefore be made to the Australian Colonies Government Act 1850, defining the legislative powers and functions of the Council for which it was substituted (see p. 28 above). The first session of the new Parliament commenced on the 22nd April, 1857, during the Governorship of Sir Richard Graves McDonnell.

The legislative powers of the South Australian Parliament have been considerably enlarged by several Imperial Acts. In 1855 an Act was passed authorising the Legislature of each of the Australian colonies to sell, dispose of, and legislate with reference to Crown lands in the colony. In 1865 the Colonial Laws Validity Act removed the common law restriction which prevented colonial legislators from passing any law repugnant to the law of England. In 1873 the prohibition contained in the Australian Colonies

Government Act 1850 was, by the Australian Colonies Duties Act, abolished as far as intercolonial duties were concerned. There have been a large number of amendments to the Constitution, the dates of the amending Acts being as follows:—1870, 1872, 1873, 1876, 1881, 1882, 1887, 1888, 1889, 1890, 1892, 1893, 1894, 1896, 1899, 1901, and 1902.

**7. Constitution of Western Australia.**—In 1829 the first Imperial Act relating to the Government of Western Australia was passed. By that Act the King in Council was empowered to make and constitute, and to authorise any three or more persons resident within the settlements to make and constitute laws, institutions, and ordinances for the peace, order, and good government of the settlements in Western Australia. By an Order in Council dated the 1st November, 1830, the first Executive Council was constituted, while in the following year a Legislative Council, which consisted at first solely of members of the Executive Council, was formed. This system of government remained unaltered for many years, though the numbers of members of both Councils were increased from time to time. In August, 1870, the nominee Legislative Council was dissolved and writs were issued (under the Australian Colonies Government Act 1850, the provisions of which did not apply to Western Australia until that colony was able to defray its own expenses) for the election of a Council to consist of twelve elected and six nominated members. These numbers were again increased from time to time until the last Legislative Council under the old form of government, which expired on the 21st October, 1890, consisted of twenty-six members, of whom four were official members, five were nominees of the Crown, and seventeen were elected by the different constituencies. As far back as 1873 a movement was commenced in Western Australia for responsible government as it existed in the eastern colonies. In 1889 the Legislative Council was dissolved and a general election took place, the principal question being the introduction of responsible government. A resolution in favour of the change was passed by the new Council without dissent, and a Constitution providing for the creation of a bi-cameral Legislature was accordingly drafted. In August, 1890, an enabling Bill received the Royal assent, and responsible government was proclaimed in the colony on the 21st October, 1890. Under this Act the Legislative Council was a nominative chamber, subject to the provision that after the expiration of six years, or as soon as the colony acquired a population of 60,000, the Council should be constituted by election. The first Parliament under the new Constitution met on the 30th December, 1890. On the 18th July, 1893, the population of the colony being then over 60,000, the Legislature of Western Australia passed an Act to amend the Constitution, abolishing the nominee Council and substituting one elected by the qualified inhabitants of the colony. The present Constitution of Western Australia differs but little from those of the other States of the Commonwealth. It has been amended by Acts passed in 1893, 1894, 1896, 1899, and 1900.

**8. Constitution of Tasmania.**—Under an Order in Council dated the 14th June, 1825, and made in pursuance of the provisions of an Act passed in 1823, Van Diemen's Land, as it was known until the year 1853,<sup>1</sup> was separated from New South Wales and was proclaimed a separate colony. A Lieutenant-Governor was appointed, and an Executive and a Legislative Council were called into existence, the latter being on the same model as that introduced into the other colonies at the earliest stages of their constitutional progress. It was not until the Imperial Act of 1850 was passed, that a system of representative government was introduced into Tasmania. The provisions of that Act have already been briefly indicated (see p. 28) and will not be here repeated. A Constitution Bill was drafted and passed by the Legislative Council, and was assented to and proclaimed on the 24th October, 1856.

The Constitution of South Australia was based upon that of Tasmania, and the remarks made above with reference to the Constitution of the former State apply equally to the Constitution of the latter State.

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<sup>1</sup> In the year 1853, on the acquiescence of the Imperial Government in the cessation of transportation (finally abolished in 1857, by 20 and 21 Vic. c. 3), the name Tasmania was generally and voluntarily adopted instead of Van Diemen's Land. (See Quick and Garran's "Annotated Constitution of the Australian Commonwealth," p. 61.)

The first Parliament under the new Constitution was opened on the 2nd December, 1856. The Constitution has been amended by Acts passed in 1870, 1884, 1885, 1890, 1900, 1903, and 1906.

**9. Enlarged Legislative Powers.**—The legislative powers and functions of the Parliaments of the States of the Commonwealth are in fact larger than they appear in the face of the Constitution Acts, inasmuch as contributory powers have been granted from time to time by Imperial Statutes. It is not within the scope of this work to enter into a consideration of the provisions of these Statutes. Among them, however, in addition to those already referred to (see "Constitution of South Australia" above), the following may be mentioned :—

Admiralty Offences (Colonial) Act 1860  
Army Act 1881  
Coinage Offences (Colonies) Act 1851  
Colonial Copyright Act 1847  
Colonial Marriages Act 1865

Colonial Naval Defence Act 1865  
Extradition Acts 1870  
Merchant Shipping Act 1894  
Naturalisation Act 1870

**10. Reservation of Bills.**—The reservation of Bills passed by the Legislature of any State was formerly dealt with both by the instructions given to the State Governors and by various State Constitution Acts. The Australian States Constitution Act 1907, amended the law with respect to the reservation of Bills, and provided that the following Bills must be reserved for the signification of His Majesty's pleasure thereon, viz. :—Any Bill which (a) alters the Constitution of the Legislature of the State, or (b) affects the salary of the Governor of the State, or (c) is, under any Act of the Legislature of the State passed after the passing of the Australian States Constitution Act 1907, or under any provision contained in the Bill itself, required to be reserved. The Act does not, however, affect the reservation of Bills in accordance with any instructions given to the Governor of a State by His Majesty.

## § 6. The Federal Movement in Australia.

**1. Early Stages in the Federal Movement.**—A summary is given in Year Book No. 1 (pp. 17 to 21) of the "Federal Movement in Australia" from its earliest inception to its consummation. Only a synopsis of this will be given here.

Notwithstanding that, owing to the circumstances of their growth, the initial tendency in Australia was naturally toward the individualistic evolution of the several settlements, from the earliest period there was a clear recognition of the importance of intercolonial reciprocity. Governor Fitzroy, in 1846, and Earl Grey, in 1847, saw that there were questions which affected "Australia collectively, the regulation of which in some uniform manner, and by some single authority, may be essential to the welfare of them all," and a "central legislative authority for the whole of the Australian colonies" was actually contemplated. Even as far back as 1849, a Privy Council Committee recommended a uniform tariff, and the constituting of one of the Governors as Governor-General of Australia, Sir Charles Fitzroy being actually appointed as "Governor-General of all Her Majesty's Australian Possessions." The office, however, was nominal rather than actual, and expired in 1861. Dr. Lang's idea of "a great federation of all the colonies of Australia" was put forward in 1852, and a Victorian committee in 1853 advocated the value of the General Assembly of Delegates for the whole of Australia.

The need of union was urged by the *Sydney Morning Herald* in 1854, and, though in 1857 Wentworth sought to bring about the creation of a Federal Assembly, an "Enabling Bill" which was drafted turned out to be unacceptable to Her Majesty's

Government. In the same year Mr. (afterwards Sir) Charles Gavan Duffy secured the appointment of a select committee of the Victorian Legislative Assembly to consider the necessity of a federal union of the Australasian colonies. The need for such union was unanimously affirmed, the general opinion being that it should not be longer delayed. In the same year a select committee of the New South Wales Legislative Council also considered this question, fully recognising that antagonisms and jealousies were likely to arise through delay.

Union was in a fair way toward realisation when the advent of the Cowper Administration destroyed all chance of attaining it, owing to the antagonism of Mr. Cowper and Mr. (afterwards Sir) James Martin. South Australia, also in the same year, and Queensland in 1859, were both unfavourable to the federal scheme. A second attempt by Mr. Duffy to bring about a conference in 1860 failed also.

Tariff differences, however, compelled political attention to the matter, and in 1862 correspondence was opened up by South Australia regarding tariff uniformity. By means of intercolonial conferences between 1863 and 1880 some degree of uniformity in legislation and a measure of concerted administration were realised. In March, 1867, Mr. (afterwards Sir) Henry Parkes expressed himself as follows:—" . . . The time has arrived when these colonies should be united by some federal bond. . . . There are questions projecting themselves . . . which cannot be dealt with by . . . individual Governments. . . . I believe it will lead to a permanent federal understanding." A Bill passed, however, was shelved by the Home Government.

**2. The Federal Council.**—The conference of November, December, 1880, and January, 1881, recommended the creation of a Federal Council, believing that the time had not arrived for a Federal Constitution with a Federal Parliament. Up till 1883, however, every effort proved abortive, but in November of that year a convention, at which the seven colonies and Fiji were represented, met in Sydney. A Bill to establish a Federal Council for Australasia, drafted by Mr. (now Sir) Samuel Griffith, was, after some modification by a committee of the convention, adopted. In July and August, 1884, the Crown was addressed, praying for the enactment of a Federal Council Act. New South Wales and New Zealand, however, held aloof, the view of Sir Henry Parkes being that a "council" would impede the way for a sure and solid federation. The Bill introduced by the Earl of Derby in the House of Lords on the 23rd April, 1885, became law on the 14th August as "The Federal Council of Australasia Act 1885." The Council's career, however, soon shewed that it could not hope to be effective, and it met for the last time in January, 1899.

**3. Formative Stages of the Federal Movement.**—So far Australia has happily enjoyed peace, but as early as 1878 the necessity for federal defence was vividly brought into Australian consciousness, and arrangements for naval protection were entered into with the Imperial Government. These were ratified by the Australasian Naval Force Act. Queensland, however, did not come into line until as late as 1891.

Early in 1889 Sir Henry Parkes had confidentially suggested to Mr. Duncan Gillies the necessity for a Federal Parliament and Executive. Unable to accept the latter's suggestion that New South Wales should give its adhesion to the Federal Council, the former statesman urged the institution of "a National Convention for the purpose of devising and reporting upon an adequate scheme of Federal Government." This led to the Melbourne Conference of 6th February, 1890. It was at the banquet on this occasion that, in proposing "A United Australasia," Mr. James Service pointed out that the tariff question was "a lion in the path," which federationists must either slay, or by which they must be slain; in the reply to which Sir Henry Parkes made use of his historic phrase, *the crimson thread of kinship runs through us all*. Certain elements of doubt being expressed as to the motives underlying the movement, Sir Henry Parkes said:—"We desire to enter upon this work of Federation without making any condition to the advantage of ourselves, without any stipulation whatever, with a perfect preparedness to leave the proposed convention free to devise its own scheme, and, if a central Parliament

comes into existence, with a perfect reliance upon its justice, upon its wisdom, and upon its honour. . . . I think . . . an overwhelming majority of my countrymen . . . will approve of the grand step . . . of uniting all the colonies under one form of beneficent government, and under one national flag."

The first National Australasian Convention, under Sir Henry Parkes' presidency, was convened on the 2nd March, 1891, all the colonies and New Zealand being represented. The Bill then drafted was considered by the Parliaments of New South Wales, Victoria, South Australia, and Tasmania, but not by those of Queensland, Western Australia, and New Zealand, and though the parliamentary process of dealing with the matter failed, federal sentiment was strengthening. The collapse of the "land boom" had made apparent how intimately the interests of each colony are related; and the dangers of disunion became impressively obvious. The Australian Natives' Association took up the federal cause with enthusiasm, Federation leagues were established, the issues were widely and intelligently discussed. The late Sir George Dibbs' unification scheme helped to make the issue a real one.

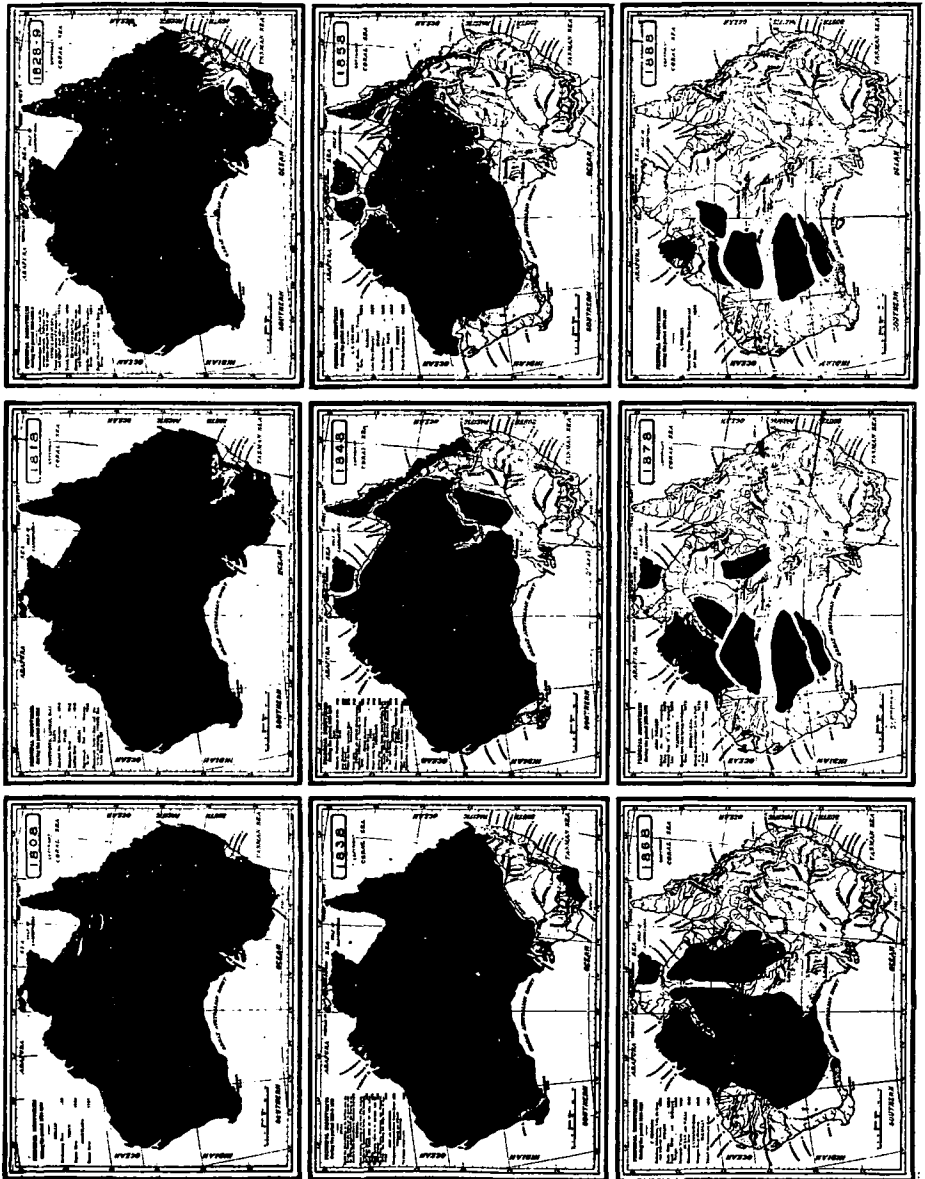
At the Conference of Premiers at Hobart on the 29th January, 1895, it was agreed that federation "was the great and pressing question of Australian politics," and that "the framing of a Federal Constitution" was an urgent duty. The resuscitation of the whole matter led to the passing of Enabling Acts. In New South Wales the Act received the Royal assent on the 23rd December, 1895; South Australia anticipated this by three days; the Tasmanian Bill was passed on the 10th January, 1896, the Victorian on the 7th March, 1896; Western Australia fell into line on the 27th October. The "People's Federal Convention," held at Bathurst, N.S.W., in November, 1896, gave a considerable impulse to the movement; to wait longer for Queensland was considered unnecessary, and the 4th March, 1897, was fixed as the date for the election of federal representatives for New South Wales, Victoria, South Australia, and Tasmania. Western Australia followed suit, and on the 22nd March the representatives met at Adelaide.

The discussions made it evident that the federal point of view had advanced considerably. Constitutional, Finance, and Judiciary Committees were appointed, and a Bill drafted. This, reported to the Convention on the 22nd April, was adopted on the following day, and the Convention adjourned till September. The Parliaments of New South Wales, Victoria, South Australia, Tasmania, and Western Australia discussed the question before the Sydney Session of the Convention, which opened on the 2nd September, 1897. The business of the Convention involved the general reconsideration of the whole Bill, and the consideration of no less than 286 suggested amendments. This work gave a definitive character to that of the Melbourne Session of 1898, extending from the 20th January to the 17th March, the necessity of reaching a final decision giving to its deliberations corresponding weight.

**4. Votes on the Question of Federating.**—Eleven weeks after this last convention the first popular vote was taken on Federation in New South Wales, Victoria, South Australia, and Tasmania. Though the decision was overwhelming in favour of Federation in three of the States, and there was a distinct majority in its favour in New South Wales, the majority was legally insufficient. On the 22nd January, 1899, the Premiers of the six colonies met at Melbourne in a conference initiated by the Right Honourable G. H. Reid, P.C., and seven amendments were made in the Bill. This step virtually effected the solution of the few outstanding difficulties which could in any way be regarded as fundamental.

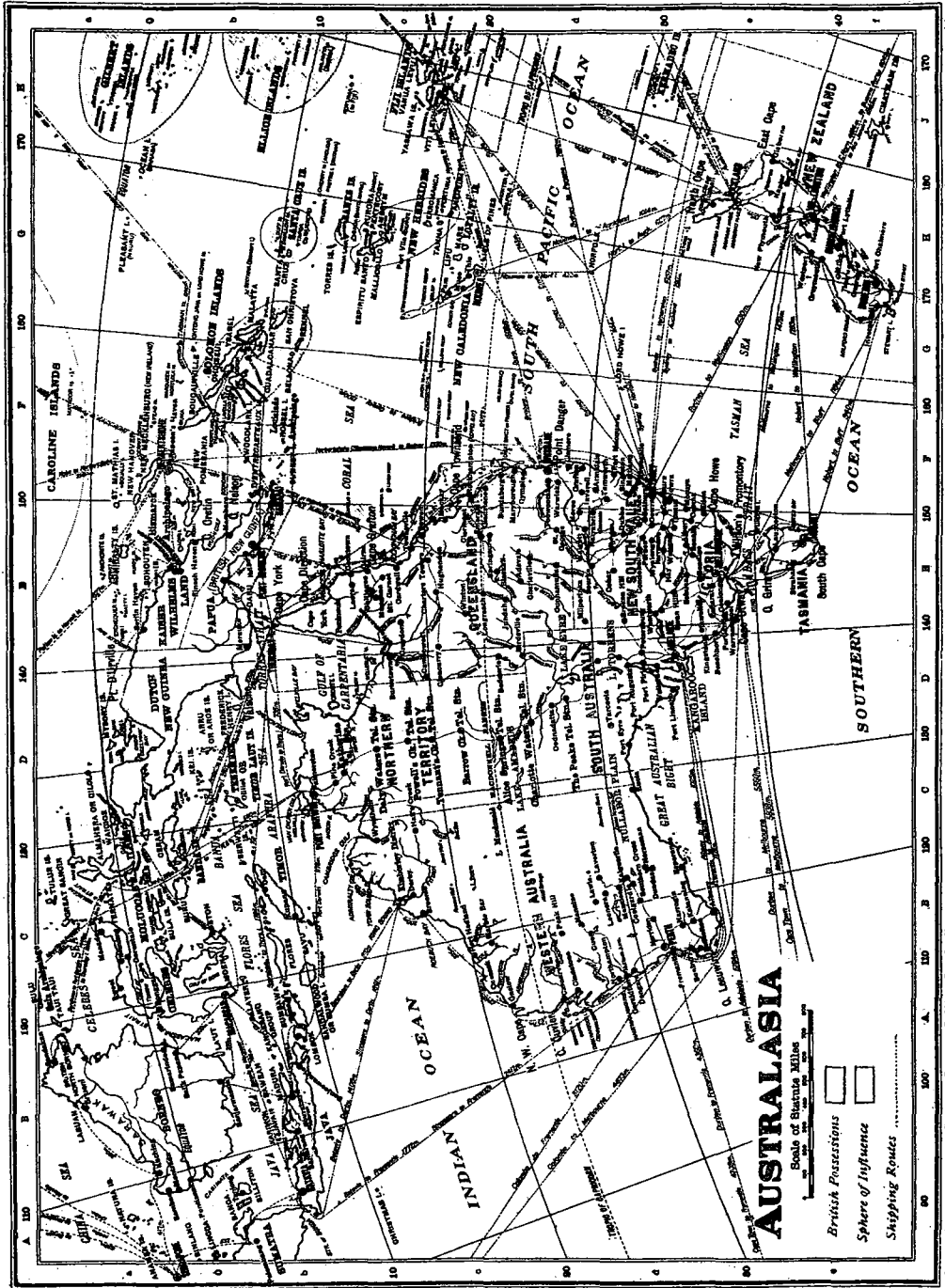
On the occasion of the second popular vote Queensland also joined in, and the general majority in favour of Federation was more than doubled, that for New South Wales itself having been more than quadrupled when compared with the first vote. The following table shews the two results:—





#### PROGRESS OF AUSTRALIAN EXPLORATION.

The above maps compiled by Mr. E. Favenc shew decennially the progress of discovery from 1808 to 1888. The dark shade shews the area of unexplored territory.



VOTES FOR AND AGAINST FEDERATION.

Votes.			N.S.W.	Victoria.	Sth. Aust.	Tas.	Qld.	TOTALS.
1st Vote	{ For Federation	...	71,595	100,520	35,800	11,797	—	219,712
	{ Against „	...	66,228	22,099	17,320	2,716	—	108,363
	{ Majority ...	...	5,367	78,421	18,480	9,081	—	111,349
2nd Vote	{ For Federation	...	107,420	152,653	65,990	13,437	38,488	377,988
	{ Against „	...	82,741	9,805	17,053	791	30,996	141,386
	{ Majority ...	...	24,679	142,848	48,937	12,646	7,492	236,602

5. **Enactment of the Constitution.**—The Secretary of State for the Colonies (the Right Honourable Joseph Chamberlain) expressed the hope on the 22nd December, 1899, that a delegation of the federating colonies should visit England on the occasion of the submission of the Commonwealth Bill to the Imperial Parliament. The delegation consisted of Mr. (now Sir) Edmund Barton (N.S.W.), Mr. Alfred Deakin (Vic.), Mr. C. C. Kingston (S.A.), Sir P. O. Fysh (Tas.), and later Mr. S. H. Parker was appointed delegate for Western Australia and Mr. W. P. Reeves for New Zealand. After discussion as to whether there should be some modification in the Bill, it was introduced into the House of Commons on the 14th May; the second reading was moved on the 21st of the same month; the discussion in committee commenced on the 18th June; and the Royal assent was given on the 9th July, 1900.

On the 31st July a referendum in Western Australia on the question of federating gave the result:—For, 44,800; against, 19,691; that is to say, a majority of 25,109 in favour of union. On the 21st August both Houses of Parliament in that State passed addresses praying that it might be included as an original State of the Commonwealth.

On the 17th September, 1900, Her Majesty Queen Victoria signed the proclamation declaring that on and after the first day of January, 1901, the people of New South Wales, Victoria, South Australia, Queensland, Tasmania, and Western Australia should be united in a Federal Commonwealth, under the name of the Commonwealth of Australia.

## § 7. Creation of the Commonwealth.

1. **The Act.**—The Commonwealth of Australia Constitution Act, 63 and 64 Vic., Chapter 12, namely, an Act to constitute the Commonwealth of Australia, which, as already stated, received the Royal assent on the 9th July, 1900, is given in Year Book No. 1 *in extenso* (pp. 21 to 37). The division of the Constitution is as follows:—

Chapter I.—The Parliament:—

Part I.—General.

Part II.—The Senate.

Part III.—The House of Representatives.

Part IV.—Both Houses of 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.

2. **Summary of the Commonwealth Constitution.**—These chapters may be summarised as follows :—

### CHAPTER I.—THE PARLIAMENT.

#### PART I.—GENERAL (SECTIONS 1 TO 6).

The legislative power of the Commonwealth is vested in the Federal Parliament consisting of the Sovereign, the Senate, and the House of Representatives. A Governor-General, appointed by the King, represents His Majesty in the Commonwealth, and exercises, subject to the Constitution, such powers and functions as His Majesty is pleased to assign to him. The salary of the Governor-General is fixed at £10,000 per annum until otherwise provided by Parliament. The Governor-General may appoint the times for holding the sessions of Parliament; he may prorogue Parliament, and may dissolve the House of Representatives.

#### PART II.—THE SENATE (SECTIONS 7 TO 23).

Until Parliament otherwise provides, there are to be six senators for each original State, chosen by the people of the State voting as one electorate. Equal representation of the original States must be maintained, and no original State may have less than six senators. The senators are chosen for a term of six years. The qualification for electors of senators is the same as the qualification for electors of members of the House of Representatives. Provision is made whereby half the senators for each State vacate their seats at the expiration of three years in the case of the election of a new Senate. The qualifications of a senator are the same as those of a member of the House of Representatives. The place of a senator becomes vacant if he fails to attend the meetings of the Senate, without permission, for two consecutive months of any session. At least one-third of the whole number of senators must be present in order to constitute a meeting of the Senate.

#### PART III.—THE HOUSE OF REPRESENTATIVES (SECTIONS 24 TO 40).

The number of members of the House of Representatives is, as nearly as practicable, twice the number of senators, and the numbers of members elected in the several States are in proportion to the respective populations of the States, unless otherwise determined by Parliament. The House is elected for three years, but may be sooner dissolved by the Governor-General. Until Parliament otherwise provides, qualifications for membership are as follows:—(a) Members must be of the full age of twenty-one years, must be qualified for the franchise of the House, and must have been resident within the Commonwealth for at least three years, and (b) must be natural-born British subjects or for at least five years naturalised 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. A member vacates his seat if he fails to attend the meetings of the House, without permission, for two consecutive months in any session. Until Parliament otherwise provided, the qualification for the franchise of the House of Representatives was in each State the same as that for the franchise of the more numerous House of Parliament in the State, but each elector could vote only once.<sup>1</sup>

#### PART IV.—BOTH HOUSES OF PARLIAMENT (SECTIONS 41 TO 50).

Any adult person who is qualified to vote at elections for the more numerous House of Parliament of a State cannot be prevented by any law of the Commonwealth from voting at elections for either of the Commonwealth Houses of Parliament. A person subject to certain disqualifications, such as being attainted of treason, being an undis-

1. The franchise qualification was determined by the Commonwealth Franchise Act, 1902.

charged bankrupt, holding an office of profit under the Crown (except as a Minister of State or as an officer or member of the naval or military forces of the Commonwealth), or having a pecuniary interest in any agreement with the Commonwealth Public Service (except as a member of a company), may not be elected or sit as a member of either House. Until the Parliament otherwise provided, each senator and each member of the House of Representatives received an allowance of £400 a year.<sup>2</sup> The powers and privileges of members of both Houses are as declared by Parliament, and until declared are the same as those of the Commons House of Parliament of the United Kingdom. Each House may make rules and orders with respect to—(a) The mode in which its powers, privileges, and immunities may be exercised and upheld, and (b) the order and conduct of its business and proceedings, either separately or jointly with the other House.

#### PART V.—POWERS OF THE PARLIAMENT (SECTIONS 51 TO 60).

The Commonwealth Parliament has, subject to the Constitution, 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.) Naturalisation 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 :
- (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 :

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2. By the Parliamentary Allowances Act 1907, assented to on the 28th August, the amount of the allowance was increased to £600 a year.

- (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.

The Parliament has also, subject to the Constitution, 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.

Proposed laws appropriating revenue or moneys, or imposing taxation, may not originate in the Senate, and the Senate may not amend proposed laws either (a) imposing taxation, (b) appropriating money for the ordinary annual services of the Government, or (c) so as to increase any proposed charge or burden on the people.

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 may not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which

the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and 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 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.

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.

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.

## CHAPTER II.—THE EXECUTIVE GOVERNMENT (SECTIONS 61 TO 70).

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 the Constitution, and the laws of the Commonwealth.

The Executive Council advises the Governor-General in the government of the Commonwealth, and the members of the Council are chosen and summoned by the Governor-General and sworn as Executive Councillors, and hold office during his pleasure. 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 hold office during the pleasure of the Governor-General. They are members of the Federal Executive Council, and are the Queen's Ministers of State for the Commonwealth. After the first general election no Minister of State may hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives. Until the Parliament otherwise provides, the Ministers of State may not exceed seven in number, and their joint salaries may not exceed £12,000 a year. The command-in-chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Sovereign's representative, while the appointment and removal of all officers of the Executive Government is 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.

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 :—<sup>1</sup>

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.

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1. As to departments transferred and dates of transfer, see Section XIX.—COMMONWEALTH FINANCE, § 1, 2, hereafter.

## CHAPTER III.—THE JUDICATURE (SECTIONS 71 TO 80).

The judicial power of the Commonwealth is 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. The Justices of the High Court and of the other courts created by the Parliament—

- (i.) Are to be appointed by the Governor-General in Council :
- (ii.) May 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.) May receive such remuneration as the Parliament may fix ; but the remuneration shall not be diminished during their continuance in office.

The High Court has 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 Interstate Commission, but as to questions of law only :

and the judgment of the High Court in all such cases is final and conclusive.

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 are applicable to appeals from them to the High Court.

No appeal may be made 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 certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court has original jurisdiction 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 : while Parliament may make laws conferring original jurisdiction on the High Court in any matter—(i.) Arising under the Constitution or under any laws made by the Parliament : (ii.) Of Admiralty and maritime jurisdiction : (iii.) Relating to the same subject matter claimed under the laws of different States.

## CHAPTER IV.—FINANCE AND TRADE (SECTIONS 81 TO 105).

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, passed to the Executive Government of the Commonwealth. 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 is to be applied annually by the Commonwealth towards its expenditure. The balance, in accordance with the Constitution, is to be paid to the several States, or applied to the payment of interest on debts of the several States taken over by the Commonwealth.



Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth, and on the imposition of such duties, trade, commerce, and intercourse among the States shall be absolutely free,<sup>1</sup> and the power of the Commonwealth Parliament to impose duties of customs and excise, and to grant bounties on the production or export of goods, shall become exclusive.

Until the imposition of uniform duties of customs it was provided that—

- (i.) The Commonwealth should credit to each State the revenues collected therein by the Commonwealth.
- (ii.) The Commonwealth should 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 should pay to each State month by month the balance (if any) in favour of the State.

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.

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, and 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.

The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to the State Government railways. The Commonwealth may not, however, by any law or regulation of trade, commerce, or revenue give preference to one State over another, nor by any law or regulation of trade or commerce abridge the right of a State to the reasonable use of rivers for conservation or irrigation.

#### CHAPTER V.—THE STATES (SECTIONS 106 TO 120).

The Constitution of each State of the Commonwealth, subject to the Constitution, continues 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. Every power of the Parliament of a Colony which has become or becomes a State, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continues as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, and 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, subject to the Constitution, continues in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State has 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.

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1. Uniform customs duties were imposed by the Customs Tariff Act 1902 (see Section XV., COMMERCE, §2, hereafter).

When a law of a State is inconsistent with a law of the Commonwealth, the latter prevails, and the former, to the extent of the inconsistency, is invalid.

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 becomes subject to the exclusive jurisdiction of the Commonwealth.

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.

#### CHAPTER VI.—NEW STATES (SECTIONS 121 TO 124).

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.

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.

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.

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 (SECTIONS 125 TO 127).

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.

The Queen may authorise 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.

#### CHAPTER VIII.—ALTERATION OF THE CONSTITUTION (SECTION 128).<sup>1</sup>

The Constitution may 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

1. The Constitution has been altered by the following Acts:—The Referendum (Constitution Alteration) Act 1906; The Constitution Alteration (Senate Election) 1906 Acts.

its passage through both Houses the proposed law must 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 is taken in such manner as the Parliament prescribes. 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 is 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, can become law unless the majority of the electors voting in that State approve the proposed law.

**3. The Royal Proclamation.**—The preceding Act received the Royal assent on the 9th July, 1900. This made it lawful (see Sec. 3) to declare that the people of Australia should be united in a Federal Commonwealth. This proclamation, made on the 17th September, 1900, constituted the Commonwealth as from the 1st January, 1901: it reads 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 intituled, "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.

## § 8. Commonwealth Legislation.

**1. The Commonwealth Parliaments.**—The first Parliament of the Commonwealth was convened by proclamation dated 29th April, 1901, by His Excellency the late Earl of Hopetoun, Governor-General. It was opened on the 9th May by H.R.H. the Duke of Cornwall and York, who had been sent to Australia for that purpose by His Majesty the King; the Rt. Hon. Sir Edmund Barton, P.C., G.C.M.G., K.C., being Prime Minister. It was dissolved on the 23rd November, 1903. The second Parliament was convened on the 2nd March, 1904, by His Excellency the Rt. Hon. Baron Northcote, G.C.M.G., G.C.I.E., C.B.; the Hon. Alfred Deakin being Prime Minister. The third session closed on the 12th October, 1906, and Parliament was dissolved on the 8th November, 1906. The third Parliament was convened on the 20th February, 1907, and met on that day and the following day only. It was prorogued on the 22nd February, the prorogation eventually extending to the 3rd July, 1907, on which day the second session commenced. The second session was prorogued on the 11th June, 1908, to the 15th July following, and finally to the 16th September, 1908, when it met for the despatch of business; the third session commenced on that day. The third session was prorogued on the 15th December, 1909, the prorogation finally extending to the 26th May, 1909, when the fourth session commenced. The Debates of these Parliaments will be found in Volumes I. to XLIV. of the Parliamentary Debates, as follows:—

First Parliament,	1st Session	Vols.	I. to XII., pp. 1 to 16,744
" "	2nd "	"	XIII. " XVII., " 1 " 6,440
Second Parliament,	1st "	"	XVIII. " XXIV., " 1 " 8,618
" "	2nd "	"	XXV. " XXX., " 1 " 7,461
" "	3rd "	"	XXXI. " XXXV., " 1 " 6,491
Third Parliament,	1st "	"	XXXVI. " " 1 " 141
" "	2nd "	"	XXXVI. to XLVI., pp. 1 to 12,203
" "	3rd "	"	XLVII. " XLVIII., " 1 " 3,180
" "	4th "	"	XLIX.

**2. The Several Administrations.**—The following tabular statements shew the names of the several Governors-General, and the constitution of the Ministries which have directed the administration of the affairs of the Commonwealth since its creation:—

### (a) GOVERNORS-GENERAL.

- Rt. Hon. EARL OF HOPETOUN, P.C., K.T., G.C.M.G., G.C.V.O. Sworn 1st January, 1901; recalled 9th May, 1902, left Melbourne 2nd July, 1902.
- Rt. Hon. HALLAM BARON TENNYSON, G.C.M.G. (Act. Governor-General). Sworn 17th July, 1902.
- Rt. Hon. HALLAM BARON TENNYSON, G.C.M.G. (Governor-General). Sworn 9th January, 1903; recalled 21st January, 1904.
- Rt. Hon. HENRY STAFFORD BARON NORTHCOTE, G.C.M.G., G.C.I.E., C.B. Sworn 21st January, 1904; recalled 8th September, 1908.
- Rt. Hon. WILLIAM HUMBLE EARL OF DUDLEY, P.C., G.C.M.G., G.C.V.O., etc. Sworn 9th September, 1908.

## (b) BARTON ADMINISTRATION, 1st January, 1901, to 23rd September, 1903.

DEPARTMENTS.	MINISTERS.
External Affairs ... ..	Rt. Hon. SIR EDMUND BARTON, P.C., G.C.M.G., K.C.
Attorney-General ... ..	Hon. ALFRED DEAKIN.
Home Affairs ... ..	Hon. SIR WILLIAM JOHN LYNE, K.C.M.G. (to 7/8/03).
Treasury ... ..	Rt. Hon. SIR JOHN FORREST, P.C., G.C.M.G. (from 7/8/03).
Trade and Customs ... ..	Rt. Hon. SIR GEORGE TURNER, P.C., K.C.M.G.
Defence ... ..	Rt. Hon. CHARLES CAMERON KINGSTON, P.C., K.C. (resigned 24/7/03)
Postmaster-General ... ..	Hon. SIR WILLIAM JOHN LYNE, K.C.M.G. (from 7/8/03).
Vice-President Executive C'ncl	The Hon. SIR JAMES ROBERT DICKSON, K.C.M.G. (died 10/1/01).
Without Portfolio ... ..	Rt. Hon. SIR JOHN FORREST, P.C., G.C.M.G. (7/1/01 to 7/8/03).
	Hon. JAMES GEORGE DRAKE (from 7/8/03).
	Rt. Hon. SIR JOHN FORREST, P.C., G.C.M.G. (to 17/1/01).
	Hon. JAMES GEORGE DRAKE (5/2/01 to 7/8/03).
	Hon. SIR PHILIP OAKLEY FYSH, K.C.M.G. (from 7/8/03).
	Hon. RICHARD EDWARD O'CONNOR, K.C.
	Hon. N. E. LEWIS (to 23/4/01).
	Hon. SIR PHILIP OAKLEY FYSH, K.C.M.G. (26/4/01 to 7/8/03).

## (c) DEAKIN ADMINISTRATION, 24th September, 1903, to 26th April, 1904.

DEPARTMENTS.	MINISTERS.
External Affairs ... ..	Hon. ALFRED DEAKIN.
Trade and Customs ... ..	Hon. SIR WILLIAM JOHN LYNE, K.C.M.G.
Treasury ... ..	Rt. Hon. SIR GEORGE TURNER, P.C., K.C.M.G.
Home Affairs ... ..	Rt. Hon. SIR JOHN FORREST, P.C., G.C.M.G.
Attorney-General ... ..	Hon. JAMES GEORGE DRAKE.
Postmaster-General ... ..	Hon. SIR PHILIP OAKLEY FYSH, K.C.M.G.
Defence ... ..	Hon. AUSTIN CHAPMAN.
Vice-President Executive C'ncl	Hon. THOMAS PLAYFORD.

## (d) WATSON ADMINISTRATION, 27th April to 17th August, 1904.

DEPARTMENTS.	MINISTERS.
Treasurer ... ..	Hon. JOHN CHRISTIAN WATSON.
External Affairs ... ..	Hon. WILLIAM MORRIS HUGHES.
Attorney-General ... ..	Hon. HENRY BOURNES HIGGINS, K.C.
Home Affairs ... ..	Hon. EGERTON LEE BATCHELOR.
Trade and Customs ... ..	Hon. ANDREW FISHER.
Defence ... ..	Hon. ANDERSON DAWSON.
Postmaster-General ... ..	Hon. HUGH MAHON.
Vice-President Executive C'ncl	Hon. GREGOR MCGREGOR.

## (e) REID-MCLEAN ADMINISTRATION, 18th August, 1904, to 4th July, 1905.

DEPARTMENTS.	MINISTERS.
External Affairs ... ..	Rt. Hon. GEORGE HOUSTOUN REID, P.C., K.C.
Trade and Customs ... ..	Hon. ALLAN MCLEAN.
Attorney-General ... ..	Hon. SIR JOSIAH HENRY SYMON, K.C.M.G., K.C.
Treasury ... ..	Rt. Hon. SIR GEORGE TURNER, P.C., K.C.M.G.
Home Affairs ... ..	Hon. DUGALD THOMSON.
Defence ... ..	Hon. JAMES WHITESIDE MCCAY.
Postmaster-General ... ..	Hon. SYDNEY SMITH.
Vice-President Executive C'ncl	Hon. JAMES GEORGE DRAKE.

## (f) SECOND DEAKIN ADMINISTRATION, 5th July, 1905, to 12th November, 1908.

DEPARTMENTS.	MINISTERS.
External Affairs ... ..	Hon. ALFRED DEAKIN.
Attorney-General ... ..	{ Hon. ISAAC ALFRED ISAACS, K.C. (to 11/10/06).
	{ Hon. LITTLETON ERNEST GROOM (from 12/10/06).
Trade and Customs ... ..	{ Hon. SIR WILLIAM JOHN LYNE, K.C.M.G. (to 29/7/07).
	{ Hon. AUSTIN CHAPMAN (from 30/7/07).
Treasurer ... ..	{ Rt. Hon. SIR JOHN FORREST, P.C., G.C.M.G. (to 29/7/07).
	{ Hon. SIR WILLIAM JOHN LYNE (from 30/7/07).
Postmaster-General ... ..	{ Hon. AUSTIN CHAPMAN (to 29/7/07).
	{ Hon. SAMUEL MAUGER (from 30/7/07).
Defence ... ..	{ Hon. THOMAS PLAYFORD (to 23/1/07).
	{ Hon. THOMAS THOMSON EWING (from 24/1/07).
Home Affairs ... ..	{ Hon. LITTLETON ERNEST GROOM (to 11/10/06).
	{ Hon. THOMAS THOMSON EWING (from 12/10/06 to 23/1/07).
Vice-President Executive C'ncil	{ Hon. JOHN HENRY KEATING (from 24/1/07).
	{ Hon. THOMAS THOMSON EWING (to 11/10/06).
	{ Hon. JOHN HENRY KEATING (from 12/10/06 to 19/2/07).
	{ Hon. ROBERT WALLACE BEST (from 20/2/07).
Honorary Minister...	{ Hon. J. H. KEATING (from 5/7/05 to 11/10/06).
	{ Hon. S. MAUGER (from 12/10/06 to 29/7/07).
	{ Hon. J. HUME COOK (from 28/1/08).

## (g) FISHER ADMINISTRATION, 13th November, 1908 to 2nd June, 1909.

DEPARTMENTS.	MINISTERS.
Treasurer ... ..	Hon. ANDREW FISHER.
Attorney-General ... ..	Hon. WILLIAM MORRIS HUGHES.
External Affairs ... ..	Hon. EGERTON LEE BATCHELOR.
Home Affairs... ..	Hon. HUGH MAHON.
Postmaster-General ... ..	Hon. JOSIAH THOMAS.
Defence ... ..	Hon. GEORGE FOSTER PEARCE.
Trade and Customs ... ..	Hon. FRANK GWYNNE TUDOR.
Vice-President Executive C'ncil	Hon. GREGOR MCGREGOR.
Honorary Minister ... ..	Hon. JAMES HUTCHINSON.

## (h) DEAKIN-COOK ADMINISTRATION, 2nd June, 1909.

DEPARTMENTS.	MINISTERS.
Prime Minister(without P'tfolio)	Hon. ALFRED DEAKIN.
Defence... ..	Hon. JOSEPH COOK.
Treasurer ... ..	Rt. Hon. SIR JOHN FORREST, P.C., G.C.M.G.
Trade and Customs ... ..	Hon. SIR ROBERT WALLACE BEST, K.C.M.G.
External Affairs ... ..	Hon. LITTLETON ERNEST GROOM.
Attorney-General ... ..	Hon. PATRICK McMAHON GLYNN.
Postmaster-General ... ..	Hon. SIR JOHN QUICK.
Home Affairs... ..	Hon. GEORGE WARBURTON FULLER.
Vice-President Executive C'ncil	Hon. EDWARD DAVIS MILLEN.
Honorary Minister ... ..	Colonel The Hon. JUSTIN FOX GREENLAW FOXTON, C.M.G.

A further list of the Ministers of State for the Commonwealth, arranged according to the respective offices occupied, is given in the section of this book dealing with the subject of *General Government* (see Section XXV).

**3. The Course of Legislation.**—The actual legislation by the Commonwealth Parliament is indicated in alphabetical order in "Vol. VI. of the Acts of the Parliament of the Commonwealth of Australia, passed in the session of 1907-8, with Tables, Appendices and Indexes." A "Chronological Table of Acts passed from 1901 to 1907-8, shewing how they are affected by subsequent legislation or lapse of time" is also given, and further "A Table of Commonwealth Legislation," for the same period, "in relation to the several provisions of the Constitution," is furnished. Reference may be made to these for complete information. The nature of this legislation, however, and its relation to the several provisions of the Constitution of the Commonwealth, are set forth in the following tabular statement:—

## (a) ANALYTIC TABLE OF COMMONWEALTH LEGISLATION.

FROM 1901 TO JUNE, 1909, IN RELATION TO THE SEVERAL PROVISIONS OF THE CONSTITUTION.<sup>1</sup>

Section of Constitution.	Short Title of Commonwealth Act.*
	AMENDMENT OF THE CONSTITUTION. * Constitution Alteration (Senate Elections) 1906.
	PARLIAMENTARY AND ELECTORAL LAW.
8—30	PARLIAMENTARY FRANCHISE— Commonwealth Franchise Act 1902.
9—34	ELECTIONS— Commonwealth Electoral Acts 1902-1906. Senate Elections Act 1903.
24	DETERMINATION OF NUMBER OF MEMBERS OF HOUSE OF REPRESENTATIVES— Representation Act 1905.
47	DISPUTED ELECTIONS AND QUALIFICATIONS— Commonwealth Electoral Acts 1902-1906, Part XVI. Disputed Elections and Qualifications Act 1907.
48	ALLOWANCES TO MEMBERS— <i>Parliamentary Allowances Act 1902.*</i> Parliamentary Allowances Act 1907.
49	PRIVILEGES OF PARLIAMENT— Parliamentary Papers Act 1908.
	GENERAL LEGISLATION.
51—(i.)	TRADE AND COMMERCE—EXTERNAL AND INTERSTATE— Sea Carriage of Goods Act 1904 [ <i>Bills of Lading</i> ]. Secret Commissions Act 1905. Commerce (Trade Descriptions) Act 1905 [ <i>Merchandise Marks</i> ]. Australian Industries Preservation Acts 1906-1907, [ <i>Trusts and Dumping</i> ]. Spirits Act 1906.
(ii.)	TAXATION— <i>Machinery Acts</i> — Customs Act 1901. Beer Excise Act 1901. Distillation Act 1901. Excise Act 1901. Spirits Act 1906. Excise Procedure Act 1907. <i>Tariff Acts</i> — <i>Customs Tariff 1902.*</i> <i>Customs Tariff 1906 [Agricultural Machinery].*</i> Customs Tariff (South African Preference) 1906; <i>amended by Customs Tariff 1908 (s. 9).</i> Customs Tariff 1908; <i>amended by Customs Tariff Amendment 1908.</i> Excise Tariff 1902; <i>amended by Sugar Rebate Abolition Act 1903,</i> Excise Tariff 1905, Excise Tariff (Amendment) 1906, and Excise Tariff 1908. Excise Tariff 1906 [ <i>Agricultural Machinery</i> ]. Excise Tariff 1906 [ <i>Spirits</i> ]. Excise Tariff 1908; <i>amended by Excise Tariff (Starch) 1908.</i>

1. This Table has been prepared by the Secretary of the Attorney-General's Department Robert Randolph Garran, Esquire, M.A., C.M.G., Barrister-at-Law, etc.

\* Acts whose short titles are printed in italics with a \* have been repealed.

Section of Constitution.	Short Title of Commonwealth Act.*
(iii.)	BOUNTIES ON PRODUCTION OR EXPORT— <i>Sugar Bounty Act 1903.</i> <i>Sugar Bounty Act 1906.</i> <i>Bounties Act 1907.</i> <i>Manufacturers' Encouragement Act 1908.</i>
(v.)	POSTAL, TELEGRAPHIC, AND TELEPHONIC SERVICES— <i>Post and Telegraph Act 1901.</i> <i>Post and Telegraph Rates Act 1902.</i> <i>Wireless Telegraphy Act 1905.</i> <i>Tasmanian Cable Rates Act 1906.</i>
(vi.)	NAVAL AND MILITARY DEFENCE— <i>Naval Agreement Act 1903.</i> <i>Defence Acts 1903-1904.</i>
(viii.)	ASTRONOMICAL AND METEOROLOGICAL OBSERVATIONS— <i>Meteorology Act 1906.</i>
(ix.)	QUARANTINE— <i>Quarantine Act 1908.</i>
(xi.)	CENSUS AND STATISTICS— <i>Census and Statistics Act 1905.</i>
(xiv.)	INSURANCE— <i>Life Assurance Companies Act 1905.</i>
(xviii.)	COPYRIGHT, PATENTS, DESIGNS, AND TRADE MARKS— <i>Customs Act 1901 (s. 52 (a), 57).</i> <i>Patents Act 1903.</i> <i>Patents Act 1906.</i> <i>Trade Marks Act 1905.</i> <i>Copyright Act 1905.</i> <i>Designs Act 1906.</i>
(xix.)	NATURALIZATION AND ALIENS— <i>Naturalization Act 1903.</i>
(xx.)	CORPORATIONS—FOREIGN, TRADING, AND FINANCIAL— <i>Australian Industries Preservation Acts 1906-1907.</i>
(xxiii.)	INVALID AND OLD-AGE PENSIONS— <i>Invalid and Old-age Pensions Act 1908.</i>
(xxiv.)	SERVICE AND EXECUTION THROUGHOUT COMMONWEALTH OF PRO- CESSION AND JUDGMENTS OF STATE COURTS— <i>Service and Execution of Process Acts 1901-1905.</i>
(xxv.)	RECOGNITION OF STATE LAWS, RECORDS, ETC.— <i>State Laws and Records Recognition Act 1901.</i>
(xxvi.)	PEOPLE OF ANY RACE, OTHER THAN ABORIGINAL—SPECIAL LAWS— <i>Pacific Island Labourers Act 1901-1906.</i> <i>Commonwealth Franchise Act, 1902 (s. 4).</i> <i>Naturalization Act 1903 (s. 5).</i>
(xxvii.)	IMMIGRATION AND EMIGRATION— <i>Immigration Restriction Act 1901-1903.</i> <i>Pacific Island Labourers Act 1901-1906.</i> <i>Contract Immigrants Act 1905.</i>
(xxix.)	EXTERNAL AFFAIRS— <i>Extradition Act 1903.</i>
(xxx.)	RELATIONS WITH PACIFIC ISLANDS— <i>Pacific Island Labourers Act 1901-1906.</i>

\* Acts whose short titles are printed in italics with a \* have been repealed.



Section of Constitution.	Short Title of Commonwealth Act.*
(xxxi.)	<b>ACQUISITION OF PROPERTY FOR PUBLIC PURPOSES—</b> <i>Property for Public Purposes Acquisition Act 1901.*</i> <i>Seat of Government Act 1904.*</i> Lands Acquisition Act 1906. Seat of Government Act 1908.
(xxxii.)	<b>CONTROL OF RAILWAYS FOR DEFENCE PURPOSES—</b> Defence Act 1903 (ss. 64-66, 80, 124).
(xxv.)	<b>CONCILIATION AND ARBITRATION FOR THE PREVENTION AND SETTLEMENT OF INDUSTRIAL DISPUTES EXTENDING BEYOND THE LIMITS OF ANY ONE STATE—</b> Commonwealth Conciliation and Arbitration Act 1904.
(xxxix.)	<b>MATTERS INCIDENTAL TO THE EXECUTION OF POWERS—</b> Acts Interpretation Act 1901. Punishment of Offences Act 1901. Acts Interpretation Act 1904. Amendments Incorporation Act 1905. Rules Publication Act 1903. Commonwealth Public Service Act 1902, <i>amended by Commonwealth Public Service Amendment Act 1903.</i> Jury Exemption Act 1905. Royal Commissions Act 1902. Evidence Act 1905. Commonwealth Salaries Act 1907. Excise Procedure Act 1907.
<b>EXECUTIVE GOVERNMENT.</b>	
67	<b>APPOINTMENT AND REMOVAL OF OFFICERS—</b> Commonwealth Public Service Act 1902, <i>amended by Commonwealth Public Service Amendment Act 1903.</i> Papua Act 1905 (s. 19).
<b>THE JUDICATURE.</b>	
71—80	<b>CONSTITUTION AND PROCEDURE OF THE HIGH COURT—</b> Judiciary Act 1903-1907. High Court Procedure Act 1903, <i>amended by High Court Procedure Amendment Act 1903.</i>
73	<b>APPELLATE JURISDICTION OF THE HIGH COURT—</b> Judiciary Act 1903-1907. Papua Act 1905 (s. 43). Copyright Act 1905 (s. 73). Designs Act 1906 (s. 39).
76	<b>ORIGINAL JURISDICTION OF HIGH COURT—</b> (i.) <i>(1) In matters arising under the Constitution or involving its interpretation</i> Judiciary Act 1903 (s. 30). (ii.) <i>(2) In matters arising under Laws made by the Parliament—</i> Customs Act 1901 (ss. 221, 227, 245). Excise Act 1901 (ss. 109, 115, 134). Post and Telegraph Act 1901 (ss. 29, 43). Property for Public Purposes Acquisition Act 1901 (ss. 12-17, 25, 52, 55b, 58). Commonwealth Electoral Act 1902 (s. 193). Defence Act 1903 (s. 91). Patents Act 1903 (ss. 47, 58, 67, 75-77, 84-87, 111). Commonwealth Conciliation and Arbitration Act 1904 (s. 31). Trade Marks Act 1905 (ss. 34, 35, 44, 45, 70-72, 95). Australian Industries Preservation Act 1906 (ss. 10, 11, 13, 21, 22, 26)

\* Acts whose short titles are printed in italics with a \* have been repealed.

Section of Constitution.	Short Title of Commonwealth Act.*
77—(ii.) (iii.)	<p>Original Jurisdiction of High Court (continued)—  Referendum (Constitution Alteration) Act 1906 (ss. 27, 31).  Lands Acquisition Act 1906 (ss. 10, 11, 24, 36-39, 45, 46, 50, 54, 56, 59).  Disputed Elections and Qualifications Act 1907 (ss. 2, 6).</p> <p>EXCLUDING JURISDICTION OF STATE COURTS—  Judiciary Act 1903-1907 (ss. 38, 38A, 39, 57, 59).</p> <p>INVESTING STATE COURTS WITH FEDERAL JURISDICTION—  Customs Act 1901 (ss. 221, 227, 245).  Excise Act 1901 (ss. 109, 115, 134).  Post and Telegraph Act 1901 (ss. 29, 43).  Punishment of Offences Act 1901.  Commonwealth Electoral Act 1902 (s. 193).  Claims against the Commonwealth Act 1902.  Defence Act 1903 (s. 91).  Judiciary Act 1903 (ss. 17, 39, 68).  Patents Act 1903 (ss. 30, 47, 58, 67, 75-77, 84-87, 111).  Trade Marks Act 1905 (ss. 34, 35, 44, 45).  Copyright Act 1905 (s. 60, 73).  Designs Act 1906 (s. 25, 39).</p>
78	<p>RIGHT TO PROCEED AGAINST COMMONWEALTH OR STATE—  Judiciary Act 1903 (ss. 56-67).</p>
81	<p style="text-align: center;">FINANCE.</p> <p>APPROPRIATION OF MONEYS—  Appropriation and Supply Acts 1901-1908.  Audit Acts 1901-1906 (ss. 36, 37, 62a).</p>
83	<p>PAYMENT OF MONEYS—  Audit Acts 1901-1906 (ss. 31-37, 62a).</p>
93	<p>CREDITING OF REVENUE AND DEBITING OF EXPENDITURE—  Surplus Revenue Act 1908.</p>
94	<p>DISTRIBUTION OF SURPLUS REVENUE—  Surplus Revenue Act 1908.</p>
97	<p>AUDIT OF PUBLIC ACCOUNTS—  Audit Acts 1901-1906.</p>
118	<p style="text-align: center;">THE STATES.</p> <p>RECOGNITION OF STATE LAWS, RECORDS, ETC.—  State Laws and Records Recognition Act 1901.</p>
119	<p>PROTECTION OF STATES FROM INVASION AND VIOLENCE—  Defence Act 1903 (s. 51).</p>
122	<p style="text-align: center;">TERRITORIES.</p> <p>GOVERNMENT OF TERRITORIES—  Papua Act 1905.</p>
125	<p style="text-align: center;">MISCELLANEOUS.</p> <p>SEAT OF GOVERNMENT—  <i>Seat of Government Act 1904.*</i>  Seat of Government Act 1908.</p>
128	<p>ALTERATION OF CONSTITUTION—  Referendum (Constitution Alteration) Act 1906.  Constitution Alteration (Senate Elections) Act 1906.</p>

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