

Draft of a bill to constitute the Commonwealth of Australia : copy of federal constitution under the Crown, as finally adopted by the Australasian Federal Convention at Melbourne, in the Colony of Victoria, on the 16th March 1898, showing amendments of the Constitution agreed to at a conference of the Prime Ministers of Victoria, New South Wales, Queensland, South Australia, Tasmania, and Western Australia, which sat at Melbourne on the 28th, 30th and 31st January, and the 1st, 2nd, and 3rd February, 1899.

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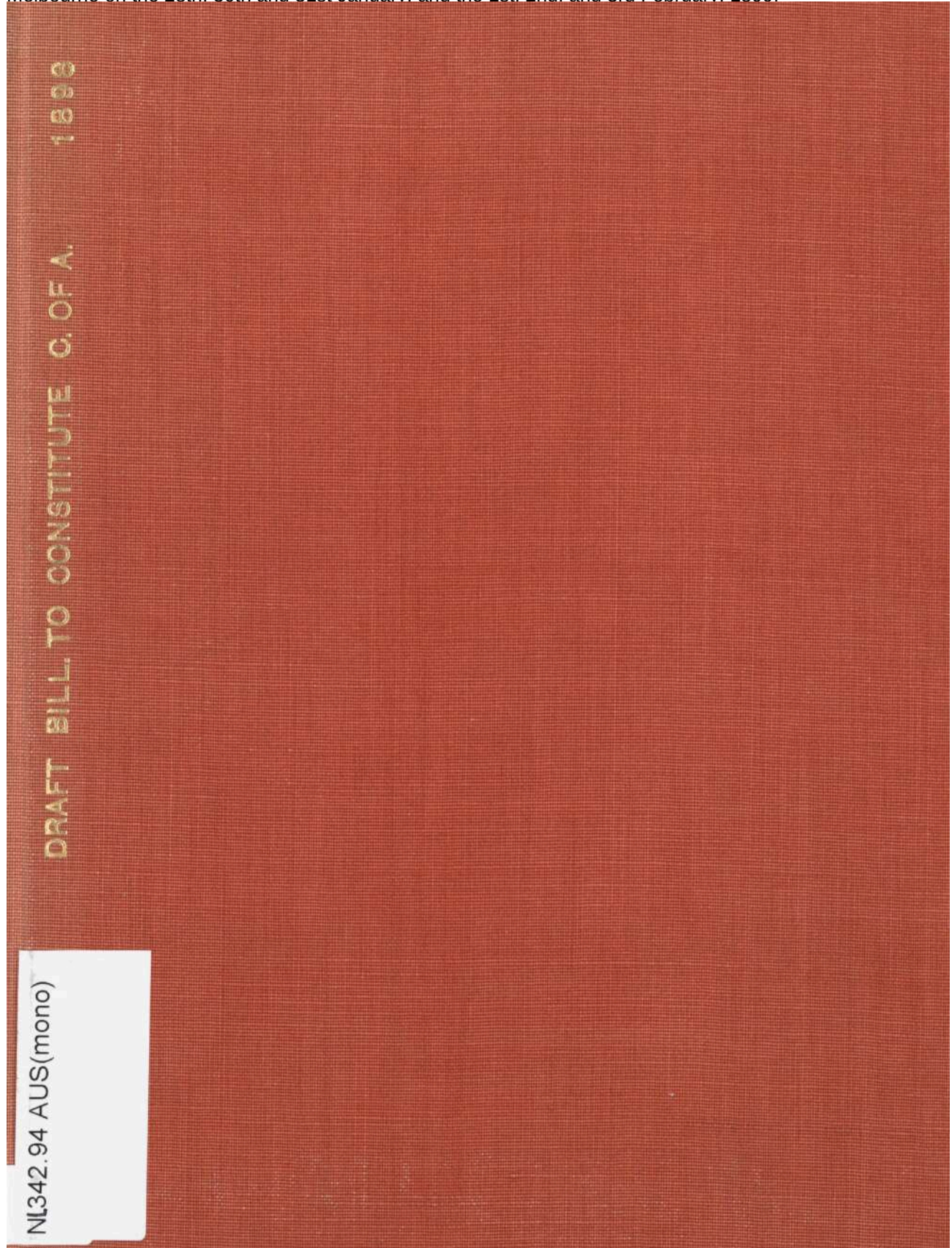
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DRAFT BILL

TO CONSTITUTE THE

COMMONWEALTH OF AUSTRALIA

AS FINALLY ADOPTED BY THE

AUSTRALASIAN FEDERAL CONVENTION, AT MELBOURNE,

ON THE 16TH MARCH, 1898;

TOGETHER WITH

AN EXPLANATION OF ITS PROVISIONS

BY

ROBERT RANDOLPH GARRAN, B.A.

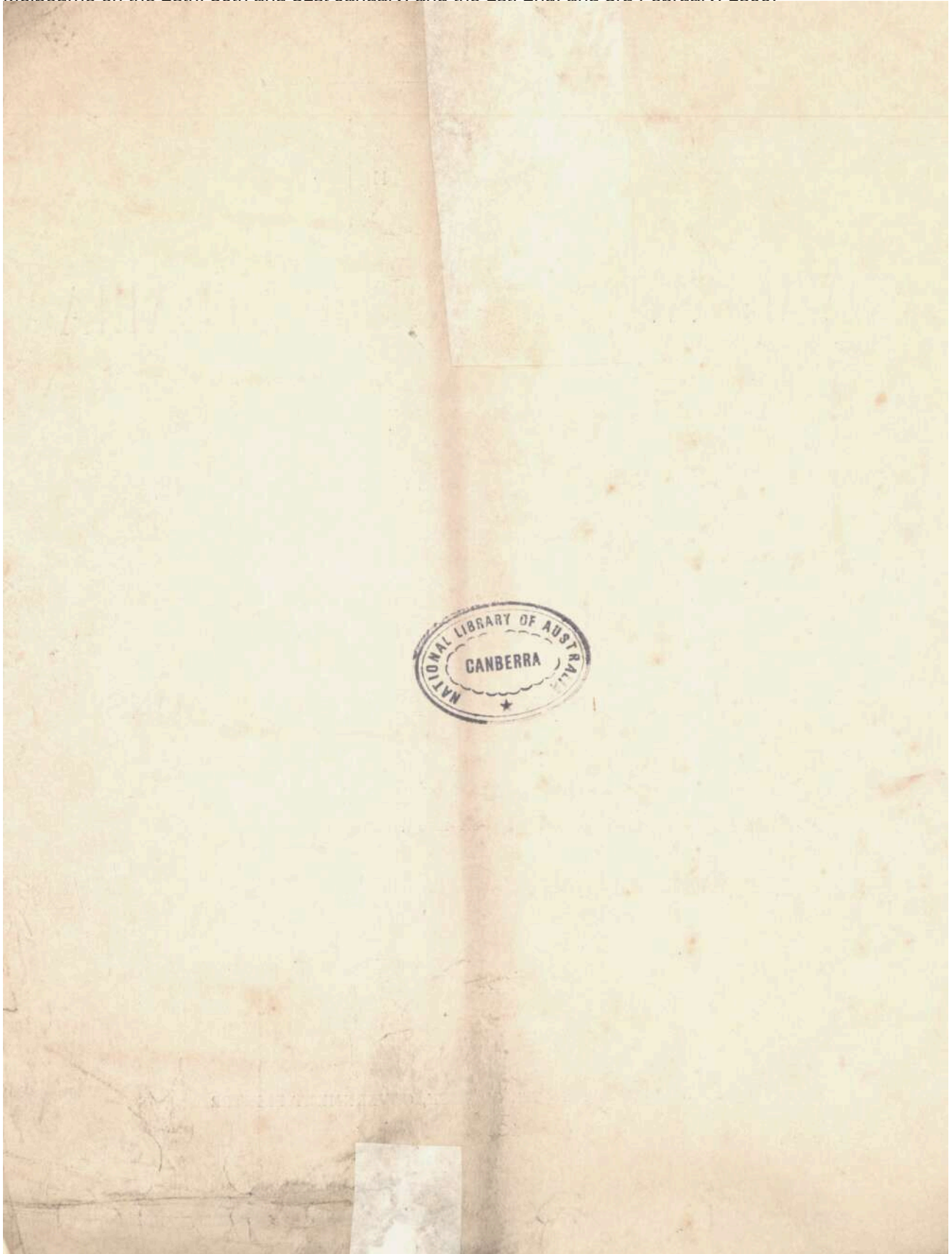
(BARRISTER-AT-LAW).

SYDNEY: WILLIAM APPLEGATE GULLICK, GOVERNMENT PRINTER.

1898.

21325—(a)

Draft of a bill to constitute the Commonwealth of Australia : copy of federal constitution under the Crown, as finally adopted by the Australasian Federal Convention at Melbourne, in the Colony of Victoria, on the 16th March 1898, showing amendments of the Constitution agreed to at a conference of the Prime Ministers of Victoria, New South Wales, Queensland, South Australia, Tasmania, and Western Australia, which sat at Melbourne on the 28th. 30th and 31st Januarv. and the 1st. 2nd. and 3rd Februarv. 1899.



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TO THE READER.

THE Constitution, as submitted to the electors, is printed in the left-hand column of each page ; the Explanation in the right-hand column.

In the Explanation, no attempt has been made to present the arguments for or against any of the provisions of the Constitution. All that has been done is to summarize the several sections, and to explain, as shortly and clearly as possible, their meaning and purpose.

R.R.G.

N.B.—The Vote will be taken on Friday, June 3.

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INTRODUCTORY NOTE.

BETWEEN December, 1895, and October, 1896, Enabling Acts were passed by the Parliaments of the five colonies of New South Wales, Victoria, South Australia, Western Australia, and Tasmania, to enable those colonies to take part in the framing, acceptance, and enactment of a Federal Constitution for Australasia.

In accordance with those Acts, each of the colonies elected ten representatives to a Convention charged with the duty of framing a Federal Constitution for Australasia. The Convention sat in Adelaide from the 22nd March to the 5th May, 1897, and framed a draft Constitution, which was then submitted for consideration to each House of Parliament in each of the five colonies. The Convention sat again in Sydney from the 2nd September to the 24th September, 1897, and in Melbourne from the 20th January to 17th March, 1898, and reconsidered the draft Constitution, together with the amendments suggested by the various Legislatures. The Convention finally adopted a Federal Constitution on the 16th March, 1898.

Under the Enabling Acts, the Constitution is now to be submitted to the electors of the five colonies for acceptance or rejection by direct vote. If three or more colonies accept the Constitution, the Houses of Parliament of those Colonies may adopt addresses to the Queen, praying that the Constitution may be passed into law by the Imperial Parliament.

If the Constitution is rejected in any colony, no further action is to be taken in that colony under the Enabling Act.

The majority of votes is to decide the question ; but in New South Wales the Constitution is to be taken to be rejected if there are less than 80,000 affirmative votes ; in Victoria, if there are less than 50,000 affirmative votes ; in Western Australia and in Tasmania, if there are less than 6,000 affirmative votes.

The Constitution is framed in the form of a Bill to be passed by the Imperial Parliament, and in this Bill the Constitution itself is preceded by nine "covering clauses," which provide for all the steps necessary to bring the Constitution into force.

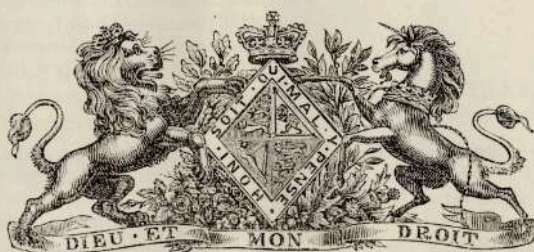
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*The Right Hon Sir Wm Whitmore P.C.
Es. John Huxford Land
with W. F. Stansons Compliments*

Copy of Federal Constitution under the Crown, as finally
adopted by the Australasian Federal Convention, at
Melbourne, in the Colony of Victoria, on the 16th
March, 1898.

E. G. BLACKMORE,
Clerk.

C. C. KINGSTON,
President.



ANNO SEXAGESIMO ET SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

A.D. 1898.

DRAFT OF A BILL

To Constitute the Commonwealth of Australia.

Draft of a bill to constitute the Commonwealth of Australia : copy of federal constitution under the Crown, as finally adopted by the Australasian Federal Convention at Melbourne, in the Colony of Victoria, on the 16th March 1898, showing amendments of the Constitution agreed to at a conference of the Prime Ministers of Victoria, New South Wales, Queensland, South Australia, Tasmania, and Western Australia, which sat at Melbourne on the 28th. 30th and 31st Januarv. and the 1st. 2nd. and 3rd Februarv. 1899.

DRAFT BILL

TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

The Constitution Bill.

Explanation.

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 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:—

Short title. I. This Act may be cited as *The Commonwealth of Australia Constitution Act*.

Act to bind Crown, and extend to the Queen's Successors. 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.

Proclamation of Commonwealth. 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.

Commencement of Act. 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.

Operation of the Constitution and laws. 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.

Preamble.—The Preamble states that the people of [*the federating Colonies*] have agreed to unite in a permanent Federal Commonwealth, under the British Crown, and under this Constitution.

I. Title.—This Act is to be called "*The Commonwealth of Australia Constitution Act*."

II. The Crown.—This Act is to be binding on the Crown. References to "the Queen" extend to the King or Queen for the time being.

III. } Establishment of the Commonwealth.—
IV. } The Queen is to make a Proclamation fixing a day for the Federal Constitution to come into force. The day so fixed must not be later than one year after the passing of the Act.

On the day so fixed the people of the Colonies which accept the Constitution will become united in a Federal Commonwealth.

But before that day [in order that everything may be ready] the first Governor-General may be appointed, and the federating Colonies may pass any laws which the Constitution gives them power to pass [see, for instance, sections 9 and 29].

V. Laws to be binding.—This Constitution, and the laws of the Federal Parliament, are to be binding on the Courts, Judges, and people of every part of the Commonwealth; and are to be in force on all British ships (except ships of war) voyaging wholly between ports of the Commonwealth.

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The Constitution Bill.

Explanation.

Definition.

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

"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.

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.	

VI. The States.—The federating Colonies will become "States" of the Commonwealth; and so will any colonies which are afterwards admitted on the footing of States. The States which join at first are called "Original States" [see sections 7 and 24].

VII. } Imperial Acts affected.—The Federal Council Act of 1885 is to be repealed, but the laws passed by the Federal Council are to remain in force in the States until dealt with by the Federal Parliament.

The Colonial Boundaries Act of 1895 is to apply to the Commonwealth as a whole, and not to the States separately. [The effect of this is that the boundaries between the States can only be altered as provided by the Constitution; see section 122.]

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The Constitution.

Explanation.

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."

Governor-
General.

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.

Salary of
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.

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

Provisions
relating to
Governor-
General.

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.

Sessions of
Parliament.

Prorogation and
dissolution.

Summoning
Parliament.

First Session.

Yearly Session
of Parliament.

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.

CHAPTER I.
THE PARLIAMENT.

PART I.—GENERAL.

1. **The Federal Parliament.**—The Parliament is to consist of the Queen and two Houses, to be called the Senate and the House of Representatives.

2. } **Governor-General.**—There is to be a
3. } Governor-General appointed by the Queen
4. } as her representative in the Common-
wealth. He will have the usual duties of a
Colonial Governor, subject always, however, to
the provisions of the Constitution.

His salary is at first to be £10,000 a year, but may be altered by The Parliament at the end of any Governor-General's term of office.

No person, while acting as Governor-General, may receive any salary from the Commonwealth for any other office.

5. } **Sessions of Parliament**—The Governor-
6. } General is to have the usual power to
summon and prorogue Parliament, and to dissolve
the House of Representatives. After a general
election The Parliament must meet within
30 days from the return of the writs.

There must be at least one session a year, and the first Parliament must meet within six months after the Commonwealth is established.

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CHAPTER I.
THE PARLIAMENT.
PART II.
THE SENATE.

The Constitution.

PART II.—THE SENATE.

The Senate.

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

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.

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

Explanation.

PART II.—THE SENATE.

7. **The Senators.**—The senators for each State are to be directly chosen by the people of the State. The Federal Parliament may make electoral divisions in each State; but until it does so, each State is to be one electorate.

Each Original State [see section vi] is to have an equal number of senators. This number is at first to be six, but may be increased by The Parliament. [States which come in afterwards will not necessarily have equal representation, as that is a matter to be settled by the terms of admission; see section 120.]

The senators are to be chosen for six years.

8. } **Elections of Senators.**—In each State,
9. } senators are to be elected on the same
10. } franchise as members of the House of Representatives [see sections 30 and 41]; and each elector may vote only once.

The Parliament may prescribe a uniform method of election; but until it does so, each State may adopt a method of its own. [The States may pass laws for this purpose before the Constitution comes into force; see section iv.] The times and places of the elections are to be fixed by each State for itself.

Until The Parliament makes electoral laws, the laws of each State are to apply as nearly as practicable.

11. **Failure to choose.**—The Senate may proceed to business, though any State may have failed to choose senators.

12. **The Writs.**—The writs for the elections are to be issued by the Governors of the States. After a dissolution of the Senate, they must be issued within ten days.

13. } **Rotation of Senators.**—Senators are to
14. } retire by rotation, one-half every three years. In order to start the rotation, the Senate

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CHAPTER I.
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PART II.
THE SENATE.

The Constitution.

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.

Further
provision
for rotation.

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.

Casual vacancies

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

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

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

Qualifications of
senator.

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

Explanation.

when it first meets is to divide the senators for each State into two equal classes; and senators of the first class are to retire after three years, while the others keep their seats for the full term of six years. Afterwards the rotation will work of itself, the terms of half the senators expiring every three years; but after any dissolution of the Senate [see section 57] a division into classes must again be made.

The periodical elections are to take place before the terms of the retiring senators expire, so that there will be no actual vacancy.

Whenever the number of senators is altered, The Parliament may make such provision as is necessary to keep up the rotation.

15. **Casual vacancies.**—When a casual vacancy happens, a successor is to be chosen to hold the seat for the rest of his predecessor's term. To save the expense of a bye-election, the Houses of Parliament of the State concerned are to sit together and choose a person to fill the vacancy until the next federal election for either House, when a successor, for the rest of the term, will be chosen by the electors. If the State Parliament happens not to be sitting, the Governor of the State, with the advice of his Executive Council, may appoint a person to fill the vacancy until the State Parliament meets.

16. **Qualifications of Senator.**—The qualifications of a senator are to be the same as those of a member of the House of Representatives [see section 34].

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CHAPTER I.
THE PARLIAMENT.PART II.
THE SENATE.Election of
President.

The Constitution.

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.

Absence of
President.

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

Resignation of
senator.

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.

Vacancy by
absence.

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 to be
notified.

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.

Quorum.

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.

Voting in Senate.

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:—

1. 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.

Explanation.

17. **The President.**—The Senate is to choose its own President, and may remove him.

18 } **Miscellaneous.**—These are sections of
to } minor importance, providing for the
23 } absence of the President, the resignation
of senators, vacancies by absence, the notification
of vacancies, a quorum of the Senate, and voting
in the Senate.

PART III.—THE HOUSE OF REPRESENTATIVES.

24 } **Members of the House.**—The members of
to } the House of Representatives are to be
27 } directly chosen by the people of the
Commonwealth, in proportion to population.
The number of members of the House is to be, as nearly as possible, twice the number of all the senators; and with a view to this, the number of members for each State is to be found (until The Parliament provides a different method) as follows:—Divide the population of the Commonwealth by twice the number of the senators; the result—the “quota,” as it is called—is the number of people to each member; and each State is to have a member for each quota of its population. If a fraction greater than one-half the

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CHAPTER I.
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HOUSE OF REPRESENTATIVES.

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Explanation.

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

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

Provision as to races disqualified from voting.

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

Representatives in first Parliament.

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

quota remains, the State is to have one more member. But notwithstanding these provisions, each Original State [see section vi] is to have at least five members.

In reckoning population, persons disqualified, by reason of their race, from voting in their own State, are not to be counted [nor are aboriginals; see section 126].

The number of members to be chosen at the first election is to be settled in the Constitution according to the latest estimate of population.

The Parliament may increase the number of members to any extent; provided that it also increases the number of senators, so as to keep the proportion between the two Houses.

[To illustrate these provisions, suppose the Commonwealth comprised the five colonies represented at the Convention. Then the population of the Commonwealth (according to estimates for the end of 1897) would be 3,196,368. There would be 30 senators; therefore the quota entitled to return a member would be $3,196,368 \div 60$ —that is, 53,272. The estimated population of New South Wales is 1,323,460, which contains 24 quotas; and there being a remainder of 44,932, or more than half the quota, New South Wales would have 25 members. The figures for the several States would be as follows:—

State.	Population.	Members.
New South Wales	1,323,460	25
Victoria	1,176,238	22
South Australia	363,044	7
Western Australia	161,908	5
Tasmania	171,718	5
Total	3,196,368	64

Western Australia and Tasmania, owing to the "minimum" provision, would each have two more members than their present population would give them; and thus the whole number of members would be 64 instead of 60.]

Duration of House of Representatives.

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

Electoral divisions.

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

28. Duration of House.—Every House of Representatives is to continue for three years, unless dissolved before that time.

29. Electoral Divisions.—The Federal Parliament may make electoral divisions in the States. Until it does so, the States may make their own electoral divisions [and may pass laws for this purpose before the Constitution comes into force; see section iv]; and failing this, each State will be one electorate.

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CHAPTER I.
THE PARLIAMENT.PART III.
HOUSE OF REPRESENTATIVES.

Qualification of electors.

The Constitution.

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.

Application of State laws.

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

Writs for general election.

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

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

Writs for vacancies.

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.

Qualifications of members.

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.

Election of Speaker.

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

Explanation.

30. **The Franchise.**—The Parliament may make a uniform franchise; but until it does so, members of the House of Representatives are to be elected in each State on the franchise of that State. Each elector, however, may vote only once. [When The Parliament makes a uniform franchise, it must not disqualify any State elector; see section 41.]

31. **Electoral Laws.**—Until The Parliament makes electoral laws, the laws of each State are to apply as nearly as practicable.

32. } **The Writs.**—Writs for general elections
33. } are to be issued by the Governor-General; writs for vacancies by the Speaker (if he is in the Commonwealth).

34. **Qualifications of Member.**—The Parliament may define the qualifications of a member; but until it does so, the qualifications of a member are to be as follows:—He must be 21 years of age, must be qualified to be a federal elector [see section 30], must have resided for three years within the limits of the Commonwealth, and must be a British subject, either natural-born or for five years naturalized.

35 } **Miscellaneous.**—These are sections of
to } minor importance, making the usual
40 } provision for the election of a Speaker, the absence of the Speaker, the resignation of members, vacancies by absence, a quorum of the House, and voting in the House.

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CHAPTER I.
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HOUSE OF REPRESENTATIVES.

resign his office or his seat by writing addressed to the Governor-General.

Absence of Speaker.

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

Resignation of member.

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.

Vacancy by absence.

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.

Quorum.

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.

Voting in House of Representatives.

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.

Right of electors of States.

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.

Oath or affirmation of allegiance.

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

Schedule.

Member of one House ineligible for other.

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

Disqualification.

44. Any person who—

1. 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

PART IV.—BOTH HOUSES OF THE PARLIAMENT.

41. **Federal franchise.**—The Parliament, if it makes a federal franchise [see section 30], must not disqualify from voting at federal elections any adult person who has a right to vote at elections for the Legislative Assembly of his State. [Nor may it give any elector more than one vote; see section 30.]

42. **Allegiance.**—Members of both Houses must take an oath or affirmation of allegiance.

43 } **Disqualifications of members.**—The dis-
to } qualifications of members of both Houses
46 } are substantially the same as the dis-
qualifications of members of the Legislative Assembly under the present Constitutions of the several Australian colonies; except that there are additional provisions that a bankrupt is to be ineligible until he gets his discharge, and that the seat of a member shall become vacant if he takes, or agrees to take, any fee or honorarium from the Federal Government, or for Parliamentary services rendered to any person or State.

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- 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 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.

The provision which disqualifies persons who hold offices of profit under the Crown does not apply to the Ministers of State for the Commonwealth [see section 64], nor to the Ministers of any State, nor to officers or members of the Queen's navy or army, nor to officers or members of the partially-paid naval or military forces of the Commonwealth.

Vacancy on happening of disqualification.

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

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

his place shall thereupon become vacant.

Penalty for sitting when disqualified.

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.

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THE PARLIAMENT

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PART IV.
BOTH HOUSES OF
THE PARLIAMENT

Disputed
elections.

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.

47.—Elections and qualifications.—Until The Parliament otherwise provides, all questions of disputed elections, or qualifications, or vacancies, are to be tried by the House in which the question arises.

Allowance to
members.

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.

48.—Payment of members.—Until The Parliament otherwise provides, members of both Houses are to be paid £400 a year.

Privileges, &c.,
of Houses.

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.

49.—Privileges of Parliament.—The privileges of both Houses are to be those of the House of Commons, until The Parliament otherwise declares.

Rules and
orders.

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

50.—Rules and orders.—Each House may make Rules and Orders for the exercise of its privileges and the conduct of its business.

- 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

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 :—

PART V.—POWERS OF THE PARLIAMENT.

51.—Powers of The Parliament.—The Federal Parliament is to have power to make laws on a variety of subjects set out in the 39 subsections of this section. Most of these powers are "concurrent" powers; that is, the Parliaments of the States may also continue to make laws on these subjects, provided such laws do not conflict with the laws made by the Federal Parliament [see sections 106, 107, 108]; and on many of these subjects the laws of the States will for some time continue undisturbed, as the Federal Parliament cannot attend to them all at once.

Some of the powers are from their nature exclusive. The other exclusive powers are those mentioned in sections 52 and 90.

The following subsections may need some explanation :—

- I. Trade and commerce with other countries, and among the States :

- I. Trade and commerce with other countries, and among the States : [This does not include trade or commerce wholly within the limits of one State. For the further definition of this power, see sections 97 to 99, 101, 103.]

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- 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 :

Explanation.

- II. Taxation ; but so as not to discriminate between States or parts of States : [After uniform duties, the Commonwealth alone will have power to impose duties of customs and excise (see section 90) ; but both the Commonwealth and the States will have power to impose any other taxation.]
- III. Bounties on the production or export of goods : [After uniform duties, the power to grant these bounties will become exclusive ; see section 90 ; with the exceptions mentioned in section 91.]
- IV. Borrowing money on the public credit of the Commonwealth : [This will not prevent the States from borrowing on their own credit.]
- V, VI, VII, IX. Posts, telegraphs, and telephones ; naval and military defence ; lighthouses, &c. ; quarantine : [These powers will become *exclusive* on the transfer of the several departments ; see section 52.]

In addition to the powers expressly given to The Parliament by this and the following section, other legislative powers are given in different parts of the Constitution by such words as "until The Parliament otherwise provides" or "as The Parliament prescribes."

[The Parliament has no other power to make laws than is expressly given to it by the Constitution. On a large number of subjects, therefore, the legislative powers of the State Parliaments cannot be interfered with, except so far as they over-lap upon some subject within the power of the Federal Parliament. Among the matters thus left to the States may be mentioned the following:—Lands ; railways ; non-federal public works ; mining, agriculture, and industry generally ; local government and police ; property and civil rights ; education ; administration of justice within the State ; direct taxation and the borrowing of money for State purposes ; and the internal government of the State generally.]

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- XXII. Divorce and matrimonial causes ; and in relation thereto, parental rights, and the custody and guardianship of infants :
- XXIII. Invalid and old-age pensions :
- XXIV. The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States :
- XXV. The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States :
- XXVI. The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws :
- 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 :

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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.

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.

52. **Exclusive Powers.**—On the following subjects The Parliament is to have *exclusive* power [that is to say, the States will not be able to make laws on these subjects] :—

- i. The seat of Government [see section 124], and all places acquired by the Commonwealth for public purposes :
- ii. Matters relating to the Departments transferred to the Commonwealth [see section 69] :
- iii. Other matters in which the Constitution gives exclusive power [see section 90] :

53 } **Money Bills.**—Neither Appropriation to Bills nor Taxation Bills may originate in the Senate. But a Bill does not come under these heads merely because it provides for penalties, or license fees, or fees for services.

The Senate may not amend Taxation Bills, nor the annual Appropriation Bill; and it may not amend any Bill so as to increase any burden on the people.

Any Bill which the Senate may not amend may be returned by the Senate to the House of Representatives with a *suggestion* of amendment [not embodied in the Bill, but in the accompanying message]; and the House of Representatives may either make or refuse to make any amendment so suggested.

In other respects the powers of both Houses are to be equal.

“Tacking” is forbidden by a provision that the annual Appropriation Bill shall deal only with appropriation, and that Taxation Bills shall deal only with the imposition of taxation, and with one subject of taxation only.

There is also the usual provision that votes or Bills for appropriation shall not be passed unless recommended by the Governor-General.

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Recommendation of money votes.

Disagreement between the Houses.

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 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 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, 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.

57. **Deadlocks.**—To decide disagreements between the two Houses, provision is made for a double dissolution and a joint sitting.

If a bill is twice passed by the House of Representatives, and each time the Senate rejects it, or shelves it, or makes amendments to which the House of Representatives will not agree, the Governor-General may dissolve both Houses at the same time; and if after re-election they still disagree, he may convene a joint sitting of both Houses. The members present at the joint sitting may debate the bill, and must vote on it; and if it is carried by three-fifths of those voting, it will be presented for the Queen's assent as if it had been passed in the usual way by both Houses.

The House of Representatives, throughout this process, may, if it so desires, accept any amendments made or suggested by the Senate; but at the joint sitting no amendments can be considered except those actually made by one of the Houses; and these can only be carried by a three-fifths majority. [In the case, therefore, of a bill which the Senate cannot amend (see section 53), no amendments can be considered at the joint sitting.]

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CHAPTER I.
THE PARLIAMENT.PART V.
POWERS OF
THE PARLIAMENT.Royal assent to
Bills.Recommendations by
Governor-General.Disallowance by
the Queen.Signification of
Queen's pleasure
on Bill reserved.

The Constitution.

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.

Explanation.

58. } Assent to Bills.—There are the usual
59. } provisions as to the Royal assent to bills,
60. } and as to the Queen's disallowance of
bills assented to by the Governor-General; except that the time for disallowance, instead of being two years from the receipt of the bill by the Secretary of State, is shortened to one year from the Governor-General's assent.

There is also a provision that the Governor-General, when a bill is presented for his assent, may return it to The Parliament with a recommendation for amendment; which recommendation the Houses may deal with as they think fit. [This is intended to enable the Government to correct mistakes discovered in bills. It is similar to a clause in the Victorian and South Australian Constitutions.]

CHAPTER II.
THE EXECUTIVE
GOVERNMENT.Executive
power.Federal
Executive
Council.Provisions
referring to
Governor-General.Ministers of
State.

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.

CHAPTER II.

THE EXECUTIVE GOVERNMENT.

61. } Executive Power.—The Queen is to be
62. } the executive head of the Commonwealth
63. } [as she is of every other part of the
Empire]; and the executive power will be exercised by the Governor-General as her representative. He will be advised by a Federal Executive Council, whose members will hold office during his pleasure. The executive power is to extend only to carrying out the Constitution and the laws of the Commonwealth, and will not otherwise interfere with the Executive Governments of the States.

“The Governor-General in Council” means the Governor-General with the advice of the Federal Executive Council.

64. } Ministers of State.—The Ministers of
65. } State for the Commonwealth are to be
66. } appointed by the Governor-General, and
are to be members of the Federal Executive

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CHAPTER II.
THE EXECUTIVE
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The Constitution.

Explanation.

	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.	Council. They must not hold office for more than three months without a seat in one of the Houses of The Parliament. Until The Parliament otherwise provides they are not to be more than seven in number, and their aggregate salaries must not exceed £12,000 a year.
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.	[These provisions are intended to ensure the adoption of the system known as "responsible government."]
Number of Ministers.	65. Until The Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as The Parliament prescribes, or, in the absence of provision, as the Governor-General directs.	
Salaries of Ministers.	66. There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until The Parliament otherwise provides, shall not exceed twelve thousand pounds a year.	
Appointment of civil servants.	67. Until The Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.	67. Civil servants. —The appointment and removal of civil servants is vested at first in the Governor-General in Council, but any part of this power may be given by him or by The Parliament to some other authority.
Command of naval and military forces.	68. The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.	68. Command-in-chief of forces. —The Governor-General is to be the Commander-in-chief of the naval and military forces.
Transfer of certain departments.	69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth, the following departments of the public service in each State shall become transferred to the Commonwealth:— Posts, telegraphs, and telephones: Naval and military defence: 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.	69. Transfer of Departments. —The departments of customs and excise are to become transferred to the Commonwealth immediately; and the following departments are also to be taken over as soon as convenient:—Posts, telegraphs and telephones; naval and military defence: light-houses, light-ships, beacons and buoys: quarantine.
Certain powers of Governors to vest in Governor-General.	70. In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a colony, or in the Governor of a colony with the advice of his Executive Council, or in any authority of a colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.	70. Transfer of powers. —In respect of matters which pass to the Executive Government of the Commonwealth, all powers which now belong to any authority in a colony are to belong to the authority exercising similar powers in the Commonwealth.

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CHAPTER III.
THE JUDICATURE.

The Constitution.

CHAPTER III.

THE JUDICATURE.

Judicial power
and Courts.

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

Judges' appoint-
ment, tenure,
and remunera-
tion.

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.

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.

Explanation.

CHAPTER III.

THE JUDICATURE.

71. **The Courts.**—The Constitution creates a Federal Supreme Court, to be called the High Court, and to consist of a Chief Justice and not less than two other Justices. The Parliament is empowered to create other federal courts, and to give federal jurisdiction to the courts of the States.

72. **Independence of Judges.**—The independence of the Federal Judges is secured in the usual way. They are to be appointed by the Governor-General in Council, and may not be removed except for misbehaviour or incapacity, and then only on an address from both Houses of The Parliament; and their salaries are not to be reduced while they continue in office.

73. **Appeals to High Court.**—The High Court may hear appeals from all decisions of federal courts, courts of federal jurisdiction, and the Supreme Courts of the States; and also (but on questions of law only) from all decisions of the Inter-State Commission. [See sections 100, 102.]

The Parliament may limit this right of appeal, but cannot prevent the High Court from hearing an appeal from the Supreme Court of a State in any case in which an appeal now lies to the Privy Council.

The decision of the High Court is to be final, except as mentioned in the next section.

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CHAPTER III.
THE JUDICATURE.

The Constitution.

Explanation.

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 jurisdic-
tion.

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.

Power to define
jurisdiction.

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 vested in the courts of the States :
- iii. Investing any court of a State with federal jurisdiction.

74. Appeals to Privy Council.—There is to be no appeal to the Privy Council in cases where the meaning of the Federal Constitution or the Constitution of a State is in question (unless the interests of some other part of the Empire are involved). In such cases, therefore, the decision of the High Court will be absolutely final.

In other cases the decision of the High Court will usually be final ; but the Privy Council may grant special leave to appeal to it in any particular case. But The Parliament may limit the matters in which such leave may be asked.

[Except in the constitutional cases above-mentioned, appeals from the Supreme Courts of the States direct to the Privy Council are not forbidden ; and there will therefore be a choice of appealing either to the High Court or direct to the Privy Council.]

75. } Original Jurisdiction.—The High Court
76. } is to have original jurisdiction [that is,
77. } a right to hear cases in the first instance]
in five kinds of cases, of a specially federal or inter-State character.

The Parliament is empowered to extend the original jurisdiction of the High Court to four other kinds of cases.

The Parliament may give similar jurisdiction to other federal courts or State courts, and may determine how far the jurisdiction of any federal court shall exclude that of the State courts.

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CHAPTER III.
THE JUDICATURE.**The Constitution.****Explanation.**Proceedings
against
Commonwealth
or State.

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.

78. **Suits against Crown.**—The Parliament may regulate the right of suing the Commonwealth, or a State, in the courts of federal jurisdiction.

Number of
Judges.

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

79. **Number of Judges.**—The Parliament may prescribe the number of judges who may exercise the federal jurisdiction of any court.

Trial by Jury.

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.

80. **Trial by Jury.**—The trial by indictment of any offence against the laws of the Commonwealth is to be by jury, and must be held in the State where the offence was committed.

CHAPTER IV.
FINANCE AND
TRADE.

CHAPTER IV.

FINANCE AND TRADE.

CHAPTER IV.

FINANCE AND TRADE.Consolidated
Revenue Fund.

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.

81. } **Consolidated Revenue Fund.**—All the
82. } revenues of the Commonwealth are to
83. } form one Consolidated Revenue Fund,
which is to be applied in the first instance to the payment of the expenditure of the Commonwealth. No money is to be drawn from the Treasury except under appropriation made by law.

Expenditure
charged thereon.

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.

But until the first Parliament meets, and for a month afterwards, the Governor-General in Council may draw money for necessary expenditure.

Money to be
appropriated by
law.

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.

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.

84. **Transfer of officers.**—Officers of the transferred departments [see section 69] are to become servants 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.

If not retained in the service, they are to receive, from the State concerned, any pension or gratuity payable under the law of the State on abolition of office.

If retained in the service of the Commonwealth, all their existing and accruing rights will be preserved, as if they had continued in the service

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The Constitution.

Explanation.

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

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

Transfer of property of State.

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

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

of the State, and any pension or retiring allowance to which they may become entitled will be contributed by the Commonwealth and the State in proper proportions.

Officers not belonging to a transferred department, but who are handed over by a State to the Commonwealth, are to have the same rights as officers of transferred departments.

85. **Transfer of property.**—Any property of a State used *exclusively* in connection with a transferred department is to belong to the Commonwealth; and any property used *partially* in connection with a transferred department may be taken over at the option of the Commonwealth.

In either case the State is to be compensated for the value of the property.

The Commonwealth is also to take over the current obligations of the States in respect of the transferred departments.

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The Constitution.

Explanation.

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.

86. Customs, excise, and bounties.—From the first, the Commonwealth will collect all duties of customs and excise, and control the payment of bounties. [But intercolonial free-trade will not begin until there is a federal tariff; see section 92; and until then the duties so collected will be according to the tariffs of the States, and the Parliaments of the States may continue to alter their tariffs.]

87. 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.

87. Application of customs and excise.—Of the net revenue from customs and excise the Commonwealth is never to spend more than one-fourth, and must either return the balance to the States or (if it takes over any of the State debts under section 104) apply it to the payment of interest.

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.

Uniform duties
of customs.

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

88. Uniform Duties.—Uniform duties must be imposed within two years.

Payment to
States before
uniform duties.

89. Until the imposition of uniform duties of customs—

89. Payments before uniform duties.—Before uniform duties, the Commonwealth is to return to each State the revenue collected in that State, less a proper share of the federal expenditure.

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

Expenditure is charged against the States in two ways: Expenditure incurred for a transferred department [see section 69] is charged against the State in which the expenditure happened; and other federal expenditure [for instance, the salaries of federal judges and members, and the interest on federal loans] is charged in proportion to population.

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.

Exclusive power
over customs,
excise, and
bounties.

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.

90. } After uniform duties; exclusive powers.

91. } —After uniform duties, the power of The Parliament to impose customs and excise duties, and to grant bounties, will become *exclusive*, and all State laws imposing such duties, or offering bounties, will come to an end. But any agreement for a bounty made by a State Government under any such law will be good if made before the 30th June, 1898, and not otherwise.

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.

Nevertheless, a State may, at its own expense, grant bounties on mining for gold, silver, or other metals; and may grant any bounties with the consent of both Houses of the Federal Parliament.

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Explanation.

Exceptions as to
bounties.

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.

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 sub-section, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

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

92. **Freetrade between States.**—After uniform duties, trade between the States is to be absolutely free.

But goods imported into any State *before* uniform duties must, if they pass into another State within two years afterwards, pay the difference between the federal duty and that which they originally paid. [This is to prevent goods from being "loaded up" in a State where the duties are light, and then becoming free of the whole Commonwealth when the inter-State duties are removed.]

93. **Payments after uniform duties.**—For five years after uniform duties, and afterwards until The Parliament otherwise provides, revenue is to be returned to the States in the same way as before uniform duties [see section 89], with one difference : duties of customs and excise are to be credited, not necessarily to the State in which the duties are collected, but to the State in which the goods are consumed. If, therefore, goods have paid duty in one State, and afterwards passed into another State for consumption, the duty is to be credited to the second State, and not to the first. [The reason for this is that the duty is presumably paid by the consumer, and should therefore be returned to his State.]

94. **Payments after five years.**—After the five years, The Parliament may provide for the return of surplus revenue to the States on such basis as it thinks fair.

95. **West Australian duties.**—Notwithstanding the provision for inter-State free trade, Western Australia has special permission, for five years after uniform duties, to impose certain customs duties on goods from the other States.

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Explanation.

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.

Audit.

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

Trade and commerce includes navigation and State railways.

97. 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.

Commonwealth not to give preference.

98. 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.

Nor abridge right to use water.

99. 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.

Inter-State Commission.

100. 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.

These duties are to be collected by the Commonwealth, and credited to Western Australia; and they are to be gradually reduced till they vanish at the end of the five years. [So much of the revenue of Western Australia is derived from customs, and especially from intercolonial duties, that it was feared that the sum returnable to that State as the result of uniform duties would be altogether insufficient. This provision enables the West Australian Treasury to meet the deficiency, at the cost of the West Australian taxpayers, by inter-State customs duties.]

If this inter-State duty happens to be higher, at any time, than the Commonwealth duty on similar goods imported from abroad, such goods imported from abroad into Western Australia are to pay the higher duty. [This is to prevent goods from places outside the Commonwealth having an advantage over goods of the Commonwealth.]

96. **Audit.**—The Parliament may make laws to regulate the receipt and expenditure of money, and the audit of federal accounts; but until it does so, the laws of the States are to apply.

97. } **Trade and Commerce.**—The power of
98. } The Parliament to make laws with respect
99. } to foreign and inter-State trade and commerce [see section 51] is explained and limited as follows:—

The power extends to navigation and shipping, and to State railways.

The Commonwealth must not, in exercising the power, give preference to one State over another; nor must it deprive the people of a State of the reasonable use of rivers for water conservation or irrigation.

100. } **Inter-State Commission.**—There is to
102. } be an Inter-State Commission to carry out the provisions of the Constitution, and of federal laws, relating to foreign and inter-State trade and commerce.

The members of the Commission are to be appointed for seven years, and during that time their independence is secured in the same way as that of the federal judges. [See section 72.]

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CHAPTER IV.
FINANCE AND
TRADE.

The Constitution.

Explanation.

Parliament
may forbid
preferences
by States.

101. 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.

Commissioners
appointment,
tenure, and
remuneration.

102. 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.

Saving of certain
rates.

103. 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.

104. 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.

101. } Railway rates.—The power of The Par-
103. } liament, by means of the trade and commerce clause, to interfere with railway rates in the States is further defined as follows:—

The Parliament may forbid any preference or discrimination by a State which is undue and unreasonable, or unjust to another State; but

- I. Due regard must be had to the financial responsibilities incurred by a State in connexion with its railways;
- II. No preference or discrimination shall be held to be undue, unreasonable, or unjust, unless the Inter-State Commission decides that it is so;
- III. No rate shall be unlawful if the Inter-State Commission think it necessary for the development of the State, and if it applies equally to goods within the State and goods coming from other States.

104.—Consolidation of debts.—The Parliament may take over the public debts of the States, or a proportion of such debts. The States are to guarantee to the Commonwealth the amount of such debts; and the interest paid on behalf of each State is to be deducted by the Commonwealth from the portion of surplus revenue returnable to that State. If such portion is not sufficient, the State is to pay the balance.

[The Commonwealth may apply to the payment of interest any part of the three-fourths of its customs and excise revenue, which would otherwise have to be returned to the States; see section 87.]

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The Constitution.

CHAPTER V.

THE STATES.

Saving of
Constitutions.

105. 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.

106. 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.

107. 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.

Inconsistency of
laws.

108. 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.

Provisions refer-
ring to Governor.

109. 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.

States may
surrender
territory.

110. 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 levy
charges for
inspection laws.

111. 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.

Explanation.

CHAPTER V.

THE STATES.

105. **State Constitutions.**—The Constitutions of the States are to continue as before, except so far as they are affected by this Constitution.

106. **Powers of State Parliaments.**—The Parliament of a colony which becomes a State is to have all its old powers except as to matters within the *exclusive* power of the Federal Parliament [see section 52], or withdrawn from the State Parliaments [see sections 113, 114]. As to matters within the *concurrent* power of the Federal Parliament [see section 51], the powers of the State Parliaments will continue, subject to the next two sections.

107 } **State Laws.**—Every State law on a sub-
108 } ject within the *concurrent* power of the
Federal Parliament [see section 51] is to continue in force until superseded by a federal law.
But when a federal law (on a subject within the legislative power of the The Parliament) conflicts with a State law, the federal law will prevail.

109. **Governor.**—"Governor" includes any person acting as Governor.

110. **Surrender of Territory.**—A State may surrender any part of its territory to the Commonwealth.

111. **Inspection Charges.**—After uniform duties, a State may levy such charges, on goods passing into or out of the State, as may be necessary for inspection purposes; but the net receipts are to go to the Commonwealth, and the Federal Parliament may annul the charges.

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CHAPTER V.
THE STATES.

The Constitution.

Explanation.

Intoxicating liquids.

112. 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.

112. **Liquor Traffic.**—A State may regulate the disposal of intoxicating liquors brought into the State. [That is, though it cannot impose duties on importation, it can regulate the consumption and sale, within its own territory, of imported liquor.]

States may not raise forces.

113. 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.

113 } **Powers withheld.**—No State may (ex-
114 } cept by consent of the Federal Parliament) raise any naval or military force, or tax any property of the Commonwealth. The Commonwealth may not tax any property of a State.

Taxation of property of Commonwealth or State.

No State may coin money, or make anything but gold and silver coin a legal tender.

States not to coin money.

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

Commonwealth not to legislate in respect of religion.

115. 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.

115. **Religious freedom.**—The Commonwealth may not make any law interfering with religious freedom.

Rights of residents in States.

116. 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.

116. **Equality of rights.**—No State may discriminate against the residents of another State.

Recognition of laws, &c., of States.

117. 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.

117. **Recognition of laws, etc.**—The laws, public records, and judicial proceedings of every State are to be recognised throughout the Commonwealth.

Protection of States from invasion and violence.

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

118. **Invasion and violence.**—The Commonwealth must protect every State against invasion; and also, if requested by the Government of the State, against domestic violence.

Custody of offenders against laws of the Commonwealth.

119. 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.

119. **Gaol accommodation.**—The States must find room in their prisons for offenders against the Commonwealth.

CHAPTER VI.
NEW STATES.

CHAPTER VI.
NEW STATES.

CHAPTER VI.
NEW STATES.

New States may be admitted or established.

120. 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.

120. **New States.**—The Parliament may admit new States, on such terms, and with so many members in each House of The Parliament, as it thinks fit.

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CHAPTER VI.
NEW STATES.**The Constitution.****Explanation.**

Government of territories.

121. 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.

121. Territories.—The Parliament may make laws for the Government of any territory acquired by the Commonwealth, and may allow such territory to be represented in The Parliament.

Alteration of limits of States.

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

122. Boundaries of States.—The Parliament may alter the boundaries of a State, but only with the consent of the Parliament of that State.

Formation of new States.

123. 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.

123. Division or union of States.—New States may be formed by the division or union of States, but only with the consent of the States affected.

CHAPTER VII.
MISCELLANEOUS.CHAPTER VII.
MISCELLANEOUS.

CHAPTER VII.

MISCELLANEOUS.

Seat of Government.

124. The seat of Government of the Commonwealth shall be determined by The Parliament, and shall be within territory vested in the Commonwealth.

124. The Federal Capital.—The Federal Capital, or "Seat of Government," is to be fixed by The Parliament, and is to be within territory belonging to the Commonwealth.

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.

Until the site is chosen, The Parliament is to meet at a place fixed by a majority of the State Governors—or, if they are equally divided, by the Governor-General.

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

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

125. Deputies.—The Queen may authorize the Governor-General to appoint deputies in any part of the Commonwealth.

Aborigines not to be counted in reckoning population.

126. 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.

126. Aborigines.—In reckoning the population of the Commonwealth or of a State [to determine either its representation in The Parliament or its share of the surplus revenue] aborigines are not to be counted.

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The Constitution.

Explanation.

CHAPTER VIII.
ALTERATION OF
CONSTITUTION.

Mode of altering
the Constitution.

CHAPTER VIII.

ALTERATION OF THE CONSTITUTION.

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

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

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.

An 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, shall not 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.)

CHAPTER VIII.

ALTERATION OF THE CONSTITUTION.

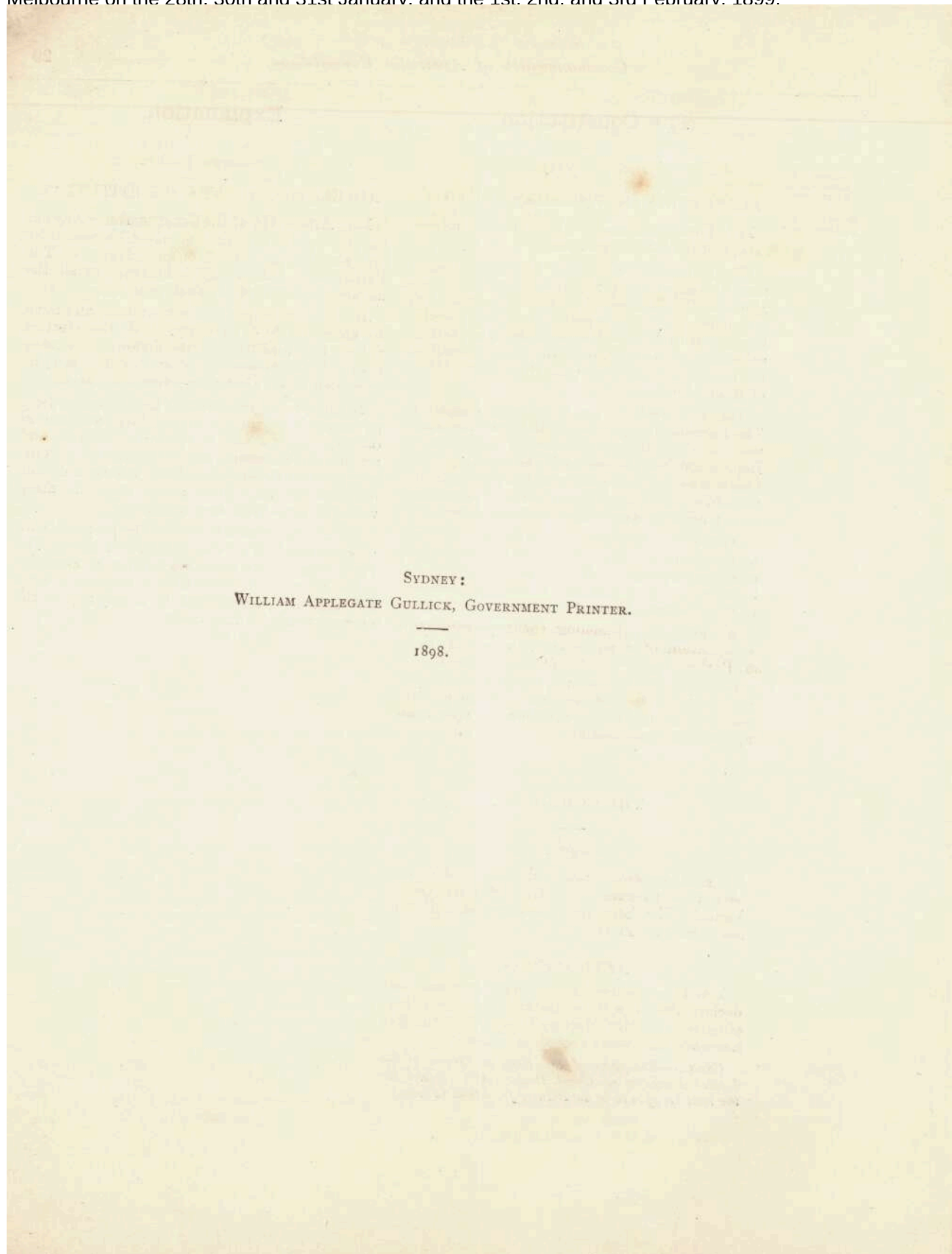
127. **Alteration of the Constitution.**—Any bill for altering the Constitution must be passed by an "absolute majority" of each House of The Parliament; that is, by a majority of all the members, not merely of those who vote.

It will then be put to a referendum, and must be approved by a majority of all the electors voting, and also by separate majorities in more than half the States. If so approved, it is to be presented to the Governor-General for assent.

In any State where women have votes (as long as women have votes in some States and not in others), only one-half of the votes, both for and against the alteration, are to be counted. [This is to prevent those States from having a double influence, as they have about twice as many voters in proportion to population.]

An alteration which reduces the proportionate representation of a State in either House of The Parliament, or its minimum number of members in the House of Representatives, may not become law unless it is approved by a majority of the electors voting in that State.

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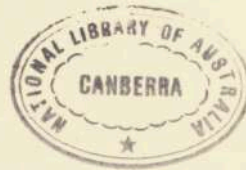


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