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CHAPTER 1

PRE-HISTORY, FEDERATION AND CONSTITUTION

Pre-history

Man entered the Australian continent from the South-East Asian area during the last glaciation at least 40,000 years ago, when sea levels were lower than in recent times. Nevertheless, these first migrations would have entailed sea voyages of at least some 60 kilometres. Settlement was well established at least 25,000 to 30,000 years ago, and by 20,000 years ago almost all the continent was inhabited.

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

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

The physical barriers of distance and aridity within Australia itself were cause in part of the cultural isolation and linguistic diversity of its people. European exploration and settlement was for most Aboriginal societies their first contact with an outside culture. The impact of this settlement led rapidly to the disappearance of the traditional Aboriginal way of life in those areas where the colonists established themselves most successfully. More detailed notes on the early knowledge and discovery of Australia are given in Year Book No. 66.

The establishment of the Commonwealth of Australia

Federation

On 1 January 1901, the colonies, with the exception of New Zealand (*see* Year Book No. 63, page 5), were federated under the name of the 'Commonwealth of Australia', the designation of 'Colonies'—except in the case of the Northern Territory, to which the designation 'Territory' applied—being at the same time changed to that of 'States'.

Transfer of the Northern Territory to the Commonwealth

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

By Imperial Order in Council dated 23 July 1931, Ashmore Islands, known as Middle, East and West Islands, and Cartier Island, situated in the Indian Ocean off the north-west coast of Australia, were placed under the authority of the Commonwealth. The islands were accepted by the Commonwealth on 10 May 1934, in the *Ashmore and Cartier Islands Acceptance Act* 1933, under the name of the Territory of Ashmore and Cartier Islands. The Act authorised the Governor of Western Australia to make ordinances having the force of law in and in relation to the Territory. An amendment to the Act in July 1938 annexed the islands to the Northern Territory, whose laws, ordinances, and regulations, wherever applicable, thereupon applied. On the attainment of self-government by the Northern Territory on 1 July 1978, the Territory of Ashmore and Cartier Islands was retained as Commonwealth Territory.

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

Transfer of the Australian Capital Territory to the Commonwealth

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

The Constitution of the Commonwealth of Australia

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

Commonwealth Constitution Act

The Commonwealth of Australia Constitution Act, 63 and 64 Vict., Chapter 12, namely: 'An Act to constitute the Commonwealth of Australia', as amended by the *Constitution Alteration (Senate Elections)* 1906, the *Constitution Alteration (State Debts)* 1909, the *Constitution Alteration (State Debts)* 1928, the *Constitution Alteration (Social Services)* 1946, the *Constitution Alteration (Aboriginals)* 1967, the *Constitution Alteration (Senate Casual Vacancies)* 1977, the *Constitution Alteration (Retirement of Judges)* 1977, and the *Constitution Alteration (Referendums)* 1977, is given hereunder. The text contains all the alterations of the Constitution which have been made up to and including 1 December 1977.

THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT 63 & 64 VICT., CHAPTER 12.

An Act to Constitute the Commonwealth of Australia. (9th July, 1900.)

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

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

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

1. This Act may be cited as the Commonwealth of Australia Constitution Act.

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

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

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

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

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

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

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

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

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

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

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

THE CONSTITUTION.

This Constitution is divided as follows:—

Chapter	I.—The Parliament:
Part	I.—General:
Part	II.—The Senate:
Part	III.—The House of Representatives:
Part	IV.—Both Houses of the Parliament:
Part	V.—Powers of the Parliament:

Chapter	II.—The Executive Government:
Chapter	III.—The Judicature:
Chapter	IV.—Finance and Trade:
Chapter	V.—The States:
Chapter	VI.—New States:
Chapter	VII.—Miscellaneous:
Chapter	VIII.—Alteration of the Constitution.
The Schedule.	

CHAPTER I THE PARLIAMENT

PART I—GENERAL

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

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

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

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

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

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

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

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

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

PART II—THE SENATE

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

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

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

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

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

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

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

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

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

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

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

The election to fill vacant places shall be made **within one year before** the places are to become vacant.

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

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

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

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

Where—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART III—THE HOUSE OF REPRESENTATIVES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen:
- (ii) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

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

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

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

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

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

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

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

PART IV—BOTH HOUSES OF THE PARLIAMENT

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

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

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

44. Any person who—

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

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

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

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

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

his place shall thereupon become vacant.

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

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

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

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

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

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

PART V—POWERS OF THE PARLIAMENT

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

- (i) Trade and commerce with other countries, and among the States:
- (ii) Taxation; but so as not to discriminate between States or parts of States:
- (iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:
- (iv) Borrowing money on the public credit of the Commonwealth:
- (v) Postal, telegraphic, telephonic, and other like services:
- (vi) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:
- (vii) Lighthouses, lightships, beacons and buoys:
- (viii) Astronomical and meteorological observations:
- (ix) Quarantine:
- (x) Fisheries in Australian waters beyond territorial limits:
- (xi) Census and statistics:
- (xii) Currency, coinage, and legal tender:
- (xiii) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:
- (xiv) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:
- (xv) Weights and measures:
- (xvi) Bills of exchange and promissory notes:
- (xvii) Bankruptcy and insolvency:
- (xviii) Copyrights, patents of inventions and designs, and trade marks:
- (xix) Naturalization and aliens:
- (xx) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:
- (xxi) Marriage:

- (xxii) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:
- (xxiii) Invalid and old-age pensions:
- (xxiiiA) The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances:
- (xxiv) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:
- (xxv) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States:
- (xxvi) The people of any race, for whom it is deemed necessary to make special laws:
- (xxvii) Immigration and emigration:
- (xxviii) The influx of criminals:
- (xxix) External affairs:
- (xxx) The relations of the Commonwealth with the islands of the Pacific:
- (xxxi) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:
- (xxxii) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:
- (xxxiii) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:
- (xxxiv) Railway construction and extension in any State with the consent of that State:
- (xxxv) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:
- (xxxvi) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:
- (xxxvii) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:
- (xxxviii) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:
- (xxxix) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any Department or officer of the Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER II

THE EXECUTIVE GOVERNMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER III

THE JUDICATURE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75. In all matters—

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

the High Court shall have original jurisdiction.

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

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

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

- (i) Defining the jurisdiction of any federal court other than the High Court:
- (ii) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:
- (iii) Investing any court of a State with federal jurisdiction.

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

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

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

CHAPTER IV

FINANCE AND TRADE

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

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

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

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

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

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

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

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

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

- (i) All property of the State of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary:

- (ii) The Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:
- (iii) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament:
- (iv) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

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

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

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

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

89. Until the imposition of uniform duties of customs—

- (i) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.
- (ii) The Commonwealth shall debit to each State—
 - (a) The expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;
 - (b) The proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth.
- (iii) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

103. The members of the Inter-State Commission—

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

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

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

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

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

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

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

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

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

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

CHAPTER V

THE STATES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER VI

NEW STATES

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

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

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

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

CHAPTER VII

MISCELLANEOUS

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

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

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

126. The Queen may 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, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

CHAPTER VIII

ALTERATION OF THE CONSTITUTION

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

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

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

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

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

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

SCHEDULE

OATH

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

AFFIRMATION

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

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

THE AUSTRALIAN FLAG

(Source: Department of Administrative Services)

Introduction

The flag of Australia is the only flag to fly unchallenged throughout a whole continent. Until September 1945 it was the only flag proclaiming the administration of all the lands in a sector from the Equator to the Pole, embracing the Territories of Papua New Guinea and the vast Australian Antarctic Territory, as well as numerous islands in three oceans. Since 1975 the independent nation of Papua New Guinea has unfurled its own flag.

War and peace

The flag heralded Australia's entry into nationhood in 1901. It flew over the site for the national capital at Canberra in 1908, on the first ships of the new navy in 1910 and at the first Australian base on the Antarctic continent in 1911. Since 1953 it has been flown at Australian Antarctic bases.

In many ways, the flag was needed long before it was produced. At the first modern Olympic Games at Athens in 1896, for example, Australia won two gold medals, but no Australian flag was available for the victory ceremony. Four years later in Paris, an Australian victory was recognised by raising the Union Jack. The Australian National Flag did not appear until the 1908 Games. From that date it has been raised for medal winners at every Olympic Games. In 1956 it also flew with pride of place as the flag of the host nation at Melbourne.

The flag was carried to New Guinea at the outbreak of World War I by the naval and military force which captured the German colonies, by the cruiser Sydney in the first naval battle of the war, by the Anzacs who landed at Gallipoli and by the 'diggers' who spearheaded the victories in France in 1917-18.

It was seen around the world again in World War II. When Singapore was retaken in 1945, the first flag to fly was an Australian flag made secretly in a prison camp, and it was worn by H.M.A.S. Hobart in Tokyo Bay when the Japanese surrender was signed on 2 September 1945.

Early flags in Australia

Before the twentieth century there was no Australian nation, and no Australian flag. The ships of other countries carried their flags along Australian coasts for 182 years before the first European settlement in 1788. The first known occasion was in 1606, when the Dutch vessel Duyfken entered the Gulf of Carpentaria and charted 200 miles of shoreline. Only 16 years later, the British flag appeared on the East Indiaman Tyral, which was wrecked off Western Australia.

Many Dutch and British navigators followed, so that the coast had seen many flags before Captain Cook made his first Australian landfall in 1770. Cook carried the British flag of the time along the whole length of the fertile east coast. At Botany Bay, adjacent to Sydney Harbour, he raised it on land each day, and at the northern most point of the continent he planted it on Possession Island and formally claimed all his discoveries in the name of the British Crown.

Eighteen years later, at Sydney Cove, Captain Arthur Phillip raised the flag again to make the beginning of permanent settlement. The Union Jack which Captain Cook and Captain Phillip planted in 1770 and 1788 was the old Union Flag of England and Scotland, bearing the red cross of St George on a white field, combined with the white diagonal cross of St Andrew on a blue field. This had been the flag of the United Kingdom since 1707, but when Ireland was added to the union in 1801, the red diagonal cross of St Patrick on a white field was included to form the present British flag.

The new 'Union Jack' flew in Australia for the whole of the nineteenth century. It was carried by the explorers who unlocked the continent, the mariners who circumnavigated it, and the founding fathers who established five more colonies on its coast. It also flew in Papua in 1884 when that country was annexed as an Australian dependency.

From the middle of the nineteenth century, a growing Australian nationalism brought forth many unofficial flags—all of them incorporating the constellation of the Southern Cross (Crux Australis), which was universally accepted as the emblem of the Great South Land.

In 1851, the Australasian Anti-Transportation League, which opposed the sending of convicts from Britain, adopted a flag remarkably like the Australian ensign of today. It carried the Union Jack on the upper hoist and the five stars of the Southern Cross in gold on the fly.

National fervour inspired more unofficial flags for the River Murray League's paddlewheel fleet (1853), the goldminers rebellion at Eureka (1854), the racial riots at Lambing Flat goldfields (1860-61), the first Royal Visit (1867) and the Federation League (1894). All of them featured the Southern Cross and most of them had the Union Jack in the hoist.

Need for a national flag

Until Federation, the Australian colonies used for official purposes the flags of Great Britain—the Union Flag (popularly called the Union Jack) and the three Ensigns of the United Kingdom; e.g. the Red Ensign, the Blue Ensign and the White Ensign. The necessity of a Commonwealth flag arose from the schemes of the British Government for the defence of Empire rather than from any vision of Australian nationhood.

The naval defence of the Australian colonies had from the time of the first settlement, been a function of the Royal Navy. In the 1880's however the Governments of the Australasian colonies agreed to contribute a portion of the cost of construction and annual maintenance of five naval ships to augment the British Fleet in Australian waters. These ships were under the direct control of the Admiral stationed at Sydney, and as ships of the Royal Navy, flew the Union flag and the White Ensign.

Soon after the establishment of responsible government in the Australian colonies in the 1850's, most of them assumed responsibility for their local defences. Under the Colonial Naval Defence Act of 1865, the Naval Discipline Act was extended to gun-boats raised and maintained by the several colonies. In order that such ships might be distinguished from those of the Royal Navy, the Act contained provisions for colonial ensigns.

It was provided under that Act that the Governor of a Colony afloat should emblazon the badge of his colony in the centre of the Union and that the proper colours of ships in the employ of colonial departments should be the British Blue Ensign with the badge of the colony in the fly. These provisions rendered it necessary for each of the Australian colonies to adopt a badge for its government ships.

However in 1900 the Colonial Office in London invited the attention of the Governor-General Designate to the necessity of a Commonwealth flag to enable the new Australian entity to comply with the provisions of legislation governing colonial naval forces and mercantile marine.

Competition for the National Flag and its aftermath

In 1900, prior to Federation, the Melbourne journal the *Evening Herald* held a competition with a prize of 25 pounds for the best design for a Federal Australian Flag; and eventually a prize design was selected. This design bears no resemblance to our present National Flag, and actually was a flag of stars and stripes on the pattern of the United States Flag.

Not to be outdone, another Melbourne journal *The Review of Reviews* in their issue of 20 November 1900 gave details of a competition for a design for a Federal Flag offering 50 pounds for the winning design. This Journal stated that the previous competition was purely local, but its competition would be open to the whole of Australia and overseas countries. However in April 1901 the Commonwealth Government in a Gazette dated 29 April 1901 announced details of an official competition.

The prize money for the Commonwealth Government competition was fixed at 200 pounds for the winning design. This amount included 75 pounds from the *Review of Reviews* journal, 50 pounds from a tobacco company, and the balance of 75 pounds from the Government of Australia. It was agreed that all designs previously entered in the *Evening Herald* competition would be included in the new 'National' competition which was also made world-wide and advertised in many forms in overseas countries.

The Commonwealth Government appointed seven judges, specially selected, representing the Army, Navy, Merchant Marine and Pilot Services and an expert in design, art and heraldry. The judges were:

Mr J. S. Blackham	Chief of staff of the Melbourne Herald who was Chief Executive Officer of the Competition
Captain C. J. Clare, CMG	of HMCS Protector, the South Australian cruiser, later the Naval Commandant of the Colonial Naval Force (South Australia)
Captain J. Edie, Lieutenant (later Admiral) P. N. Hall-Thompson RN	Superintendent of Navigation, N.S.W. of HMS Katoomba, a cruiser of the Royal Navy Squadron based at Sydney
Captain J. W. Evans, MHA	(later Premier, Speaker and Lieutenant-Governor of Tasmania)
Mr G. Stewart	an expert in heraldry
Captain J. A. Mitchell	formerly of the Victorian Pilot Service

A total of 32,823 designs was submitted to the judges, and the Prime Minister, the Hon. Edmund Barton announced that the prize money for the winning designs was to be equally divided between five persons whose designs were more or less similar.

Mr Ivor Evans, son of flag manufacturer Evan Evans of Melbourne, Victoria—aged 14 years

Mr William Stevens of Auckland, New Zealand—a merchant marine officer

Mr E. J. Nuttall of Melbourne, Victoria—an architect

Mr L. J. Hawkins of Sydney, New South Wales—aged 18 years

Mrs A. Dorrington of Perth, Western Australia—an artist relative of James Whistler

The first National Flag, 36 foot by 18 foot, made to the order of the Commonwealth Government flew above the Exhibition Building in Melbourne on 3 September 1901 when the competition results were announced.

The winning design was forwarded by the Governor-General to the Secretary of State for the Colonies in 1902. While the Southern Cross in the selected design was depicted by stars with points ranging from 9 to 5 (to denote their degree of brilliance) on a blue field, the Constellation in the approved design published in the Commonwealth Gazette of 20 February 1903 as having been approved by the King consists of four seven-pointed and one five-pointed stars. The star representative of the Federation of the six colonies, in the lower half of the hoist below the Union flag, was originally of six points. This was commonly called the *Commonwealth Star*. The Gazette published colour reproductions described as the *Ensign* and the *Merchant Flag* in blue and red respectively.

In 1908 after the Commonwealth of Australia had been granted armorial bearings, the British Government was requested to agree to an alteration in the design of the Commonwealth Star in the Flag by increasing the number of points from six to seven. It would thus be brought into line with the star in the Crest of the Commonwealth Coat of Arms. It was suggested, moreover, that the extra point would symbolize the Territory of Papua acquired on 1 September 1906, and any further territories that might be acquired later. Admiralty approval was notified in the Commonwealth Gazette on 19 December 1908.

For a few years prior to 1912 some flags were used with the number of points on the stars of the Southern Cross differing from that authorised in the 1903 Gazette.

The *British Navigation Act* 1912 (Section 406) reaffirmed the approved design of 1903, as amended in 1908, with the (Australian) Red Ensign being the proper colours for merchant ships registered in Australia and having the stars of the Southern Cross and Commonwealth Star with the same number of points as previously gazetted. (Commonwealth Gazette No. 18 of 23 March 1934 depicts the correct design and measurements of the Flag).

Use of Australian flags

For many years there was considerable misunderstanding in Australia and in other countries in regard to the use of the Australian flags, particularly the Australian Blue Ensign. This was due in the main to the lack of any statutory law governing the flying of national flags in Australia, although endeavours had been made from time to time to lay down some definite procedure for the use of Australian ensigns.

For many years the Australian Blue Ensign was regarded as an official flag for flying at Commonwealth establishments only. The Merchant Flag was often flown privately on land. However, on 15 March 1941, the Prime Minister, Mr Menzies, issued the following press statement.

“The Official view is that there should be no unnecessary restriction placed on the flying of the Blue Ensign on shore. Its use on public buildings, by schools, and by the public generally would not only be permitted but appreciated, provided it is flown in a manner appropriate to the use of a national emblem. Australian merchant vessels will, of course, continue to fly the Commonwealth Red Ensign”.

Further support for the more general use of the Australian Blue Ensign was given by the Prime Minister, Mr Chifley on 24 February 1947 when he issued a statement encouraging the flying of the flag.

Adoption of the Australian National Flag

In 1950, after an interdepartmental committee recommendation, Cabinet approved that the Australian Blue Ensign be adopted as the Australian National Flag. His Majesty King George VI gave formal approval in 1951.

In 1953 the Flags Act was passed in the Commonwealth Parliament formally establishing the Australian National Flag and the Australian Red Ensign. Thus the nomenclature of Australian Flags and Ensigns was changed and the Australian Blue Ensign became the Australian National Flag and the Australian Merchant Flag became the Australian Red Ensign.

The *Flags Amendment Act* 1981 which came into operation on 26 January 1982 formally amended the description of the Australian National Flag and removed the reference to the 'British Blue Ensign' in the Schedule.

Use of the Australian Red Ensign on ships and other craft

In 1981 the Shipping Registration Act was passed. This Act, which also came into operation on 26 January 1982, together with its associated Navigation Amendment Act, replaced the old 1894 United Kingdom Act relating to registration of shipping and the 1912 Navigation Act under which the Australian Red Ensign was authorised as the official colours for Australian merchant ships. Under the *Shipping Registration Act* 1981 the Australian Red Ensign remains the proper flag to be flown by Australian registered ships. However the Australian National Flag may be flown by Government ships, fishing vessels, pleasure craft and other small craft. These vessels may fly the Australian Red Ensign if they wish, but no ship may fly both the Australian National Flag and the Australian Red Ensign at the same time.

Her Majesty The Queen's Personal Flag for Australia

On 20 September 1962 Her Majesty gave her approval for the design of a personal flag for her use in Australia. It consists of a banner of the Commonwealth Arms in the proportion thirty-one by twenty-two, with a large gold seven-pointed star over all in the centre, charged with Her Majesty's initial 'E' in gold ensigned with the Royal Crown within a chaplet of gold roses on a blue roundel. Her Majesty's personal flag for Australia is used in the same manner as the Royal Standard in the United Kingdom and denotes Her Majesty's presence.

Governor-General's Flag

In Commonwealth of Australia Gazette No. 56 of 16 July 1936 it was notified that the Governor-General had adopted a personal flag for use in Australia. The flag, which is in the proportion of two to one has a royal blue background on which is the Royal Crest in gold (on a St Edward's Crown a lion statant guardant also crowned) with the words 'Commonwealth of Australia' in dark blue letters on a gold scroll below the Crest. The Governor-General's Flag is flown continuously whenever His Excellency is in residence. It is also flown on vehicles in which the Governor-General is travelling.

Flags of the Armed Services and Civil Aviation

It was not until 1967 that the Royal Australian Navy was given a specifically Australian ensign. Since 1910 Royal Australian Navy ships had flown the White Ensign of the Royal Navy. On 16 February 1967 the Governor-General Lord Casey signed a Proclamation proclaiming the Australian White Ensign as the ensign for the Royal Australian Navy. This was published in Commonwealth of Australia Gazette No. 18 of 1 March 1967.

The Australian Army uses the National Flag and has no individual flag or ensign of its own.

In 1948 the Royal Australian Air Force applied to His Majesty King George VI for an ensign based on the Royal Air Force ensign differenced by the addition of the Southern Cross and the Commonwealth Star in the same positions as on the Australian Blue Ensign. His Majesty's Royal Warrant for the adoption of this ensign by the RAAF was given in 1949. In 1981 Her Majesty Queen Elizabeth II approved an amendment to the Royal Air Force Ensign which added the stylised red Kangaroo to the centre of the Air Force roundel as depicted in aircraft of the RAAF. A proclamation by the Governor-General Sir Zelman Cowen under the *Flags Act* 1953 proclaiming the new Royal Australian Air Force Ensign was signed on 29 April 1982. This was published in Commonwealth of Australia Gazette S 89 of 6 May 1982.

In 1935 the Civil Air Ensign of the Commonwealth of Australia was authorised in Commonwealth of Australia Gazette No. 30 of 6 June 1935. This ensign was based on the Civil Air Ensign of the United Kingdom with the Commonwealth Star and the Southern Cross superimposed in yellow. In 1948 the Civil Air Ensign was re-gazetted in accordance with Regulations 11 (2) of the Regulation under the Air Navigation Act 1920-27 but with the stars in white. The Civil Air Ensign is used by the Department of Aviation on its buildings and at airports controlled by the Commonwealth.

Use and flying of the National Flag

The Australian National Flag should be displayed only in a manner befitting the national emblem; it should not be subjected to indignity or displayed in a position inferior to any other flag or ensign. The Flag normally takes precedence over all other national flags when flown in Australia. It should always be flown aloft and free. When the Australian National Flag is raised or lowered, or when it is carried past in a parade or review, all present should face the Flag, men should remove their hats and all should remain silent. Those in uniform should salute.

It is improper to use the Australian National Flag in any of the following ways:

as a covering of a statue, monument or plaque for an unveiling ceremony (a plain cover should be used);
 as a table or seat cover;
 allowing it to fall onto or lie upon the ground;
 as a masking for boxes, barriers or intervening space between floor and ground level on a dais or platform.

The National Flag and representations of it should always be shown, represented or used in a dignified manner. It should not be defaced by way of printing or illustrations or masked by other objects, but displayed in a manner which may be described as 'aloft and free' whereby all symbolic parts of the Flag can be identified.

On days of national commemoration the Australian National Flag may be flown on any additional flagstaffs on public buildings. Special days of national significance are notified as they arise. The following occasions which occur annually are to be particularly noted:

1 January—anniversary of the establishment of the Commonwealth of Australia
 26 January—Australia Day (and on the Monday holiday associated with Australia Day)
 March—second Monday—Commonwealth Day
 25 April—Anzac Day (flags to be flown at half-mast till noon then at the peak until the close of office business for a normal working day)
 9 May—anniversary of the inauguration of Canberra as the Seat of Government (Canberra only)
 June—Official Birthday of the Sovereign (the date being proclaimed annually) and on the second Monday The Queen's Birthday public holiday. (In Western Australia this is observed in October)
 24 October—United Nations Day (see below)
 11 November—Remembrance Day (flags should be flown at the peak from 8 a.m. to 10.30 a.m., at half-mast from 10.30 a.m. till 11.03 a.m. and at the peak from 11.03 a.m. until the close of office business for a normal working day)

Flags are flown at the half-mast position as a sign of mourning. The Flag is brought to the half-mast position by first raising it to the top of the mast and then immediately lowering it slowly to the half-mast position. The Flag should be raised again to the peak before being lowered for the day. The position of the Flag when flying at half-mast will depend on the size of the Flag and the length of the flagstaff. It is essential that it be lowered at least to a position recognisably 'half-mast' so as to avoid the appearance of a flag which has accidentally fallen away from the top of the mast owing to a loose flag rope. A satisfactory position for half-masting would normally be when the top of the Flag is one-third of the distance down from the top of the mast.

Flags should be flown at half-mast when directed by the Minister for Administrative Services.

There are special rules for flying of the United Nations Flag. All members of the United Nations have agreed that on United Nations day, 24 October, the United Nations Flag should be accorded the position of honour. If one position only is available, the United Nations Flag should be flown.

A diagram showing the specifications of the Australian National Flag and the Australian Red Ensign is reproduced below.

Government's free-issue scheme

In 1979 the Government extended the free-issue of National Flags, which had for many years been available only to schools, recognised youth organisations and national sporting bodies, to include many more groups and organisations concerned with community service, welfare, sporting, ethnic and religious activities in Australia. In 1980 the free-issue was further extended to include local government bodies, groups involved in historical, agricultural and pastoral pursuits, hospitals, ambulances and Australian exchange and scholarship students. By September 1982 over 20,000 flags had been issued free of charge to the community over the preceding three years.

Specifications of the Australian National Flag and Red Ensign

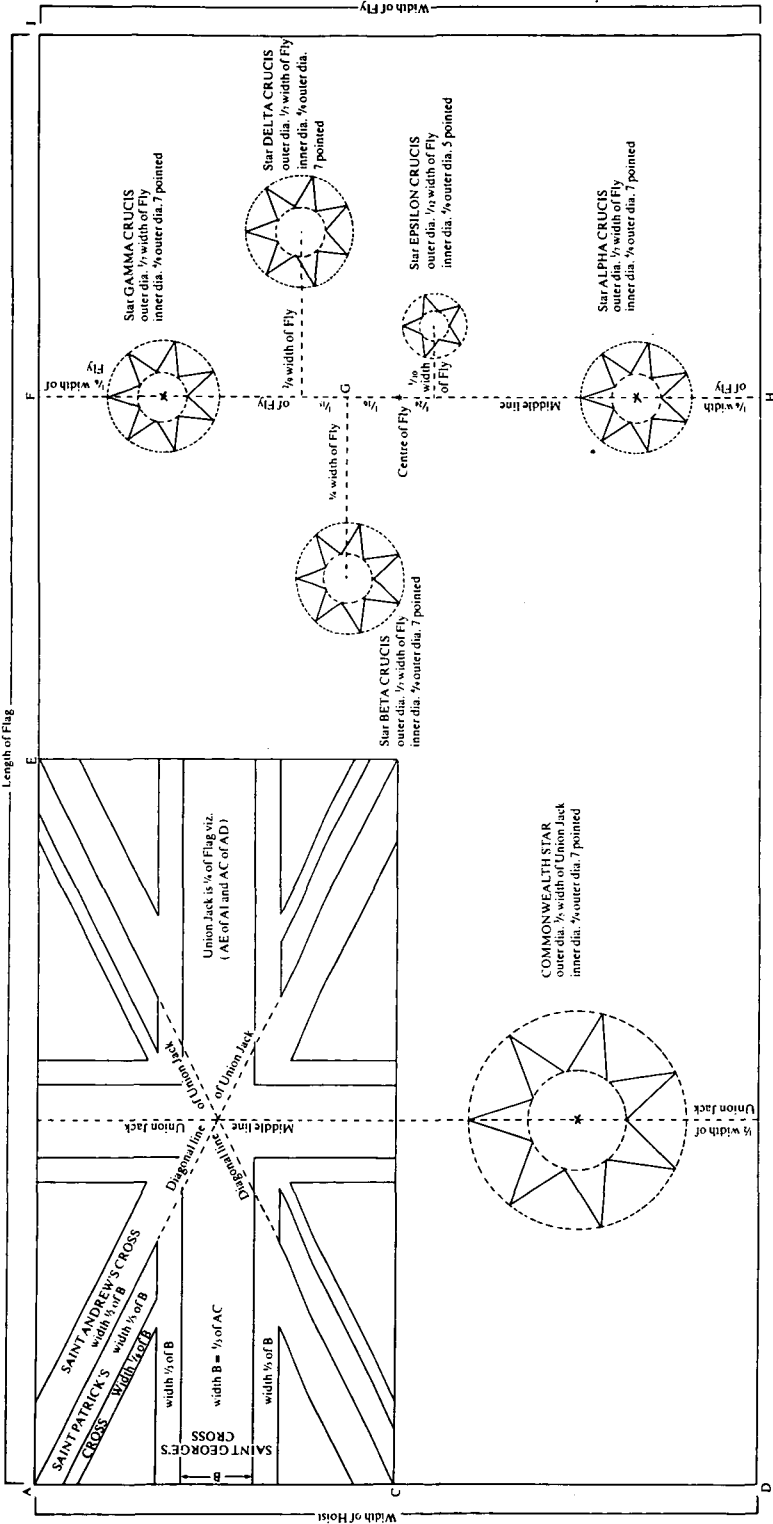


PLATE 2

FLAG OF AUSTRALIA