

Act No. 2, 1899.

AUSTRALASIAN
FEDERATION
ENABLING.

An Act to make provision for the acceptance
and enactment of a Federal Constitution for
Australia. [22nd April, 1899.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Australasian Federation Enabling Act, 1899."

Interpretation.

2. In this Act the following terms bear the meanings set opposite to them respectively:—

"Colonies"—The Colonies of New South Wales, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, including the Northern Territory.

"Constitution"—The draft of a Federal Constitution set out in the Third Schedule hereto.

"Prescribed"—Prescribed by Regulation made under this Act.

But this section shall not be deemed to extend to the interpretation of anything contained in the Second or Third Schedule hereto.

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The Submission to the Electors.

3. (1) At a time to be fixed by the Governor by Proclamation, Submission to electors. but not sooner than eight weeks after the commencement of this Act, the question of the acceptance or rejection of the Constitution shall be referred and submitted to the vote of the electors.

The voting shall be taken throughout New South Wales as one Electoral District.

(2) Each voter shall vote by ballot "Yes" or "No" on the Voting. question, in accordance with the direction on the ballot-paper in the First Schedule hereto, and all votes shall be taken on the same day.

(3) No person shall vote more than once on the question, Penalty. and if any person votes or attempts to vote more than once contrary to this provision he shall be liable to a penalty not exceeding fifty pounds, or, at the option of the Court, to imprisonment not exceeding six calendar months.

4. For the purpose of submitting the question of the acceptance Writs. or rejection of the Constitution to the electors, the Governor may cause writs to be issued in such form and addressed in such manner as he thinks fit.

5. (1) Upon the taking of the vote of the electors as aforesaid, Persons entitled to vote. every person being the holder of an Elector's Right shall be qualified and entitled to vote at any polling-place.

(2) Every person claiming to vote—

Votes, how claimed.

(a) Shall exhibit to the Officer in charge his Elector's Right.

(b) Shall state his christian name and surname, and answer such questions as the Returning Officer may require, so as to ascertain the genuineness of the Elector's Right produced, and that the person producing the same is the person named therein.

(3) When the Returning Officer has seen that the name so Questions which may be asked by Returning Officer. given is upon the Elector's Right, he may, unless satisfied of the identity of the person claiming to vote, ask the person so claiming the following questions before delivering a Ballot-paper to him, in addition to the questions permitted in subsection (2)—

(a) Was the Elector's Right you now exhibit issued to you?

(b) Have you already voted at this vote of the electors?

(4) Any such person who—

Omission to answer questions an offence.

(a) Shall refuse or omit to answer any such question; or

(b) Shall not answer the first question in the affirmative and the second in the negative—

Shall be prohibited from voting then or thereafter at such vote of the electors, and shall be liable to a penalty not exceeding fifty pounds or to be imprisoned for a term not exceeding six months.

6. Upon the taking of the vote of the electors as aforesaid, the Majority of votes to decide. majority of votes shall decide the question, and if the Constitution be thereby rejected no further action shall be taken pursuant to this Act.

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Addresses to the Queen.

7. If two Colonies, in addition to New South Wales, accept the Constitution, both Houses of Parliament may adopt Addresses to the Queen, praying that the Constitution may be passed into law by the Imperial Parliament upon receipt of similar Addresses from the Parliaments of two such Colonies; and the Addresses so adopted shall be forthwith transmitted to the Queen, with a certified copy of the Constitution.

Supplemental.

Regulations.

8. (1) Subject to the provisions of this Act, the Governor may make regulations prescribing the mode of submitting the question of the acceptance or rejection of the Constitution to the electors, and generally for the purposes of carrying into effect the provisions of this Act.

Publication of regulations.

(2) All such regulations shall be published in the Gazette, and on such publication shall have the force of law; and all such regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then sitting, or if Parliament be not then sitting, within fourteen days after the next meeting of Parliament.

Enforcement of regulations.

(3) Any such regulation may provide for the enforcement thereof by a penalty not exceeding fifty pounds, or, at the option of the Court, by imprisonment not exceeding six calendar months.

Application of general law.

(4) Subject to the provisions of this Act, and unless and until otherwise prescribed, the laws relating to the conduct of elections for the Legislative Assembly, the proceedings before and at and subsequent to such elections, electoral offences, and all incidental matters, shall apply, *mutatis mutandis*, to the proceedings for submitting the question of the acceptance or rejection of the Constitution to the electors.

Recovery of penalties.

9. Penalties imposed by, and offences against, the provisions of this Act, or any regulations made thereunder, may be recovered before, and heard and determined by, a Police or Stipendiary Magistrate, or any two Justices of the Peace in Petty Sessions.

SCHEDULES.

THE FIRST SCHEDULE.

AUSTRALASIAN FEDERAL CONSTITUTION.

Ballot Paper.

Are you in favour of the proposed Federal Constitution Bill, as amended?

"Yes."

"No."

If you are in favour of the Bill, as amended, strike out the above word "No."

If you are against the Bill, as amended, strike out the above word "Yes."

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THE SECOND SCHEDULE.

Amendments agreed to at a conference of the Prime Ministers of New South Wales, Victoria, Queensland, South Australia, Tasmania, and Western Australia, which sat at Melbourne on the 28th, 30th, and 31st of January, and the 1st, 2nd, and 3rd of February, 1899.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in **black letter**.

Amendment to Clause 7 of the said Draft Bill.

7. The Senate shall be composed of Senators for each State, ^{The Senate.} 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.

Amendments to Clause 57 of the said Draft Bill.

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.

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

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by ~~three-fifths of the members present and voting thereon~~ **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 ~~three-fifths of the members present and voting thereon~~ **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.

Amendment to Clause 87 of the said Draft Bill.

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.

New clause to be inserted after clause 95 of the said Draft Bill.

(Clause 96 of the Bill as proposed to be amended).

Financial assistance to States.

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.

Amendment to clause 122 of the said Draft Bill.

(Clause 123 of the Bill as proposed to be amended).

Alteration of limits of States.

122. The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of
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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.

Omission of clause 124 of the said Draft Bill and substitution of a new clause—

~~124. The seat of Government of the Commonwealth shall be determined by The Parliament and shall be within territory vested in the Commonwealth.~~ ^{Seat of Government.}

~~Until such determination The Parliament shall be summoned to meet at such place within the Commonwealth as a majority of the Governors of the States or in the event of an equal division of opinion among the Governors as the Governor-General shall direct.~~

(Clause 125 of the Bill as proposed to be amended).

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 if New South Wales be an Original State shall be in that State and be distant not less than one hundred miles from Sydney. ^{Seat of Government.}

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.

If Victoria be an Original State The Parliament shall sit at Melbourne until it meets at the seat of Government.

Amendments to Clause 127 of the said Draft Bill.

(Clause 128 of the Bill as proposed to be amended).

127. This Constitution shall not be altered except in the following manner:— ^{Mode of altering the Constitution.}

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

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

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

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

~~And~~ **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 ~~not~~ become law unless the majority of the electors voting in that State approve the proposed law.

THE THIRD SCHEDULE.

The Bill drafted by the Federal Convention of 1897-8, amended as indicated in the Second Schedule.

DRAFT OF A BILL

To Constitute the Commonwealth of Australia.

Preamble.

WHEREAS the people of [*here name the Colonies which have adopted the Constitution*], 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

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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 the present Parliament assembled, and by the authority of the same, as follows:—

- I.** This Act may be cited as *The Commonwealth of Australia Constitution Act* Short title.
- II.** This Act shall bind the Crown, and its provisions referring to the Queen shall extend to Her Majesty's Heirs and Successors in the Sovereignty of the United Kingdom. Act to bind Crown, and extend to the Queen's Successors.
- III.** 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 [*here name the Colonies which have adopted the Constitution*] shall be united in a Federal Commonwealth under the name of "The Commonwealth of Australia." But the Queen may, at any time after the Proclamation, appoint a Governor-General for the Commonwealth. Proclamation of Commonwealth.
- IV.** The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect on and after the day so appointed. But the Parliaments of the several Colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act. Commencement of Act.
- V.** 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. Operation of the Constitution and laws.
- VI.** "The Commonwealth" shall mean the Commonwealth of Australia as established under this Act. Definition.
- "Colony" shall mean any colony or province.
- "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.

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Repeal of Federal
Council Act.

VII. *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.

Application of
Colonial Boundaries
Act.

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

Constitution
and its Divisions.

IX. 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.

CHAPTER I.
THE PARLIAMENT.
PART I.—GENERAL.

Legislative power.

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

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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.

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THE PARLIAMENT
PART I.
GENERAL.
Governor-General.

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

Salary of Governor-General.

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

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

Provisions relating to Governor-General.

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

Sessions of Parliament.
Prorogation and dissolution.

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

Summoning Parliament.

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

First Session.

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

Yearly Session of Parliament.

PART II.—THE SENATE.

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.

PART II.
THE SENATE.
The Senate.

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

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so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

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

Qualification of electors.

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

Method of election of senators.

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

Times and places.

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

Application of State laws.

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

Failure to choose senators.

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

Issue of writs.

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

Rotation of senators.

13. As soon as may be after the Senate first meets and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable: and the places of the senators of the first class shall become vacant at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, 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 in the year at the expiration of which the places are to become vacant.

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

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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.

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THE SENATE.

15. If the place of a senator becomes vacant before the expiration of his term of service the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

Further provision for rotation.
Casual vacancies.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

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

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

Qualifications of senator.

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.

Election of President.

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

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

Absence of President.

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

Resignation of senator.

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

Vacancy by absence.

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

Vacancy to be notified.

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PART II.
THE SENATE.

Quorum.
Voting in Senate.

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.
HOUSE OF REPRESENTATIVES.

Constitution of
House of
Representatives.

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.

Provision as to races
disqualified from
voting.

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

Representatives in
first Parliament.

26. Notwithstanding anything in section 24, the number of members to be chosen in each State at the first election shall be as follows: [*To be determined according to latest statistical returns at the date of the passing of the Act, and in relation to the quota referred to in previous sections.*]

Alteration of
number of members.

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

Duration of House
of Representatives.

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

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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.

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HOUSE OF REPRESENTATIVES.

Electoral divisions.

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 the Parliament of the State; but in the choosing of members each elector shall vote only once.

Qualification of electors.

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.

Application of State laws.

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

Writs for general election.

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

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

Writs for vacancies.

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

Qualifications of members.

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

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

Election of Speaker.

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

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- 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.

Absence of Speaker.

Resignation of member.

Vacancy by absence.

Quorum.

Voting in House of Representatives.

PART IV.
BOTH HOUSES OF
THE PARLIAMENT.

PART IV.—BOTH HOUSES OF THE PARLIAMENT.

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

Right of electors of States.

Oath or affirmation of allegiance.

Schedule.

Member of one House ineligible for other.

Disqualification.

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- 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 as a member of the House of Representatives.

But subsection 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 :

Vacancy on happening of disqualification.

his place shall thereupon become vacant.

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

Penalty for sitting when disqualified.

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

Disputed elections.

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

Allowance to members.

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

Privileges, &c., of Houses.

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THE PARLIAMENT.
Rules and orders.

- 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
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Legislative powers
of The Parliament.

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. Light-houses, light-ships, 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 :

XXIV.

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- XXIV. The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States :
- XXV. The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States :
- XXVI. The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws :
- XXVII. Immigration and emigration :
- XXVIII. The influx of criminals :
- XXIX. External affairs :
- XXX. The relations of the Commonwealth with the islands of the Pacific :
- XXXI. The acquisition of property on just terms from any State or person for any purpose in respect of which The Parliament has power to make laws :
- 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.

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THE PARLIAMENT.
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POWERS OF THE
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CHAPTER I.
THE PARLIAMENT.
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POWERS OF THE
PARLIAMENT.

Exclusive powers of
The Parliament.

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.

Powers of the
Houses in respect
of legislation.

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 licenses, 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.

Appropriation Bills.

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

Tax Bills.

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

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

Recommendation of
money votes.

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

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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.

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Disagreement
between the Houses.

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

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

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

Royal assent to
Bills.

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

Recommendations
by Governor-
General.

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

Disallowance by
the Queen.

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Signification of
Queen's pleasure on
Bill reserved.

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.

CHAPTER II.
THE EXECUTIVE GOVERNMENT.

Executive power.

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.

Federal Executive
Council.

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.

Provisions referring
to Governor-General.

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.

Ministers of State.

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.

Ministers to sit in
Parliament.

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.

Number of Ministers.

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

Salaries of Ministers.

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

Appointment of
civil servants.

67. Until The Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth

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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.

CHAPTER II.
THE EXECUTIVE
GOVERNMENT.

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.

Command of
naval and military
forces.

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:—

Transfer of certain
departments.

- Posts, telegraphs, and telephones:
- Naval and military defence:
- Light-houses, light-ships, 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.

Certain powers of
Governors to vest in
Governor-General.

CHAPTER III.
THE JUDICATURE.

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.

Judicial power and
Courts.

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

Judges' appoint-
ment, tenure,
and remuneration.

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

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CHAPTER III.
THE JUDICATURE.
Appellate
jurisdiction of High
Court.

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.

Appeals to Queen in
Council.

74. No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of this Constitution or of the Constitution of a State, unless the public interests of some part of Her Majesty's Dominions, other than the Commonwealth or a State, are involved.

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. But The Parliament may make laws limiting the matters in which such leave may be asked.

Original jurisdiction
of High Court.

75. In all matters—

- I. Arising under any treaty :
 - II. Affecting consuls, or other representatives of other countries :
 - III. In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party :
 - IV. Between States, or between residents of different States, or between a State and a resident of another State :
 - V. In which a writ of *mandamus* or prohibition or an injunction is sought against an officer of the Commonwealth :
- the High Court shall have original jurisdiction.

Additional original
jurisdiction.

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

- I. Arising under this Constitution, or involving its interpretation :
- II.

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- 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.

CHAPTER III.
THE JUDICATURE.

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

Power to define jurisdiction.

- I. Defining the jurisdiction of any federal court other than the High Court :
- II. Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is vested in the courts of the States :
- III. Investing any court of a State with federal jurisdiction.

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

Proceedings against Commonwealth or State.

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

Number of judges.

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

Trial by jury.

CHAPTER IV.

FINANCE AND TRADE.

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.

Consolidated revenue fund.

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

Expenditure charged thereon.

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

Money to be appropriated by law.

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

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Transfer of officers.

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.

Transfer of property
of State.

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

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

II. The Commonwealth may acquire any property of the State, of any kind, used, but not exclusively used, in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth.

III. The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section;

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section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by The Parliament.

IV. The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

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

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

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

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

89. Until the imposition of uniform duties of customs— Payment to States before uniform duties.

I. The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

II. The Commonwealth shall debit to each State—

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

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

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

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

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect; but any grant 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 Exceptions as to bounties. from

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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.

Trade within the
Commonwealth
to be free.

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.

Payment to States
for five years after
uniform Tariffs.

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

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

Distribution of
surplus.

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

Customs duties of
Western Australia.

95. Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia 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.

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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 :

* C

II.

Commissioners' appointment, tenure, and remuneration.

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FINANCE AND
TRADE.

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.

Saving of certain rates.

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.

Taking over public debts of States.

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

CHAPTER V.
THE STATES.CHAPTER V.
THE STATES.

Saving of Constitutions.

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

Saving of powers of State Parliaments.

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

Saving of State laws.

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

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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.

CHAPTER V.
THE STATES.

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

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

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

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

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

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

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

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

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

118. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public acts and records, and the judicial proceedings, of every State. Recognition of laws, &c., of States.

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THE STATES.Protection of States
from invasion and
violence.Custody of offenders
against laws of the
Commonwealth.

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.New States may be
admitted or
established.Government of
territories.Alteration of limits
of States.Formation of new
States.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.

Seat of Government.

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

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shall be vested in and belong to the Commonwealth, and if New South Wales be an Original State shall be in that State and be distant not less than one hundred miles from Sydney.

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MISCELLANEOUS.

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.

If Victoria be an Original State The Parliament shall sit at Melbourne until it meets 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.

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

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

Aborigines not to be counted in reckoning population.

CHAPTER VIII.

ALTERATION OF THE CONSTITUTION.

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ALTERATION OF
CONSTITUTION.

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

Mode of altering the Constitution.

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

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law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses to the electors in each State qualified to vote for the election of the House of Representatives.

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

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

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

THE 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.*)