

1898.

NEW ZEALAND.

CONSTITUTION OF THE COMMONWEALTH OF AUSTRALIA BILL,

COPY OF THE AS FRAMED AND APPROVED BY THE AUSTRALASIAN FEDERAL CONVENTION AT ADELAIDE, SOUTH AUSTRALIA, 22ND MARCH TO 23RD APRIL, 1897, WITH EXPLANATORY NOTES BY DOCTOR QUICK (OF VICTORIA), A MEMBER OF THE CONVENTION, AND R. R. GARRAN, ESQ., BARRISTER-AT-LAW (OF NEW SOUTH WALES).

Laid on the Table of the House of Representatives, by Leave.

COPY of Federal Constitution under the Crown, framed and approved by the Australasian Federal Convention, at Adelaide, South Australia, 22nd March to 23rd April, 1897.

E. G. BLACKMORE, Clerk.

C. C. KINGSTON, President.

DRAFT OF A BILL TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

Preamble.

WHEREAS the people of [*Here name the colonies which have adopted the Constitution*] 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 make provision for the admission into the Commonwealth of other Australasian Colonies and possessions of Her Majesty: 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.

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

Act to bind Crown. Application of provisions shall extend to the Queen's successors.

2. This Act shall bind the Crown, and its provisions referring to Her Majesty the Queen shall extend to her heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

Constitution of the Commonwealth of Australia.

Power to proclaim Commonwealth of Australia.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than six months after the passing of this Act, the people of [*Here name the colonies which have adopted the Constitution*] (hereinafter severally included in the expression "the said colonies") shall be united in a Federal Constitution under the name of "The Commonwealth of Australia"; and on and after that day the Commonwealth shall be established under that name.

Commencement of Act.

4. Unless it is otherwise expressed or implied, this Act shall commence and have effect on and from the day so appointed in the Queen's Proclamation; and the name "The Commonwealth of Australia" or "The Commonwealth" shall be taken to mean the Commonwealth of Australia as constituted under this Act.

"States."

5. The term "The States" shall be taken to mean such of the Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia as for the time being form part of the Commonwealth, and such colonies or States as may hereafter be admitted into or established by the Commonwealth, and each of such parts of the Commonwealth shall be hereafter designated a "State."

Repeal of 48 and 49 Vict., chap. 60.

6. "The Federal Council of Australasia Act, 1885," is hereby repealed, but such repeal shall not affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Constitution of the Commonwealth.

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

Operation of the Constitution and laws of the Commonwealth.

7. The Constitution established by this Act, and all laws made by the Parliament of the Commonwealth in pursuance of the powers conferred by the Constitution, and all treaties made by the Commonwealth, shall, according to their tenor, be binding on the Courts, Judges, and people of every State and of every part of the Commonwealth, anything in the laws of any State to the contrary notwithstanding; and the laws and treaties of the Commonwealth shall be in force on board of all British ships whose last port of clearance or whose port of destination is in the Commonwealth.

Constitution.

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

THE CONSTITUTION.

Division of Constitution.

This Constitution is divided into Chapters and Parts as follows:—

- CHAPTER I.—The Parliament.
 - Part I.—General.
 - Part II.—The Senate.
 - Part III.—The House of Representatives.
 - Part IV.—Provisions relating to both Houses.
 - Part V.—Powers of the Parliament.
- CHAPTER II.—The Executive Government.
- CHAPTER III.—The Federal Judicature.
- CHAPTER IV.—Finance and Trade.
- CHAPTER V.—The States.
- CHAPTER VI.—New States.
- CHAPTER VII.—Miscellaneous.
- CHAPTER VIII.—Amendment of the Constitution.

CHAPTER I.—THE PARLIAMENT.

PART I.—GENERAL.

Legislative powers.

1. The legislative powers 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. The Queen may, from time to time, appoint a Governor-General, who shall be Her Majesty's representative in the Commonwealth, and who shall have, and may exercise in the Commonwealth during the Queen's pleasure, and subject to the provisions of this Constitution, such powers and functions of the Queen as Her Majesty may think fit to assign to him.

Salary of Governor-General.

3. Until the Parliament otherwise provides, the annual salary of the Governor-General shall be ten thousand pounds, and shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth.

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

Application of 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 be the Chief Executive Officer or Administrator of the Government of the Commonwealth, by whatever title he is designated; 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.

Oath of allegiance. Schedule.

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

Governor-General to fix time and places for holding session of Parliament. Power of dissolution of House of Representatives. First session of Parliament.

6. The Governor-General may appoint such times for holding the first and every other session of the Parliament as he may think fit, giving sufficient notice thereof; and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

The Parliament shall be called together not later than six months after the establishment of the Commonwealth.

Yearly session of Parliament.

7. 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.

Privileges, &c., of Houses.

8. The privileges, immunities, and powers of the Senate and of the House of Representatives, and of the members and the Committees of each House, shall be such as are from time to time 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.

PART II.—THE SENATE.

The Senate.

9. The Senate shall be composed of six Senators for each State, and each Senator shall have one vote.

The Senators shall be directly chosen by the people of the State as one electorate.

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

The Parliament shall have power, from time to time, to increase or diminish the number of Senators for each State, but so that the equal representation of the several States shall be maintained and that no State shall have less than six Senators.

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, and if any elector votes more than once he shall be guilty of a misdemeanour.

Mode of election of Senators.

10. The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the Senators. Subject to such laws, if any, the Parliament of each State may determine the time, place, and manner of choosing the Senators for that State.

Continuance of existing election laws until the Parliament otherwise provides.

Until such determination, and unless the Parliament of the Commonwealth otherwise provides, the laws in force in the several States for the time being, relating to the following matters—namely, the manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, Returning Officers, the periods during which elections may be continued, and offences against the laws regulating such elections—shall, as nearly as practicable, apply to elections in the several States of Senators.

Failure of a State to choose members not to prevent business.

11. The failure of any State to provide for its representation in the Senate shall not affect the power of the Senate to proceed to the despatch of business.

Issue of writs.

12. For the purpose of holding elections of members to represent any State in the Senate the Governor of the State may cause writs to be issued by such persons, in such form and addressed to such Returning Officers as he thinks fit.

Retirement of members.

13. As soon as practicable after the Senate first meets the Senators chosen for each State shall be divided by lot into two classes. The places of the Senators of the first class shall be vacated 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 commencement of their term of service as herein declared, and afterwards there shall be an election every third year accordingly.

For the purposes of this section the term of service of a Senator shall begin on and be reckoned from the first day of January next succeeding the day of his election, except in the case of the first election, when it shall be reckoned from the first day of January preceding the day of his election. The election to fill the places of Senators retiring by rotation shall be made in the year preceding the day on which they are to retire.

How vacancies filled.

14. If the place of a Senator becomes vacant before the expiration of his term of service the Houses of Parliament of the State he represented shall, sitting and voting together, choose a person to fill the vacancy until the expiration of the term or until the election of a successor as hereinafter provided, whichever first happens. And if the Houses of Parliament of the State are in recess at the time when the vacancy occurs, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to fill the vacancy until 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.

Qualifications of member.

15. The qualifications of a Senator shall be those of a member of the House of Representatives.

Election of President of the Senate.

16. The Senate shall, at its first meeting and before proceeding to the despatch of any other business, choose a member to be President of the Senate; and as often as the office of President

becomes vacant the Senate shall again choose a member to be the President; and the President shall preside at all meetings of the Senate; and the choice of the President shall be made known to the Governor-General by a deputation of the Senate.

The President may be removed from office by a vote of the Senate. He may resign his office; and upon his ceasing to be a member his office shall become vacant.

Absence of President provided for.

17. The Senate may choose a member to perform the duties of the President in his absence.

Resignation of place in Senate.

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

Disqualification of member by absence.

19. 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 entered on its Journals, fail to attend the Senate.

Vacancy in Senate to be notified to Governor of State.

20. Upon the happening of a vacancy in the Senate, the President, or, if there be no President or if the President is absent from the Commonwealth, the Governor-General, shall forthwith notify the same to the Governor of the State in the representation of which the vacancy has happened.

Questions as to qualifications and vacancies in States Assembly.

21. Until the Parliament otherwise provides, any question respecting the qualification of a Senator, or a vacancy in the Senate, shall be determined by the Senate.

Quorum of Senate.

22. The presence of at least one-third of the whole number of 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 the President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

PART III.—THE HOUSE OF REPRESENTATIVES.

Constitution of House of Representatives.

24. The House of Representatives shall be composed of members directly chosen by the people of the several States, according to their respective numbers; as nearly as practicable there shall be two members of the House of Representatives for every one member of the Senate.

Until the Parliament otherwise provides for the method of determining the number of members for each quota, there shall be one member for each quota of the people of the State; and the quota shall, whenever necessary, be ascertained by dividing the population of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the members of the Senate; and the number of members to which each State is entitled shall be determined by dividing the population of the State, as shown by the latest statistics of the Commonwealth, by the quota.

But each of the existing Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia shall be entitled to five representatives at the least.

Provision for case of persons not allowed to vote.

25. In ascertaining the number of the people of any State, so as to determine the number of members to which the State is entitled, there shall be deducted from the whole number of the people of the State the number of the people of any race not entitled to vote at elections for the more numerous House of the Parliament of the State.

Mode of calculating number of members.

26. When, upon the apportionment of Representatives, it is found that after dividing the number of the people of a State by the quota there remains a surplus greater than one-half of such quota, the State shall have one more Representative.

Representatives in first Parliament.

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

Increase of number of House of Representatives.

28. Subject to the provisions of this Constitution, the number of members of the House of Representatives may be from time to time increased or diminished by the Parliament.

Electoral divisions.

29. Until the Parliament otherwise provides, the electoral divisions of the several States for the purpose of returning members of the House of Representatives, and the number of members to be chosen for each electoral division, shall be determined from time to time by the Parliaments of the several States. Until division each State shall be one electorate.

Qualification of electors.

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 such members each elector shall vote only once, and if any elector votes more than once he shall be guilty of a misdemeanour; and no elector who has at the establishment of the Commonwealth, or who afterwards acquires, a right to vote at elections for the more numerous House of the Parliament of the State shall, whilst the qualification continues, be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives.

Qualifications of members of House of Representatives.

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

- (1.) He must be of the full age of twenty-one years, and must when chosen be an elector entitled to vote in some State 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 elected:
- (2.) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a law of Great Britain and Ireland, or of one of the said colonies or of the Commonwealth or of a State, at least five years before he is elected.

Members of States Assembly ineligible for House of Representatives.

32. A member of the Senate shall not be capable of being chosen or of sitting as a member of the House of Representatives.

Election of Speaker of the House of Representatives.

33. The House of Representatives shall, at its first meeting after every general election, and before proceeding to the dispatch 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 Speaker; and the Speaker shall preside at all meetings of the House; and the choice of the Speaker shall be made known to the Governor-General by a deputation of the House.

The Speaker may be removed from office by a vote of the House, or may resign his office.

Absence of Speaker provided for.

34. The House of Representatives may choose a member to perform the duties of the Speaker during his absence.

Resignation of place in House of Representatives.

35. 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 of member.

36. The place of a member shall become vacant if, for two consecutive months of any session of the Parliament, he, without permission of the House entered on its Journals, fail to attend the House.

Issue of new writs.

37. Upon the happening of a vacancy 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 shall issue the writ.

Quorum of House of Representatives.

38. 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.

39. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker; and when the votes are equal the Speaker shall have a casting-vote, but otherwise he shall not vote.

Duration of House of Representatives.

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

The Parliament shall be called together not later than thirty days after the day appointed for the return of the writs for a general election.

Writs for general election.

41. For the purpose of holding general elections of members to serve in the House of Representatives, the Governor-General may cause writs to be issued by such persons, in such form, and addressed to such Returning Officers, as he thinks fit.

The writs shall be issued within ten days from the expiry of a Parliament, or from the proclamation of a dissolution.

Continuance of existing election laws until the Parliament otherwise provides.

42. Until the Parliament otherwise provides, the laws in force in the several States for the time being, relating to the following matters—namely, the manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, the

Returning Officers, the periods during which elections may be continued, the execution of new writs in case of places vacated otherwise than by dissolution, and offences against the laws regulating such elections—shall, as nearly as practicable, apply to elections in the several States of members of the House of Representatives.

Questions as to qualifications and vacancies.

43. Until the Parliament otherwise provides, any question respecting the qualification of a member or a vacancy in the House of Representatives shall be determined by the House.

PART IV.—PROVISIONS RELATING TO BOTH HOUSES.

Allowance to members.

44. Until the Parliament otherwise provides, each member, whether of the Senate or of the House of Representatives, shall receive an allowance for his services of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

Disqualifications of members.

45. Any person—

- (1.) Who has taken an oath or made a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or has done any act whereby he has become a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power; or
- (2.) Who is an undischarged bankrupt or insolvent, or a public defaulter; or
- (3.) Who is attainted of treason, or convicted of felony or of any infamous crime,

shall be incapable of being chosen or of sitting as a member of the Senate or of the House of Representatives until the disability is removed by a grant of a discharge, or the expiration or remission of the sentence, or a pardon, or release, or otherwise.

Place to become vacant on happening of certain disqualifications.

46. If a member of the Senate or of the House of Representatives,—

- (1.) Takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or does any act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power; or
- (2.) Is adjudged bankrupt or insolvent, or takes the benefit of any law relating to bankrupt or insolvent debtors, whether by assignment, composition, or otherwise, or becomes a public defaulter; or
- (3.) Is attainted of treason or convicted of felony or of any infamous crime,

his place shall thereupon become vacant.

Disqualifying contractors and persons interested in contracts.

47. Any person who directly or indirectly himself, or by any person in trust for him or for his use or benefit or on his account, undertakes, executes, holds, or enjoys, in the whole or in part, any agreement for or on account of the public service of the Commonwealth shall be incapable of being chosen or of sitting as a member of the Senate or of the House of Representatives while he executes, holds, or enjoys the agreement, or any part or share of it, or any benefit or emolument arising from it.

Any person, being a member of the Senate or of the House of Representatives, who, in the manner or to the extent forbidden in this section, undertakes, executes, holds, enjoys, or continues to hold or enjoy, any such agreement shall thereupon vacate his place.

Proviso exempting members of trading companies.

But this section does not extend to any agreement made, entered into, or accepted by an incorporated company consisting of more than twenty persons, if the agreement is made, entered into, or accepted for the general benefit of the company.

Any person, being a member of the Senate or of the House of Representatives, who, directly or indirectly, accepts or receives any fee or honorarium for work done or services rendered by him for or on behalf of the Commonwealth, whilst sitting as such member, shall thereupon vacate his place.

Place to become vacant on accepting office of profit.

48. If a member of the Senate or of the House of Representatives accepts any office of profit under the Crown, not being one of the offices of profit held during the pleasure of the Governor-General, and the holders of which are by this Constitution declared to be capable of being chosen and of sitting as members of either House of the Parliament, or accepts any pension payable out of any of the revenues of the Commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such office, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a member of either House of the Parliament.

Until the Parliament otherwise provides, no person being a member, or within six months of his ceasing to be a member, shall be qualified or permitted to accept or hold any office the acceptance or holding of which would, under this section, render a person incapable of being chosen or of sitting as a member.

Exceptions.

But this section does not apply to a person who is in receipt only of pay, half-pay, or a pension as an officer or member of the Queen's navy or army, or who receives a new commission in the Queen's navy or army, or an increase of pay on a new commission, or who is in receipt only of pay as an officer or member of the military or naval forces of the Commonwealth and whose services are not wholly employed by the Commonwealth.

Penalty for sitting when disqualified.

49. If any person by this Constitution declared to be incapable of sitting in the Senate or the House of Representatives, or disqualified or prohibited from accepting or holding any office, sits as a member of either House, or accepts or holds such office, he shall, for every day on which he sits or holds such office, be liable to pay the sum of one hundred pounds to any person who may sue for it in any Court of competent jurisdiction.

Disputed elections.

50. Until the Parliament otherwise provides, all questions of disputed elections arising in the Senate or the House of Representatives shall be determined by a Federal Court, or a Court exercising federal jurisdiction.

Standing rules and orders to be made.

51. The Senate and the House of Representatives may each of them from time to time adopt standing rules and orders as to the following matters:—

- (1.) The orderly conduct of the business of the Senate and of the House of Representatives respectively;
- (2.) The mode in which the Senate and the House of Representatives shall confer, correspond, and communicate with each other relative to votes or proposed laws;
- (3.) The manner in which notices of proposed laws, resolutions, and other business intended to be submitted to the Senate and the House of Representatives respectively may be published for general information;
- (4.) The manner in which proposed laws are to be introduced, passed, numbered, and intitled;
- (5.) The proper presentation of any proposed laws passed by the Senate and the House of Representatives to the Governor-General for his assent: and
- (6.) The conduct of all business and proceedings of the Senate and the House of Representatives, severally and collectively.

PART V.—POWERS OF THE PARLIAMENT.

Legislative powers of the Parliament.

52. The Parliament shall, subject to the provisions of this Constitution, have full power and authority to make laws for the peace, order, and good government of the Commonwealth with respect to all or any of the matters following, that is to say,—

- (1.) The regulation of trade and commerce with other countries, and among the several States;
- (2.) Customs and excise and bounties; but so that duties of Customs and excise and bounties shall be uniform throughout the Commonwealth, and that no tax or duty shall be imposed on any goods exported from one State to another;
- (3.) Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the Commonwealth;
- (4.) Borrowing money on the public credit of the Commonwealth;
- (5.) Postal, telegraphic, telephonic, and other like services;
- (6.) The military and naval defence of the Commonwealth and the several States, and the calling out of the forces to execute and maintain the laws of the Commonwealth;
- (7.) Munitions of war;
- (8.) Navigation and shipping;
- (9.) Ocean beacons and buoys, and ocean lighthouses and lightships;
- (10.) Astronomical and meteorological observations;
- (11.) Quarantine;
- (12.) Fisheries in Australian waters beyond territorial limits;
- (13.) Census and statistics;
- (14.) Currency, coinage, and legal tender;
- (15.) Banking, the incorporation of banks, and the issue of paper-money;
- (16.) Insurance, excluding State insurance not extending beyond the limits of the State concerned;
- (17.) Weights and measures;
- (18.) Bills of exchange and promissory notes;
- (19.) Bankruptcy and insolvency;
- (20.) Copyrights and patents of inventions, designs, and trade-marks;
- (21.) Naturalisation and aliens;
- (22.) Foreign corporations, and trading or financial corporations formed in any State or part of the Commonwealth;
- (23.) Marriage and divorce;
- (24.) Parental rights, and the custody and guardianship of infants;
- (25.) The service and execution throughout the Commonwealth of the civil and criminal process and judgments of the Courts of the States;
- (26.) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States;
- (27.) Immigration and emigration;
- (28.) The influx of criminals;
- (29.) External affairs and treaties;
- (30.) The relations of the Commonwealth to the islands of the Pacific;

- (31.) The control and regulation of the navigation of the River Murray, and the use of the waters thereof from where it first forms the boundary between Victoria and New South Wales to the sea ;
- (32.) The control of railways with respect to transport for the military purposes of the Commonwealth ;
- (33.) The taking over by the Commonwealth, with the consent of the State, of the whole or any part of the railways of any State or States upon such terms as may be arranged between the Commonwealth and the State ;
- (34.) Railway construction and extension, with the consent of any State or States concerned ;
- (35.) 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 the State or States by whose Parliament or Parliaments the matter was referred, and to such other States as may afterwards adopt the law ;
- (36.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States concerned, of any legislative powers 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 ;
- (37.) Any matters necessary for, or incidental to, the carrying into execution of the foregoing powers or of any other powers vested by this Constitution in the Parliament or the Executive Government of the Commonwealth, or in any department or officer thereof.

Exclusive powers of the Parliament.

53. The Parliament shall, subject to the provisions of this Constitution, have exclusive powers to make laws for the peace, order, and good government of the Commonwealth with respect to the following matters :—

- (1.) The affairs of the people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community ; but so that this power shall not extend to authorise legislation with respect to the affairs of the aboriginal native race in any State.
- (2.) The government of any territory which, by the surrender of any State or States and the acceptance of the Commonwealth, becomes the seat of Government of the Commonwealth ; and the exercise of like authority over all places acquired by the Commonwealth, with the consent of the State in which such places are situate, for the construction of forts, magazines, arsenals, dockyards, quarantine-stations, or for any other purposes of general concern.
- (3.) Matters relating to any department or departments of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth.
- (4.) Such other matters as are by this Constitution declared to be within the exclusive powers of the Parliament.

Money Bills.

Money Bills.

54. Proposed laws having for their main object the appropriation of any part of the public revenue or moneys, or the imposition of any tax or impost, shall originate in the House of Representatives.

Appropriation and Tax Bills.

55. (1.) The Senate shall have equal power with the House of Representatives in respect of all proposed laws, except laws imposing taxation and laws appropriating the necessary supplies for the ordinary annual services of the Government, which the Senate may affirm or reject, but may not amend. But the Senate may not amend any proposed law in such a manner as to increase any proposed charge or burden on the people.

(2.) Laws imposing taxation shall deal with the imposition of taxation only.

(3.) Laws imposing taxation, except laws imposing duties of Customs on imports 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.

(4.) The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same law as that which appropriates the supplies for the ordinary annual services, but shall be authorised by a separate law or laws.

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

Recommendation of money votes.

56. It shall not be lawful for the Senate or the House of Representatives to pass any vote, resolution, or proposed law, for the appropriation of any part of the public revenue or moneys to any purpose which has not been first recommended to the House in which the proposal for appropriation originated by message of the Governor-General in the session in which the vote, resolution, or law is proposed.

Royal Assent.

Royal assent to Bills.

57. When a proposed law passed by the 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 the provisions of this Constitution, either that he assents to it in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure to be made known.

Governor-General. Amendments.

The Governor-General may return to the House of the Parliament in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend to be made in such law, and the Houses may deal with the proposed amendments as they think fit.

Disallowance by Order in Council of law assented to by Governor-General.

58. When the Governor-General assents to a law in the Queen's name he shall, by the first convenient opportunity, send an authentic copy to the Queen; and if the Queen in Council, within one year after the receipt thereof, thinks fit to disallow the law, 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 and after the day when the disallowance is so made known.

Signification of Queen's pleasure on Bill reserved.

59. 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 assent of the Queen in Council.

An entry of every such speech, message, or Proclamation shall be made in the Journals of each House.

CHAPTER II.—THE EXECUTIVE GOVERNMENT.

Executive power to be vested in the Queen.

60. The executive power and authority of the Commonwealth is vested in the Queen, and shall be exercised by the Governor-General as the Queen's representative.

Constitution of Executive Council for Commonwealth.

61. There shall be a Council to aid and advise the Governor-General in the government of the Commonwealth, and such Council shall be styled the Federal Executive Council; and the persons who are to be members of the Council shall be from time to time chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

Application of provisions referring to Governor-General.

62. 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.

The Executive Government. Ministers of State.

63. For the administration of the Executive Government of the Commonwealth, the Governor-General may from time to time appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may from time to time establish, and such officers shall hold office during the pleasure of the Governor-General, and shall be capable of being chosen and of sitting as members of either House of the Parliament.

Such officers shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.

Ministers to sit in Parliament.

After the first general election no Minister of State shall hold office for a longer period than three calendar months unless he shall be or become a member of one of the Houses of the Parliament.

Number of Ministers.

64. Until the Parliament otherwise provides, the number of Ministers of State who may sit in either House shall not exceed seven, who shall hold such offices, and by such designation, as the Parliament from time to time prescribes, or, in the absence of provision, as the Governor-General from time to time directs.

Salaries of Ministers.

65. Until the Parliament otherwise provides, there shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of such officers the sum of twelve thousand pounds a year.

Appointment of Civil Servants.

66. Until the Parliament otherwise provides, the appointment and removal of all other officers of the Government of the Commonwealth shall be vested in the Governor-General in Council.

Authority of Executive.

67. The executive power and authority of the Commonwealth shall extend to the execution of the provisions of this Constitution, and of the laws of the Commonwealth.

Command of Military and Naval Forces.

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

Immediate assumption of control of certain departments.

69. On the establishment of the Commonwealth, the control of the following departments of the public service in each State shall become transferred to the Executive Government of the Commonwealth, that is to say,—

- Customs and excise.
- Posts and telegraphs.
- Military and naval defence.
- Ocean beacons and buoys, and ocean lighthouses and lightships.
- Quarantine.

The obligations of each State in respect of the departments transferred shall thereupon be assumed by the Commonwealth.

Powers under existing law to be exercised by Governor-General with advice of Executive Council.

70. All powers and functions which are, at the date of the establishment of the Commonwealth, vested in the Governor of a colony, with or without the advice of his Executive Council, or in any officer or authority in a colony, shall, so far as the same continue in existence and need to be exercised in relation to the government of the Commonwealth, with respect to any matters which, under this Constitution, pass to the Executive Government of the Commonwealth, vest in the Governor-General, with the advice of the Federal Executive Council, or in the officer or authority exercising similar powers or functions in or under the Executive Government of the Commonwealth.

CHAPTER III.—THE FEDERAL JUDICATURE.

Judicial power and Courts.

71. The judicial power of the Commonwealth shall be vested in one Supreme Court, to be called the High Court of Australia, and in such other Courts as the Parliament may from time to time create or invest with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than four, as the Parliament may from time to time prescribe.

Judges' tenure, appointment, removal, and remuneration.

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

- (1.) Shall hold their offices during good behaviour;
- (2.) Shall be appointed by the Governor-General in Council;
- (3.) Shall not be removed except for misbehaviour or incapacity, and then only by the Governor-General in Council, upon an address from both Houses of the Parliament, in the same session, praying for such removal;
- (4.) Shall receive such remuneration as the Parliament may from time to time fix; but such remuneration shall not be diminished during their continuance in office.

Extent of judicial power.

73. The judicial power shall extend to all matters,—

- (1.) Arising under this Constitution, or involving its interpretation;
- (2.) Arising under any laws made by the Parliament;
- (3.) Arising under any treaty;
- (4.) Of admiralty and maritime jurisdiction;
- (5.) Affecting the public ministers, consuls, or other representatives of other countries;
- (6.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party;
- (7.) In which a writ of *mandamus* or prohibition is sought against an officer of the Commonwealth;
- (8.) Between States;
- (9.) Relating to the same subject-matter claimed under the laws of different States.

Appellate jurisdiction of High Court.

74. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament may from time to time prescribe, to hear and determine appeals from all judgments, decrees, orders, and sentences of any other Federal Court, or Court exercising federal jurisdiction, or of the Supreme Court of any State, whether any such Court is a Court of appeal or of original jurisdiction; and the judgment of the High Court in all such cases shall be final and conclusive.

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

No appeals to the Queen in Council except in certain cases.

75. No appeal shall be allowed to the Queen in Council from any Court of any State or from the High Court or any other Federal Court, except that the Queen may, in any matter in which the public interests of the Commonwealth, or of any State, or of any other part of her dominions, are concerned, grant leave to appeal to the Queen in Council from the High Court.

Jurisdiction of Courts.

76. Within the limits of the judicial power the Parliament may from time to time,—

- (1.) Define the jurisdiction to be exercised by the Federal Courts other than the High Court;
- (2.) Prescribe whether the jurisdiction of the Federal Courts shall be exclusive of, or concurrent with, that which may belong to, or be vested in, the Courts of the States;
- (3.) Invest the Courts of the States with federal jurisdiction within such limits, or in respect of such matters, as it thinks fit.

Original jurisdiction of High Court.

77. In all matters,—

- (1.) Affecting public ministers, consuls, or other representatives of other countries ;
- (2.) Arising under any treaty ;
- (3.) Between States ;
- (4.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party ;
- (5.) In which a writ of *mandamus* or prohibition is sought against an officer of the Commonwealth,

the High Court shall have original as well as appellate jurisdiction.

Additional original jurisdiction may be conferred.

The Parliament may confer original jurisdiction on the High Court in other matters within the judicial power.

Number of Judges.

78. The jurisdiction of the High Court, or of any other Court exercising federal jurisdiction, may be exercised by such number of Judges as the Parliament prescribes.

Trial by jury.

79. The trial of all indictable offences cognisable by any Court established under the authority of this Constitution shall be by jury, and every such trial shall be held in the State where the offence has been committed, and when not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

Judges not to be Governor-General, &c.

80. No person holding any judicial office shall be appointed to or hold the office of Governor-General, Lieutenant-Governor, Chief Executive Officer, or Administrator of the Government, or any other executive office.

CHAPTER IV.—FINANCE AND TRADE.

Consolidated Revenue Fund.

81. All revenue raised or received by the Executive Government of the Commonwealth, under the authority of this Constitution, shall form one Consolidated Revenue Fund, to be appropriated for the public service of the Commonwealth in the manner and subject to the charges provided by this Constitution.

Expenses of collection.

82. The Consolidated Revenue Fund shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, which costs, charges, and expenses 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.

Money to be appropriated by law.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law and by warrant, countersigned by the Chief Officer of Audit of the Commonwealth.

The Commonwealth to have exclusive power to levy duties of Customs and excise, and offer bounties after a certain time.

84. The Parliament shall have the sole power and authority, subject to the provisions of this Constitution, to impose Customs duties, to impose duties of excise, and to grant bounties upon the production or export of goods.

But this exclusive power shall not come into force until uniform duties of Customs have been imposed by the Parliament.

Upon the imposition of uniform duties of Customs, all laws of the several States imposing duties of Customs or duties of excise, and all such laws offering bounties upon the production or export of goods, shall cease to have effect.

The control and collection of duties of Customs and excise, and the control of the payment of bounties, shall nevertheless pass to the Executive Government of the Commonwealth upon the establishment of the Commonwealth.

This section shall not apply to bounties or aids to mining for gold, silver, or other metals.

Transfer of officers.

85. Upon the establishment of the Commonwealth, all officers employed by the Government of any State in any department of the public service, the control of which is by this Constitution assigned to the Commonwealth, shall become subject to the control of the Executive Government of the Commonwealth ; and thereupon any such officer shall, if he is not retained in the service of the Commonwealth, be entitled to receive from the State any gratuity or other compensation payable under the law of the State on abolition of his office ; but if he is retained in the service of the Commonwealth he shall be entitled to retire from office at the time and upon the pension or retiring-allowance permitted and provided by the law of the State on such retirement, and the pension or retiring-allowance shall be paid by the State and by the Commonwealth respectively in the proportion which his service with the State bears to the whole term of his service, and all existing and accruing rights of any officers so retained in the service of the Commonwealth shall be preserved.

Transfer of land, buildings, vessels, &c.

86. All lands, buildings, works, vessels, materials, and things necessarily appertaining to, or used in connection with, any department of the public service, the control of which is by this Constitution transferred to the Commonwealth, shall, from the establishment of the Commonwealth, be taken over by and vest in the Commonwealth, either absolutely or, in the case of the department controlling Customs and excise and bounties, for such time as may be necessary.

The fair value thereof, or of the use thereof, as the case may be, shall be paid by the Commonwealth to the State from which they are taken over. Such value shall be ascertained by mutual agreement, or, if no agreement can be made, in the manner in which the value of land, or of an interest in land, taken by the Government of the State for the like public purposes is ascertained under the laws of the State at the establishment of the Commonwealth.

Collection of existing duties of Customs and excise.

87. Until uniform duties of Customs have been imposed, the powers of the Parliaments of the several States existing at the establishment of the Commonwealth respecting the imposition of duties of Customs, the imposition of duties of excise, and the offering of bounties upon the production or export of goods, and the collection and payment thereof respectively, shall continue.

Until uniform duties have been imposed, the laws of the several States in force at the establishment of the Commonwealth respecting duties of Customs, duties of excise, and bounties, and the collection and payment thereof, shall remain in force, subject to such alterations of the amount of duties or bounties as the Parliaments of the several States may make from time to time; and the duties and bounties shall continue to be collected and paid as theretofore, but by the officers of the Commonwealth.

Uniform duties of Customs.

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

On establishment of uniform duties of Customs and excise, trade within the Commonwealth to be free.

89. So soon as uniform duties of Customs have been imposed, trade and intercourse throughout the Commonwealth, whether by means of internal carriage or ocean navigation, shall be absolutely free.

Accounts to be kept.

90. Until uniform duties of Customs have been imposed, there shall be shown, in the books of the Treasury of the Commonwealth, in respect of each state,—

- (1.) The revenues collected from duties of Customs and excise, and from the performance of the services and the exercise of the powers transferred from the State to the Commonwealth by this Constitution :
- (2.) The expenditure of the Commonwealth in the collection of duties of Customs and excise, and in the performance of the services and the exercise of the powers transferred from the State to the Commonwealth by this Constitution :
- (3.) The monthly balance (if any) in favour of the State.

Balance to be paid to States after deduction.

From the balance so found in favour of each State there shall be deducted its share of the expenditure of the Commonwealth in the exercise of the original powers given to it by this Constitution, and this share shall be in the numerical proportion of the people of the State to those of the Commonwealth as shown by the latest statistics of the Commonwealth. After such deduction the surplus shown to be due to the State shall be paid to the State month by month.

Expenditure.

91. During the first three years after the establishment of the Commonwealth, notwithstanding anything contained in the last section, the total yearly expenditure of the Commonwealth in the exercise of the original powers given to it by this Constitution shall not exceed the sum of three hundred thousand pounds; and the total yearly expenditure of the Commonwealth in the performance of the services and the exercise of the powers transferred from the States to the Commonwealth by this Constitution shall not exceed the sum of one million two hundred and fifty thousand pounds.

Payment to each State for five years after uniform tariffs.

92. During the first five years after uniform duties of Customs have been imposed the aggregate amount to be paid to the whole of the States for any year shall not be less than the aggregate amount returned to them during the year last before the imposition of such duties.

- (1.) Subject to the last paragraph, for a period of five years after the imposition of uniform duties of Customs, the total amount of duties of Customs and excise collected in each year in any State, or estimated as hereinafter provided, as the case may require, shall be repaid to such State of the Commonwealth, after deducting from the amount, in proportion to the population, the share of the State in the total expenditure of the Commonwealth not provided for by other means of revenue. The repayment shall be made month by month to the several States, in, as nearly as practicable, the proper proportions.
- (2.) For the purpose of ascertaining the proportion of revenue from Customs and excise collected in each State, there shall, for the first year after the imposition of uniform duties of Customs, be shown in the books of the Treasury of the Commonwealth the total amount collected in each State for duties of Custom and excise.
- (3.) During such first year the duty chargeable under the uniform tariff upon goods which are imported into any State (whether duty has or has not been actually paid

- thereon), and during that year exported to any other State for consumption therein, shall be deemed to have been collected in, and shall be credited to, such other State only; and all duties of excise paid in respect of any goods manufactured in any State, and so exported to another State for consumption therein, shall be deemed to have been collected in, and shall be credited to, such other State only.
- (4.) For the purpose of estimating the amount of the Customs and excise arising in each State during each of the four years next after such first year, an average shall be taken by dividing the total Customs and excise collected in the whole Commonwealth during such first year by the total population of the Commonwealth, as shown by the latest statistics of the Commonwealth, and the result shall be deemed to be the amount contributed by each person.
- (5.) Where the amount credited to any State during such first year is in excess of the amount of the average so ascertained, there shall, in each of the next four years, be deducted therefrom one-fifth part of the excess; and where the amount so credited is less than such average, there shall be added to the amount one-fifth part of the sum by which the amount so credited is less than the average; and the sums so ascertained shall be the estimated amounts to be repaid in each of the four years to the States respectively.

Distribution of surplus.

93. After the expiration of five years from the imposition of uniform duties of Customs, each State shall be deemed to contribute to the revenue an equal sum per head of its population, and all surplus revenue over the expenditure of the Commonwealth shall be distributed month by month among the several States in proportion to the numbers of their people as shown by the latest statistics of the Commonwealth.

Audit of accounts.

94. Until the Parliament otherwise provides, the laws in force in the several colonies at the establishment of the Commonwealth 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 respective States in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned therein whenever a colony, or the Government or an officer of a colony, is mentioned or referred to.

Equality of Trade.

No derogation from freedom of trade.

95. Preference shall not be given by any law or regulation of commerce or revenue to the ports of one State over the ports of another State, and any law or regulation made by the Commonwealth or by any State, or by any authority constituted by the Commonwealth or by any State, having the effect of derogating from freedom of trade or commerce between the different parts of the Commonwealth shall be null and void.

Inter-State Commission.

96. The Parliament may make laws constituting an Inter-State Commission to execute and maintain upon railways within the Commonwealth, and upon rivers flowing through, in, or between two or more States, the provisions of this Constitution relating to trade and commerce.

Powers of Commission.

97. The Commission shall have such powers of adjudication and administration as may be necessary for its purposes and as the Parliament may from time to time determine.

Taking over public debts of States.

98. The Parliament may take over the whole, or a rateable proportion, of the public debts of the States as existing at the establishment of the Commonwealth, and may from time to time convert, renew, or consolidate such debts, or any part thereof; and the States respectively shall indemnify the Commonwealth in respect of the amount of the debts taken over, and thereafter the amount of interest payable in respect of the debts shall be deducted and retained from time to time from the respective shares of the surplus revenue of the Commonwealth which would otherwise be payable to the States, or if there be no surplus revenue payable, or if such surplus revenue be insufficient, then the amount shall be charged to and paid by the respective States, wholly or in part. The rateable proportion of the debts of the several States to be taken over is to be calculated on the basis of the populations of the several States as ascertained by the latest statistics of the Commonwealth.

CHAPTER V.—THE STATES.

Continuance of powers of Parliaments of the States.

99. All powers which, at the establishment of the Commonwealth, are vested in the Parliaments of the several colonies, and which are not by this Constitution exclusively vested in the Parliament of the Commonwealth, or withdrawn from the Parliaments of the several States, are reserved to, and shall remain vested in, the Parliaments of the States respectively.

Validity of existing laws.

100. All laws in force in any of the colonies relating to any of the matters declared by this Constitution to be within the legislative powers of the Parliament of the Commonwealth shall,

except as otherwise provided by this Constitution, continue in force in the States respectively, and may be repealed or altered by the Parliaments of the States, until provision is made in that behalf by the Parliament of the Commonwealth.

Inconsistency of laws.

101. 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.

Powers to be exercised by Governors of States.

102. All powers and functions which are, at the establishment of the Commonwealth, vested in the Governors of the colonies respectively, shall, so far as the same are capable of being exercised after the establishment of the Commonwealth, in relation to the government of the States, continue to be vested in the Governors of the States respectively.

Saving of Constitutions.

103. Subject to the provisions of this Constitution, the constitutions of the several States of the Commonwealth shall continue as at the establishment of the Commonwealth until altered by or under the authority of the Parliaments thereof in accordance with the provisions of their respective constitutions.

Application of provisions referring to Governor.

104. 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 the chief executive officer or administrator of the government of the State, by whatever title he is designated.

A State may cede any of its territory.

105. The Parliament of a State may at any time 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 and be subject to the exclusive jurisdiction of the Commonwealth.

States not to levy import or export duties, except for certain purposes.

106. After uniform duties of Customs have been imposed, a State shall not levy any impost or charge on imports or exports, except such as may be necessary for executing the inspection laws of the State; and the net produce of all imposts and charges imposed by a State on imports or exports shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

Nor maintain forces, nor tax the property of the Commonwealth.

107. A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any military or naval 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.

State not to coin money.

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

Nor prohibit any religion.

109. A State shall not make any law prohibiting the free exercise of any religion.

Protection of citizens of the Commonwealth.

110. A State shall not make or enforce any law abridging any privilege or immunity of citizens of other States of the Commonwealth, nor shall a State deny to any person within its jurisdiction the equal protection of the laws.

Recognition of acts of State of various States.

111. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public acts and records, and the judicial proceedings, of the States.

Protection of States from invasion and domestic violence.

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

Custody of offenders against laws of the Commonwealth.

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

CHAPTER VI.—NEW STATES.

New States may be admitted to the Commonwealth.

114. The Parliament may from time to time admit to the Commonwealth any of the existing Colonies of [*Name the existing colonies which have not adopted the Constitution*], and may from time to time establish new States, and may, upon such admission or establishment, make and impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

Provisional government of territories.

115. The Parliament may make such laws as it thinks fit for the provisional administration and government of any territory surrendered by any State to and accepted by the Commonwealth,

or 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.

Alteration of limits of States.

116. The Parliament of the Commonwealth may, from time to time, 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 to, 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.

Saving of rights of States.

117. A new State shall not be formed by separation of territory from a State without the consent of the Parliament thereof, nor shall a State be formed by the union of two or more States or parts of States, or the limits of a State be altered, without the consent of the Parliament or Parliaments of the States or States affected.

CHAPTER VII.—MISCELLANEOUS.

Seat of Government.

118. The seat of Government of the Commonwealth shall be determined by the Parliament.

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 amongst the Governors, as the Governor-General, shall direct.

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

119. The Queen may authorise the Governor-General from time to time to appoint any person or any persons, jointly or severally, to be his deputy or deputies within any part or parts of the Commonwealth, and in that capacity to exercise, during the pleasure of the Governor-General, such of the powers and functions of the Governor-General as he deems it necessary or expedient to assign to such deputy or deputies, subject to any limitations or directions expressed or 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.

Aborigines of Australia not to be counted in reckoning population.

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

CHAPTER VIII.—AMENDMENT OF THE CONSTITUTION.

Mode of amending the Constitution.

121. The provisions of this Constitution shall not be altered, except in the following manner:—

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

The vote shall be taken in such manner as the Parliament prescribes.

And if a majority of the States and a majority of the electors voting approve the proposed law, it shall be presented to the Governor-General for the Queen's assent. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth only one-half the votes for and against the proposed law shall be counted in any State in which adult suffrage prevails.

But an alteration by which 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, is diminished, shall not become law without the consent of the majority of the electors voting in that State.

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.)

THE BILL.

DRAFT OF A BILL TO CONSTITUTE THE
COMMONWEALTH OF AUSTRALIA.

PREAMBLE.

WHEREAS the people of [*Here name the colonies which have adopted the Constitution*], humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble federal commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:—

I. This Act may be cited as "The Commonwealth of Australia Constitution Act."

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.

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.

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.

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.

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

EXPLANATION.

(By Dr. QUICK, Delegate to Convention.)

A "Commonwealth" means a political community organized and united for the purposes of self-government. The term "Dominion of Australia," or "United States of Australia," might, with equal propriety, have been selected, but as the name "Commonwealth" was selected by the Convention of 1891, on the recommendation of Sir Henry Parkes, it has been generally accepted as sufficiently comprehensive and appropriate to designate the Federal Union of Australia.

The preamble sounds the key-note of the Imperial statute which will clothe the Constitution with the form of law. It recites that the people of the Australian colonies have agreed to unite in an indissoluble Commonwealth under the Crown, and that in so doing they humbly rely on the blessing of Almighty God. It further recites that provision should be made for the admission of other colonies. Several distinct and important affirmations are here expressed—(1) The agreement of the people to unite; (2) the nature of the union; (3) the permanence and indissolubility of the union; (4) its relation to the Crown; (5) reliance on Divine Providence; (6) confidence in the future expansion of the Commonwealth.

These are the enacting, ordaining, and establishing words of the Imperial Parliament, whose authority alone is sufficient to create the Commonwealth.

Sections I. to VIII.

Sections I. to VIII. are the "covering sections" of the Imperial Act, providing that on a day to be appointed by Royal Proclamation, issued within twelve months from the passing of the Act, the people of the concurring colonies shall be united in a federal constitution under the name of "The Commonwealth of Australia." Three stages in the erection of the Commonwealth must be observed—(1) The passing of the Imperial Act; (2) issue of proclamation; (3) a day therein appointed. The Commonwealth is established on the day so appointed. At any time after the passing of the Act the Parliaments of the concurring colonies may pass any laws which they are authorised to pass under the Constitution, such as electoral machinery laws; &c., so the Governor-General may be appointed at any time after the proclamation.

Upon his arrival in the Commonwealth he will appoint his first Administration; with their advice he will proceed to take over certain departments, and hold the first election under the Constitution.

The Act binds the Crown, and so abridges the prerogative where so expressed. The Act and laws made thereunder bind the Judges and the people of the States and of the Commonwealth, and are in force on British ships, with certain limitations. "The States" are defined as part of the Commonwealth, and "original States" are those States forming part of the Commonwealth at its establishment. "The Federal Council Act, 1895," and the Colonial Boundaries Act are repealed.

The Bill.

Explanation.

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

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.

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.

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

THE CONSTITUTION.

This Constitution is divided as follows:—

- Chapter I.—The Parliament.
 - Part I.—General.
 - Part II.—The Senate.
 - Part III.—The House of Representatives.
 - Part IV.—Both Houses of the Parliament.
 - Part V.—Powers of the Parliament.
- Chapter II.—The Executive Government.
- Chapter III.—The Judicature.
- Chapter IV.—Finance and Trade.
- Chapter V.—The States.
- Chapter VI.—New States.
- Chapter VII.—Miscellaneous.
- Chapter VIII.—Alteration of the Constitution.
- The Schedule.

CHAPTER I.—THE PARLIAMENT.

PART I.—GENERAL.

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

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

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

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

4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person 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.

3—A. 5.

Section IX. introduces the Constitution, which is divided into Chapters, Parts, and Sections.

Sections 1 to 6.

The Federal Parliament consists of (1) the Queen, represented by a Governor-General, or, in his absence, an Administrator, salary £10,000, alterable by the Parliament; (2) a Senate; (3) a House of Representatives.

The first Parliament must be summoned for business within six months after establishment of Commonwealth. Until the federal capital is fixed by federal law the Parliament must be summoned to meet at such place within the Commonwealth as a majority of the Governors of States shall direct. (See section 124.)

The Governor-General may prorogue the Parliament, and may dissolve the House of Representatives, and in certain special cases under section 57 he may dissolve the Senate. There must be annual sessions.

The Bill.

Explanation.

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

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

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

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

PART II.—THE SENATE.

Sections 7 to 16.

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.

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

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

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

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

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

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

The Senate is composed of six Senators for each State, chosen by the people by the Parliament if it thinks fit. The "one electorate" system may be altered by the Parliament if it thinks fit. The number of Senators may be increased by the Parliament, but no original State may have less than six, and no such State can be deprived of equal representation except by an amendment of the Constitution under clause 127. The first Senate will therefore consist of 30 Senators, assuming that those colonies represented in the Federal Convention accept the Constitution. Senators are chosen for six years, but this term may be cut short by a dissolution under Section 57. In order to provide for the retainment of half the Senators every three years, it is enacted that after the first Senate meets, and after every dissolution, the Senators are divided into two classes, and arrangements are made for the places of Senators of one class to become vacant at the end of the third year from the beginning of their service, and the places of those of the second class at the end of the sixth year from same, and so on.

The qualifications of election of Senators are the same as those of members of the House of Representatives, but in choosing Senators no elector may vote more than once. The qualifications of Senators are the same as those of the members of the House of Representatives. Until the Federal Parliament legislates on the subject, the Parliament of each State may prescribe the method of choosing Senators. The Parliament of a State may appoint the times and places for election of the Senators. The Governor of a State issues writs for election of Senators, and certifies to the Governor-General the names of Senators chosen.

If the place of a Senator becomes vacant by death or resignation, &c., his successor is elected to hold the place only for the unexpired term. Mode of filling casual vacancies:—(1) If the Houses of Parliament of a State are not in session at occurrence of vacancy, the Governor of State, with advice of Executive Council, may appoint a person to hold office as Senator (a) until the beginning of next session of State Parliament, or (b) until the next general election of members of the House of Representatives, or (c) until the next ordinary triennial election of Senators, whichever first happens. (2.) If the Houses of the State Parliament are in session at the occurrence of the vacancy, the members of both Houses sitting and voting together shall choose a person to hold the place (a) until the expiration of the term, or (b) until the next general election of

The Bill.

Explanation.

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 purpose 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.

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

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

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

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

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

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

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

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

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

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

21. Whenever a vacancy happens in the Senate, the President, or if there is no President or if the

the House of Representatives, or (c) until the next triennial election of Senators, whichever first happens.

Sections 17 to 23.

Election of President of Senate. Absence of President. Resignation of Senators. Vacancy of office of Senator for failure to attend Senate for two consecutive months without leave. Vacancy to be notified to the Governor of State concerned. Quorum to consist of at least one-third of the whole of the Senate. Voting in Senate to be determined by a majority of votes, each Senator to have one vote. President entitled to vote. Votes equal, question to pass in negative.

The Bill.

Explanation.

President is absent from the Commonwealth, the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

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

22. 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.

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

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

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

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

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

Section 24.

The House of Representatives is to be composed of members directly chosen by people of the Commonwealth. Those chosen in the several States to be in proportion to the respective numbers of their people. The number of members of the House to be as nearly as practicable twice the number of Senators. The number assigned to each State is determined by a "quota." To ascertain the "quota" divide the population of the Commonwealth by twice the number of Senators. Result, say, 53,000; that means each State will be entitled to one representative for each 53,000 of the population. Proviso: No original State to have less than five representatives. According to these rules the distribution of seats in the House of Representatives will, at the establishment of the Commonwealth, be as follows:—

New South Wales	...	...	25
Victoria	...	...	22
South Australia	...	..	7
Tasmania	...	...	5
West Australia	...	...	5
Total	...	...	64

Section 25.

If the people of any particular race resident in a State are disqualified from voting (say, Chinese or Kanakas or Afghans), then, in reckoning the number of people of a State to decide the number of its Representatives, the people of the disqualified race resident in that State are not counted. See section 51, subsection (23), which gives the Federal Parliament power to deal with the "people of any race." See also section 126, which provides that in reckoning the number of people of the Commonwealth, or of a roll for the purpose of distributing seats, the aboriginal Natives shall not be counted.

Section 26.

Number of Representatives to be chosen in each State at first election to be ascertained according to latest statistics, and inserted in this clause before the Bill is sent to the Imperial Parliament for enactment.

Section 27.

Number of Representatives may be increased or diminished subject to certain limitations, as set forth in section 24—namely, (1) No original State to have less than five, and (2) the Representatives not to exceed twice the number of Senators. If the number of Senators is increased either by adding additional Senators to existing States or by

The Bill.

Explanation.

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

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

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

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

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

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

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

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

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

(1.) 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.

(2.) He must be a subject of the Queen, either natural-born or for at least five years naturalised under a law of the United Kingdom, or of a colony which has become or becomes a State, or of the Commonwealth, or of a State.

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

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from

admitting new States, the number of Representatives may be increased in proportion.

Sections 28 to 31.

House of Representatives to continue for three years. Parliament of a State to determine electoral divisions in such State, and number of members for each division. If Parliament of a State neglect to make such provision, each State shall be one electorate. Qualification of electors of members of House of Representatives to be that prescribed by the laws of State as qualification of electors for Lower House in State, each elector to vote only once. State electoral laws and electoral machinery to be applicable to federal election, so far as practicable. But Federal Parliament may after first election enact uniform laws relating to federal franchise and federal elections.

Sections 32 and 33.

Governor-General to issue writs for general election of Representatives, the Speaker to issue writs to fill casual vacancies. Note: Governor for State issues writs for election of Senators.

Section 34.

Qualification of members of House of Representatives—(1) twenty-one years of age; (2) an elector entitled to vote; (3) or qualified to be an elector; (4) three years resident in Commonwealth; (5) subject of the Queen, either natural-born or naturalized.

Sections 35 to 40.

Election of Speaker. Absence of Speaker. Vacancy through failure to attend House for two consecutive months. Quorum, one-third of whole House. Questions determined by majority of votes other than the Speaker, who is not to vote except numbers are equal, and then he shall have a casting vote.

The Bill.

Explanation.

office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

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

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

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

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

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

PART 4.—HOUSES OF PARLIAMENT.

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

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

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

44. Any person who—

- (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 citizen of a foreign power; or
- (2.) 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
- (3.) Is an undischarged bankrupt or insolvent; or
- (4.) 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
- (5.) 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 (4) does not apply to the office of any of the Queen's Ministers of State for the Com-

Section 41.

A right to an adult vote for the Lower House once acquired in any State before Federal Parliament frames a uniform federal suffrage may not be prejudiced or abridged by any federal law as long as the right continues in legal force in the State.

Sections 42 to 46.

Every Senator and Representative to take oath or affirmation of allegiance in form set forth in schedule. Member of one House to be incapable of being member of the other. Disqualifications for membership enumerated. No person may be a member in the following cases: (1) Owing allegiance or obedience to foreign power; (2) conviction and under sentence for criminal offences punishable by imprisonment for one year; (3) undischarged from insolvency; (4) holding an office of profit under the Crown, or any pension during the pleasure of the Crown, or having any pecuniary interest in any agreement with the public service of the Commonwealth. But there is nothing to prevent the Queen's Ministers for the Commonwealth or the Queen's Ministers for a State or officers or members of the Queen's navy or army, or officers or members of the naval or military forces of the Commonwealth, though in receipt of pay or pension, from being chosen or sitting as members of the Federal Parliament. If a member become subject to the said disabilities, or takes the benefit of any bankrupt or insolvent law, or 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 becomes vacant. Every disqualified person sitting as a Senator or Representative is liable to a penalty.

The Bill.

Explanation.

monwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

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

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

his place shall thereupon become vacant.

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

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

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

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

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

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

PART 5.—POWERS OF 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:—

- (1.) Trade and commerce with other countries, and among the States;
- (2.) Taxation; but so as not to discriminate between States or parts of States;
- (3.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth;

Sections 47 to 50.

Disputed elections in either House to be determined by the House in which the question arises, but the Parliament may alter this law. Senators and Representatives to receive £400 per year, but the Parliament may alter this law. Senate and House of Representatives to enjoy certain privileges and immunities to be declared by an Act of Parliament. Each House of the Parliament may make rules and orders respecting the conduct of its business.

Section 51.

The powers conveyed by this section are sometimes described as "concurrent" powers, as distinguished from "exclusive" powers created by section 52—that is, such powers may continue to be exercised by the State Parliaments within the limits of the States until the Federal Parliament thinks fit to legislate with respect thereto, whereupon the State Parliaments cease to have jurisdiction, and the powers become exclusively vested in the Federal Parliament (see section 107). Yet the expression "concurrent," whilst accurate in regard

The Bill.	Explanation.
(4.) Borrowing money on the public credit of the Commonwealth ;	to some matters, is scarcely correct with respect to others included in this section.
(5.) Postal, telegraphic, telephonic, and other like services ;	Subsection (1), relating to "trade and commerce," conveys an enormous power. It gives control over every form of traffic, intercourse, and communication between States and throughout States, including roads, railways, rivers, and other waterways, also control over shipping and navigation. It enables the federal authority to follow trade and commerce throughout the Commonwealth ; to supervise and protect it ; promote and encourage it ; increase facilities, and remove impediments and obstructions that interfere with freedom and equality of trade. It was under words similar to these, and without express provisions, that the United States Congress created an Interstate Commerce Commission. These powers, however, will not come into full force and effect until the imposition of uniform federal Customs duties, some time within two years after the establishment of the Commonwealth, when trade and intercourse among the States becomes absolutely free under section 92.
(6.) 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 ;	"Taxation" may be direct or indirect, but it must be uniform in its incidence and application throughout the Commonwealth. The imposition of a direct tax by the Federal Parliament upon any subject-matter would not interfere with the right of the States to impose similar taxation within their own limits.
(7.) Lighthouses, light-ships, beacons and buoys ;	"Bounties" must be read in conjunction with section 91, which gives limited powers for the same purpose to the States.
(8.) Astronomical and meteorological observations ;	"Borrowing money" on federal credit ought strictly speaking to have been placed among the "exclusive" powers. States have no such power.
(9.) Quarantine ;	"Postal, telegraphic, and telephone" service. See section 69.
(10.) Fisheries in Australian waters beyond territorial limits ;	"Naval and military defence." See section 69.
(11.) Census and statistics ;	"Lighthouses," &c. See section 69.
(12.) Currency, coinage, and legal tender ;	"Quarantine." See section 69.
(13.) 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 ;	"Fisheries in Australian waters beyond territorial limits" should have been placed among "exclusive" powers. States have no such power.
(14.) Insurance, other than State insurance ; also State insurance extending beyond the limits of the State concerned ;	"Census and statistics" and "currency and coinage," &c., &c., are instances of "concurrent" powers.
(15.) Weights and measures ;	"Weights and measures," and powers from that down to "invalid and old-age pensions" are other instances of "concurrent" jurisdiction.
(16.) Bills of exchange and promissory-notes ;	"Service," &c., throughout the Commonwealth, and "recognition," &c., throughout the Commonwealth, could only be legalised by federal legislation.
(17.) Bankruptcy and insolvency ;	"The people of any race," &c., "immigration," &c., "influx," &c., are examples of "concurrent" powers. "External affairs," "relations with islands," &c., "acquisition of property by Commonwealth," relate to matters exclusively within the powers of the Federal Parliament, as the States could never legislate with respect thereto.
(18.) Copyrights, patents of inventions and designs, and trade-marks ;	
(19.) Naturalisation and aliens ;	
(20.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth ;	
(21.) Marriage ;	
(22.) Divorce and matrimonial causes ; and in relation thereto, parental rights, and the custody and guardianship of infants ;	
(23.) Invalid and old-age pensions ;	
(24.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the Courts of the States ;	
(25.) The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States ;	
(26.) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws ;	
(27.) Immigration and emigration ;	
(28.) The influx of criminals ;	
(29.) External affairs ;	
(30.) The relations of the Commonwealth with the islands of the Pacific ;	
(31.) 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 ;	
(32.) The control of railways with respect to transport for the naval and military purposes of the Commonwealth ;	
(33.) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State ;	
(34.) Railway construction and extension in any State with the consent of that State ;	
(35.) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State ;	
(36.) Matters in respect of which this Constitu-	

The Bill.

Explanation.

tion makes provision until the Parliament otherwise provides ;

- (37.) 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 ;
- (38.) 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 ;
- (39.) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Federal Judicature, or in any department or officer of the Commonwealth.

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

- (1.) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes ;
- (2.) 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 ;
- (3.) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or 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 or licenses, or fees for service 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 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.

Section 52.

This section provides that the Federal Parliament shall have "exclusive" power to make laws with respect to certain subjects—such as the seat of government, public departments taken over from the States, and other matters declared by the Constitution to be within its exclusive power. It has been mentioned that there are certain powers enumerated in section 51 which should be considered as exclusively belonging to the Federal Parliament. Turning to section 90, it will be seen that, on the imposition of uniform duties of customs, the power to impose duties of customs, and to grant bounties on production and export of goods, becomes exclusive in the Federal Parliament. By section 86 the collection of customs and excise duties passes to the Commonwealth on the establishment of the Commonwealth, and thus becomes an exclusive power. By section 110, territory surrendered by a State of the Commonwealth becomes subject to the exclusive jurisdiction of the Commonwealth.

Sections 53 to 56.

An ordinary "money Bill" is a Bill which appropriates public money or imposes taxation. Such a Bill must originate in the House of Representatives and not in the Senate. A Bill appropriating public money could not be passed even by the House unless for a purpose recommended by a message of the Governor-General. To these general rules there are certain qualifications. The Senate could originate a Bill containing provisions, say, relating to weights and measures, quarantine, census, and statistics. In such a Bill it might be necessary to impose the appropriate fines for offences against the federal law ; it might name a fine and give it to a common informer. The Senate could do that. So also a Bill could originate in the Senate dealing with fisheries beyond territorial waters. The Senate could impose fees for licenses to fish and apply such fees to the use of a fishery board. So a Bill could originate in the Senate dealing with the service and execution of civil and criminal process throughout the Commonwealth. The Senate could insert a schedule of fees to be paid the federal officers for service of such process. But no Bill containing even such trifling impositions or appropriations as these could pass the Senate unless the Senate received a message from

The Bill.

Explanation.

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

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

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

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

57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law, with or without 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.

the Governor-General recommending the purpose of the appropriation.

The Senate cannot amend a Bill sent up by the House of Representatives imposing a tax or appropriating money for the ordinary service of the Government. It could amend a Bill containing such trifling impositions and appropriations as those mentioned above—viz., fines, penalties, and fees, as they are not really taxes. It could amend a Bill appropriating money for public works not being for the ordinary annual services. But it could not amend a Bill of the last-named description by increasing the expenditure, but only by either reducing it or substituting other objects of expenditure. The principal limitations in the power of the Senate over money Bills are, therefore—(1) It cannot amend a tax Bill in any shape or form; (2) it cannot amend the annual Appropriation Bill in any shape or form. But the Senate is safeguarded in four ways—(1) The annual Appropriation Bill must contain only appropriations belonging to the ordinary annual services—there must be no foreign subject introduced; (2) a tax Bill must deal with taxation only—there can be no “tacking”; (3) a tax Bill must deal with one subject of taxation only; (4) the Senate may send messages to the Lower House suggesting any alteration it desires in Bills which it cannot amend. This provision is taken from South Australian legislation.

Sections 57 to 60.

The several stages in the history of a “deadlock,” leading to a double dissolution and joint sitting, require to be carefully considered. First stage: House of Representatives must send to Senate a Bill which Senate does not pass. Second stage: Interval of three months. Third stage: House of Representatives again sends Bill to Senate; Senate will not agree to same with or without amendments. Fourth stage: Governor-General may dissolve Senate and House of Representatives simultaneously. Such a dissolution, however, could not take place within six months before the expiry of the House of Representatives by effluxion of time, so that in the event of a double dissolution the members of the House of Representatives would forfeit six months or more of their term of office. The Senators would, of course, stand to forfeit much longer terms. Fifth stage: After such a dissolution, if the two Houses still fail to agree as to the Bill in question, the Governor-General may convene a joint sitting of Senators and Representatives. Sixth stage: Joint sitting. At such a sitting the combined representatives of the States would be as follows:—

New South Wales	...	...	31
Victoria...	...	...	28
South Australia	...	...	13
Tasmania	...	...	11
West Australia	...	...	11
Total	...	...	94

Now, three-fifths of 94 equals about 55 votes. The combined votes of Victoria and New South Wales would be 59. The combined votes of the three small colonies would be 35. Total, 94. If the Bill is by a three-fifths majority of members present, agreed to, with or without amendments previously passed by one House and not agreed to by the other, it shall be taken to have been duly passed

The Bill.

Explanation.

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 the Constitution, that he assents, in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure,

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

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

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

CHAPTER II.—THE EXECUTIVE GOVERNMENT.

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

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

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

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

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

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

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

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

by both Houses, and shall be presented to the Governor-General for the Queen's assent.

The Governor-General may assent to a Bill passed by both Houses in the Queen's name, or he may reserve the Bill for the Queen's pleasure. This power he exercises according to his discretion, because, in so doing, he exercises the Queen's prerogative. (See Executive Government.) The Governor-General, on receipt of a Bill passed by both Houses, may return the same to the House in which it originated recommending amendments. This is a useful power, and is copied from the Victorian constitution. Within one year from the Governor-General's assent to a Bill the Queen may disallow any law, and thereupon it is annulled by Proclamation. If a Bill is reserved for the Queen's pleasure, it remains inoperative until the Queen's assent is made known. If such assent is not given to the Bill within two years of its presentation to the Governor-General the Bill is deemed to have been vetoed.

Sections 61 to 66.

The Queen is not only a branch of the Federal Legislature; Her Majesty, as in Great Britain, is the supreme Executive of the Commonwealth. Her executive power is exercisable by her representative, the Governor-General. In the government of the Commonwealth the Governor-General is advised by a Federal Executive Council, and he cannot ordinarily act without such advice. There are, however, certain prerogative powers vested in the Governor-General, as to the exercise of which he is not actually bound by law to act on the advice of the Executive Council—such, for instance, as (1) the assent to and reservation of Bills (section 58); (2) the power to dissolve Parliament (sections 5 and 57); (3) the choice of Executive Councillors (section 62). Sections providing that the "Governor-General" may do certain things generally relate to prerogative acts. Where the expression "Governor-General in Council" is used it relates to statutory acts. With the above-named exceptions, however, the Governor-General would ordinarily be bound to act on the advice of the Executive Council, even with reference to matters relating to the prerogative.

Officers may be selected from the Executive Council, not exceeding seven in number, to administer the departments of the Commonwealth. They are called the "Queen's Ministers of State." Such Ministers must, except in certain cases, be members of the Federal Parliament. The Executive Council will, of course include all those gentlemen who have at any time been summoned to assume Ministerial office. But only those will be required to attend ordinary meetings of the Council who are actually holding office in the Commonwealth.

These clauses contain a direct recognition of the system of responsible government. It will be noticed that there is no mention of the "cabinet." The "cabinet" is not known to the law. Ministers meet in cabinet privately, apart from and in the

The Bill.

Explanation.

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

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

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

Posts, telegraphs, and telephones.

Naval and military defence.

Lighthouses, lightships, beacons, and buoys.

Quarantine.

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

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

CHAPTER III.—THE JUDICATURE.

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

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

- (1.) Shall be appointed by the Governor-General in Council;
- (2.) 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;
- (3.) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as

absence of the Queen's representative. They meet and sit with the Queen's representative only in the Executive Council. They would cease to hold office as soon as they failed to retain the confidence of the House having the power of the purse; for this simple reason—that House could refuse to vote or originate supplies necessary to carry on the public service, and the Governor-General would then have to call in other advisers. This is the essence of responsible government.

Sections 67 and 68.

Appointment of civil servants vested in the Governor-General in Council. Command-in-chief of the naval and military Forces vested in the Governor-General. Note.—This is another example of prerogative, but, as above stated, it would have to be exercised according to Ministerial advice, as the Governor-General's command would be useless unless he were provided with the money to keep the force.

Sections 69 and 70.

Customs and excise departments to be transferred to the Commonwealth on its establishment. (See section 86.) Post and telegraphs, naval and military defence, lighthouses, &c., and quarantine to be taken over on dates to be fixed by proclamation. On the transfer of these departments to the Commonwealth the powers and functions relating thereto, which were previously vested in and exercised by the Governments of the colonies pass to the Governments of the Commonwealth.

Sections 71 to 76.

The judicial power is vested in a Federal High Court, and in such other inferior federal courts as Parliament may create. There is power also to vest State Courts with federal jurisdiction. Provision is made for the appointment, tenure, and remuneration of the Justices of the High Court. The High Court is thus created by the Constitution itself. The inferior Courts may be called into existence by federal legislation. The security, independence, and dignity of the High Court is guaranteed by the Constitution, because the Court will be the final arbiter in interpreting the Constitution of the Commonwealth, as well as interpreting the Constitutions of the States. It will have power when the case comes on before it in appellate or original jurisdiction to decide whether a State law or a federal law is or is not contrary to the federal constitution. This will be its supreme duty. The High Court will have two kinds of jurisdictions—namely :—

- (1.) To hear and decide through one or more of its Justices sitting as a court of first instance (that is original jurisdiction) certain law suits as defined in section 75, and this original jurisdiction may, by

The Bill.

Explanation.

the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences—

- (1.) Of any Justice or Justices exercising the original jurisdiction of the High Court ;
 - (2.) 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 ;
 - (3.) Of the Inter-State Commission, but as to questions of law only ;
- and the judgment of the High Court in all such cases shall be final and conclusive.

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

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

74. No appeal shall be permitted to the Queen in Council 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 rights 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.

75. In all matters—

- (1.) Arising under any treaty ;
- (2.) Affecting consuls or other representatives of other countries ;
- (3.) In which the Commonwealth or a person suing or being sued on behalf of the Commonwealth, is a party ;
- (4.) Between States, or between residents of different States, or between a State and a resident of another State ;
- (5.) In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth,

the High Court shall have original jurisdiction.

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

- (1.) Arising under this Constitution, or involving its interpretation ;
- (2.) Arising under any laws made by the Parliament ;
- (3.) Of admiralty and maritime jurisdiction ;
- (4.) Relating to the same subject-matter claimed under the laws of different States.

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

- (1.) Defining the jurisdiction of any federal court other than the High Court ;
- (2.) Defining the extent to which the jurisdiction of any federal court shall be exclusive of

federal legislation, under section 76, be enlarged and extended to other matters. This means that cases within section 75 from the establishment of the Commonwealth, and cases within section 76 from the enactment of federal laws thereunder, could only be instituted in the High Court.

(2.) (a) To hear and determine as a Full Court appeals from Justices of the High Court exercising original jurisdiction ; (b) from any other court exercising federal jurisdiction ; (c) From the Supreme Court of any State, or from any other court of a State from which before the union an appeal would lie to the Queen in Council ; (d) from the Inter-State Commission on questions of law. The right of appeal from all these jurisdictions to the High Court is subject to the proviso that the Federal Parliament may make "exceptions," and may subject such appeals to certain "regulations." This power to make "exceptions" was intended to exclude appeals on trifling and trumpery matters. But for fear that the power to make "exceptions" might be exercised unsatisfactorily and in the direction of restriction of existing rights, it is provided that no "exceptions" or "regulations" shall prevent the High Court from entertaining such appeals as might under the existing law have been brought from any State court to the Queen in Council. Substantially, therefore, the High Court will have the same appellate jurisdiction from State courts as the Privy Council has under law as it stands at present. The right of appeal direct from the State courts to the Privy Council is absolutely abolished—the only direct appeal from such courts is to the High Court. The decision of the High Court on such appeals is said to be "final and conclusive." It is, however, expressly provided that nothing shall impair the right which the Queen may be pleased to exercise by virtue of her prerogative to grant special leave to appeal from the High Court to Her Majesty in Council. This reservation is cut down by two other provisions : (1) That the Privy Council shall not have power to grant leave to appeal in any matter involving the interpretation of the Federal Constitution, or of the constitution of a State, unless the public interests of some part of Her Majesty's dominion outside the Commonwealth are involved. (2.) That the Federal Parliament may make laws limiting the matters in which such leave to appeal to the Privy Council may be asked. Summary : Right of appeal to Privy Council direct from State courts taken away : Right of appeal from State courts to High Court substituted : Right of appeal from High Court to Privy Council not allowed, save and except that the Queen may grant leave to appeal from the High Court to Privy Council in suits not involving the interpretation of the Constitution.

Sections 77 to 80.

Parliament may define the jurisdiction of inferior federal courts : may invest State courts with federal jurisdiction : may confer rights to bring actions against the Commonwealth, or against a State in certain cases, and trial by jury in criminal cases is preserved.

The Bill.

Explanation.

that which belongs to or is vested in the courts of the States;

(3.) Investing any court of a State with federal jurisdiction.

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

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

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

CHAPTER IV.—FINANCE AND TRADE.

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

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

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

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

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

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

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

Any officer who is, at the establishment of the Commonwealth, in the public service of a State,

Sections 81 to 85.

Federal revenues and moneys to form one consolidated fund. No money to be drawn from Treasury until passed by Parliament, except that the Governor-General in Council may, until the expiration of one month from the first meeting of Parliament, draw such money as may be necessary to carry on the public departments taken over from the States; also to pay the expenses of the first general election. On transfer of departments to Commonwealth public officers connected therewith to be transferred to the service of Commonwealth, preserving all their existing and accruing rights as to retiring allowances and pensions.

On transfer of departments to Commonwealth, property of States connected therewith to be transferred to Commonwealth, which will compensate the State for property so transferred. Commonwealth to assume current obligations of States in respect to departments transferred.

The Bill.

Explanation.

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

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

- (1.) All property of the State of any kind, used exclusively in connection 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.
- (2.) The Commonwealth may acquire any property of the State of any kind, used, but not exclusively used, in connection 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.
- (3.) 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.
- (4.) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

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

87. Of the net revenue of the Commonwealth from duties of customs and of excise, not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

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

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

89. Until the imposition of uniform duties of customs:—

- (1.) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.
- (2.) 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.

Sections 86 to 88.

Collection of customs and excise and control of payment of bounties to pass to Commonwealth on the establishment thereof (see section 69.) Before uniform tariff State-granted bounties will be paid by Commonwealth out of State customs revenue collected. Of net customs and excise revenue collected by the Commonwealth, after the imposition of uniform duties, not more than one-fourth may be kept by the Commonwealth; the balance is returned to the States. Uniform duties to be imposed within two years after establishment of Commonwealth.

Sections 89 to 96.

(1.) Financial system before uniform duties. Commonwealth collects customs and excise revenue under old tariff, and keeps a separate account of such collection in each State. It credits each State with revenue so collected. It keeps a separate account of the expenditure incurred in each State to carry on departments transferred to Commonwealth. It debits each State with expenditure in those departments. It debits each State with its share according to the number of its people, of the new federal expenditure, such as the cost of Federal Parliament and Federal Judges, &c., estimated at £300,000 per year. It pays each State month by month the balance found in its favour.

The Bill.

Explanation.

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

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

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

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

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

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

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

(1.) 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.

(2.) Subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

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

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

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Aus-

Illustration of Scheme.

VICTORIA, in Account with the Commonwealth during first two years.

Revenue transferred—		£	
Customs and excise revenue			2,047,000
Burdens transferred—	£		
Customs and excise expenses ..	73,673		
Post and telegraph expenses			
(net)	52,630		
Defence expenses	182,640		
Interest on works transferred ..	123,400		
Lights and beacons	13,000		
Quarantine	2,200		
Sundries	4,417		
		£451,960	2,047,000
			451,960
			£1,595,040
Victoria's share of new additional federal expenditure			101,000
Net revenue due to Victoria			£1,494,040

2. Financial system for five years under uniform tariff. On imposition of uniform tariff trade and intercourse become absolutely free, and Federal Parliament acquires exclusive power to deal with Customs and excise and bounties. Thereafter all States-granted bounties, except such as have been promised by a State before 30th June, 1898, shall cease. Those bounties expressly preserved will be paid by the Commonwealth, being treated as federal expenditure.

During the first five years under uniform tariff the same system of separate accounts that existed during the two years is maintained with some modifications. Commonwealth credits revenue, debits expenditure, and pays balances to the several States. The uniform tariff will, of course, have to be so designed as to return a sufficient amount of revenue to enable the Federal Treasurer to return to the States the amount of Customs revenue which they surrendered, less their respective shares of the new federal expenditure. During this period West Australia enjoys an exceptional privilege. That colony is allowed to continue its pre-Commonwealth tariff on inter-State goods, but so that the duties collected thereunder will be gradually reduced by one-fifth during the second, third, fourth, and fifth years of uniform duties; and thus at the end of the fifth year all such duties absolutely cease, and West Australia enjoys inter-State free-trade with the rest of the States.

3. Financial system after first five years of uniform tariff. At the end of the five years the Federal Parliament will have to provide on such basis as it deems fair for monthly payment to the States of all surplus revenue.

The Bill.

Explanation.

tralia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

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

96. Until the Parliament otherwise provides, the law 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.

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.

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.

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.

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.

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 connection 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.

102. The members of the Inter-State Commission—

(1.) Shall be appointed by the Governor-General in Council.

(2.) 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.

5—A. 5.

Sections 97 to 103.

The power to control trade and commerce is expressly declared to include the control of navigation, shipping, and State-owned railways. This alone would be a very wide power. The Act goes much further. The Commonwealth itself is prohibited from giving by any law or regulation of trade and commerce or revenue, any preference to one State or any part of a State over another State or part thereof. It will not be able to give trading facilities to one State which are denied to another. There must be no favouritism, but even-handed justice all round.

Rivers.—In its anxiety to promote inter-state trade by giving increased facilities for navigation of rivers, ports, &c., the Commonwealth will not be permitted to abridge the right of any State, or of its residents thereon, to the reasonable use of the waters or rivers for conservation or irrigation. Navigation is not to be subordinate to irrigation, nor irrigation to navigation. Both have equal claims to the protection of federal laws.

Railways.—The Commonwealth may control railways for trade and commerce purposes under section 97. But a further grant of power is made in several sections which, read apart, seem rather complicated, but read together may be harmonised. Parliament may forbid any preference or discrimination by any State railway authority if such preference or discrimination is undue and unreasonable or unjust to any State. The Inter-state Commission is to judge and decide whether any railway-rate involves such a preference or discrimination. In so deciding the Commission has to give due regard to the financial responsibilities incurred by any State in connection with its railways. Nothing shall render unlawful any rate for the carriage of goods on a railway if the rate is deemed by the Inter-state Commission to be necessary for the development of the territory of the State, and if it applies equally to goods within the State and to goods passing into a State from other States. The Inter-State Commission would have to decide whether such a rate was *bonâ fide* imposed for the development of territory, or

The Bill.**Explanation.**

(3.) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

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.

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.

CHAPTER V.—THE STATES.

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.

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.

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.

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.

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

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

whether it was in substance a differential or preferential rate for the purpose of preventing traffic from flowing in its natural geographical direction.

Section 104.

Parliament may at any time take over from the States their public debts as existing at the establishment of the Commonwealth, subject to certain terms and conditions.

Sections 105 to 119.

The constitution of each State is preserved as at establishment of Commonwealth. The powers of every State Parliament continue as at the establishment, &c., save those powers exclusively vested in the Federal Parliament, or withdrawn from the State Parliament. (See sections 51 and 52.) Laws in force in a State relating to matters within the power of the Federal Parliament—(see section 51)—continue in force in the State, and the State Parliaments may alter and repeal the same as if there were no federation until the Federal Parliament makes provision in that behalf. (See notes to section 51.) When a State law is inconsistent with a law of the Commonwealth the latter prevails, and the former is invalid to the extent of the inconsistency.

States may surrender territory to the Commonwealth. States may levy charges necessary for execution of inspection laws, but the produce of such charges must be paid to the Commonwealth. States may legislate concerning intoxicants imported into a State in the same way as if such liquors had been produced in the State.

Prohibitions.—A State cannot keep a naval or military force without the consent of the Commonwealth. A State cannot impose a tax on the property of the Commonwealth. The Commonwealth cannot impose a tax on the property of a State. A State cannot coin money. A State cannot make anything but gold and silver a legal tender. The Commonwealth may not make any law establishing any religion, or dealing with any religious matter.

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

The Commonwealth is bound to protect the

The Bill.**Explanation.**

shall become subject to the exclusive jurisdiction of the Commonwealth.

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.

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.

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.

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

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.

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.

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.

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

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.

CHAPTER VI.—NEW STATES.*Sections 120 to 123.*

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.

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.

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

States against invasion, and, on the application of any State Government, against domestic violence, insurrections, &c.

The public Acts, records, and judicial proceedings of every State are to be recognised throughout the Commonwealth. (See section 51 (24) and (25).) The States are required to make provision for detention and punishment of persons accused or convicted of offences against the law of the Commonwealth, subject to further Commonwealth legislation.

“Original States” are those which join and become part of the Commonwealth at its establishment. The term “State” is applicable to all those which at any time, at its establishment or afterwards, became part of the Commonwealth. After the establishment of the Commonwealth, the Federal Parliament may admit new States, or establish new States, and admit them on such terms and conditions, including extent of representation, as it thinks fit.

It will not be obligatory to give “new States” equal representation in the Senate, but, no doubt, any existing Australian colony coming in afterwards would receive the right. If, however, any existing colony were partitioned into two or more colonies, such two or more colonies could not expect equal representation.

The Bill.

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 the provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

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.

CHAPTER VII.—MISCELLANEOUS.

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

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

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.

CHAPTER VIII.—ALTERATION OF 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

Explanation.

Territories, such as the Northern Territory, now administered by South Australia, could be surrendered to the Commonwealth, which could make provision for its government, and for its representation in the Federal Parliament on such terms as it thinks fit. The Federal Parliament may, with the consent of a State, alter the boundaries of such State, by increasing or diminishing the area. It could be increased by adding to it federal territory or the territory of another State, with the consent of that State. It could be diminished by taking territory from it, with its consent, and adding such territory to another State, or to the federal territory. This power is exercisable only with consent, and on such terms as may be agreed to. A new State could be formed by the separation of territory from an existing State, with its consent. A new State could be formed by the union of two or more States, or by the union of parts of States, with the consent of the States concerned.

Section 124.

The seat of government is to be within federal territory, vested in the Commonwealth, the site thereof to be determined by the Federal Parliament. The Federal Parliament will have exclusive jurisdiction in such territory. (See section 52.) Until the Parliament so determines, the sittings must be held at such place as a majority of the Governors of States direct.

Section 125.

The Governor-General may appoint deputies to act for him in certain cases.

Section 126.

Aborigines not to be counted in reckoning the numbers of the people for the purpose of distributing seats under section 24. (See section 25.)

Section 127.

The first condition precedent to the passage of a Bill amending the Constitution is that it must be passed through the Senate and House of Representatives by absolute majorities in each Chamber. Within not less than two months and not more than six months after so passing the Bill must be submitted in each State to the federal electors thereof. If at such a reference in a majority of States a majority of the electors voting affirm the proposed law, and, if a majority of all the electors voting throughout the Commonwealth affirm the proposed law, it may be presented to the Governor-General for the Queen's assent. For the purpose of preventing any State in which adult suffrage may prevail from having an undue and disproportionate weight in the counting of the total number of electors voting, it is provided that until a uniform federal franchise is imposed only

The Bill.**Explanation.**

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.

one-half the electors voting for and against shall be counted in such adult suffrage State.

There is one important restriction in the power of amendment. No State can suffer a diminution in its proportionate representation in either House, or in the minimum number of representatives in the House of Representatives, unless a majority of its electors affirm the proposed law.

JOHN QUICK.

Bendigo, 5th April, 1898.

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.)

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.

THE BILL.

EXPLANATION.

(By ROBERT RANDOLPH GARRAN, B.A., Barrister-at-Law.)

DRAFT OF A BILL TO CONSTITUTE THE
COMMONWEALTH OF AUSTRALIA.

PREAMBLE.

WHEREAS the people of [*Here name the colonies which have adopted the Constitution*], humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble federal commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:—

I. This Act may be cited as "The Commonwealth of Australia Constitution Act."

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.

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

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. and IV. *Establishment of the Commonwealth.*—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.

The Bill.

Explanation.

“The Commonwealth of Australia.” But the Queen may, at any time after the Proclamation, appoint a Governor-General for the Commonwealth.

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

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.

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 State” shall mean such States as are parts of the Commonwealth at its establishment.

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.

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.

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.

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.

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. and VIII. *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 1885 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).]

The Bill.

Explanation.

CHAPTER I.—THE PARLIAMENT.

PART I.—GENERAL.

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

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

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

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

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

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

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

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

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

PART II.—THE SENATE.

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

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.

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, 3, 4. *Governor-General.*—There is to be a Governor-General appointed by the Queen as her representative in the Commonwealth. 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, 6. *Sessions of Parliament.*—The Governor-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 thirty 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.

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

The Bill.

Explanation.

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

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

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

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

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

13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the Senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the Senators of the first class shall become vacant at the expiration of 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 purpose 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.

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

15. If the place of a Senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen 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

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

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successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

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

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

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

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

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

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

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

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

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

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

PART III.—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.

(2.) 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

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).

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

18 to 23. *Miscellaneous.*—These are sections of minor importance, providing for the 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.

24 to 27. *Members of the House.*—The members of the House of Representatives are to be 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 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 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,

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Explanation.

division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

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

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

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

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

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

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

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

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

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

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

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

33. Whenever a vacancy happens in the House

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 thirty 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 twenty-four quotas; and there being a remainder of 44,932, or more than half the quota, New South Wales would have twenty-five 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 sixty-four instead of sixty.]

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.

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

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Explanation.

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

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

- (1.) 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.
- (2.) He must be a subject of the Queen, either natural-born or for at least five years naturalised under a law of the United Kingdom, or of a colony which has become or becomes a State, or of the Commonwealth, or of a State.

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

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

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

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

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

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

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

PART 4.—HOUSES OF PARLIAMENT.

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

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

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 twenty-one 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 naturalised.

35 to 40. *Miscellaneous.*—These are sections of minor importance, making the usual 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.

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.

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

44. Any person who—

- (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 citizen of a foreign power; or
- (2.) 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
- (3.) Is an undischarged bankrupt or insolvent; or
- (4.) 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
- (5.) 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 (4) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

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

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

his place shall thereupon become vacant.

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

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

48. Until the Parliament otherwise provides, each Senator and each member of the House of Representatives shall receive an allowance of four

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43 to 46. *Disqualifications of Members.*—The disqualifications of members of both Houses are substantially the same as the disqualifications 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.

The provision that 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.

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.

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

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hundred pounds a year, to be reckoned from the day on which he takes his seat.

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

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

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

PART 5.—POWERS OF 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:—

- (1.) Trade and commerce with other countries, and among the States;
- (2.) Taxation; but so as not to discriminate between States or parts of States;
- (3.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth;
- (4.) Borrowing money on the public credit of the Commonwealth;
- (5.) Postal, telegraphic, telephonic, and other like services;
- (6.) 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;
- (7.) Lighthouses, light-ships, beacons and buoys;
- (8.) Astronomical and meteorological observations;
- (9.) Quarantine;

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

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

51. *Powers of the Parliament.*—The Federal Parliament is to have power to make laws on a variety of subjects set out in the thirty-nine 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:—

- (1.) 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.]
- (2.) 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.]
- (3.) 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).]
- (4.) Borrowing money on the public credit of the Commonwealth: [This will not prevent the States from borrowing on their own credit.]
- (5.) (6.) (7.) (9.) 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

The Bill.	Explanation.
(10.) Fisheries in Australian waters beyond territorial limits ;	Parliament otherwise provides" or "as the Parliament prescribes."
(11.) Census and statistics ;	[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 overlap 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.]
(12.) Currency, coinage, and legal tender ;	
(13.) 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 ;	
(14.) Insurance, other than State insurance ; also State insurance extending beyond the limits of the State concerned ;	
(15.) Weights and measures ;	
(16.) Bills of exchange and promissory-notes ;	
(17.) Bankruptcy and insolvency ;	
(18.) Copyrights, patents of inventions and designs, and trade-marks ;	
(19.) Naturalisation and aliens ;	
(20.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth ;	
(21.) Marriage ;	
(22.) Divorce and matrimonial causes ; and in relation thereto, parental rights, and the custody and guardianship of infants ;	
(23.) Invalid and old-age pensions ;	
(24.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the Courts of the States ;	
(25.) The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States ;	
(26.) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws ;	
(27.) Immigration and emigration ;	
(28.) The influx of criminals ;	
(29.) External affairs ;	
(30.) The relations of the Commonwealth with the islands of the Pacific ;	
(31.) 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 ;	
(32.) The control of railways with respect to transport for the naval and military purposes of the Commonwealth ;	
(33.) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State ;	
(34.) Railway construction and extension in any State with the consent of that State ;	
(35.) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State ;	
(36.) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides ;	
(37.) 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 ;	
(38.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly con-	

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cerned, 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 ;

- (39.) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Federal Judicature, or in any department or officer of the Commonwealth.

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

- (1.) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes ;
- (2.) 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 ;
- (3.) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or 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 or licenses, or fees for service 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 such omissions or amendments, with or without modifications.

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

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

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

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

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

57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it or passes it with amendments to which the House of Representatives will not agree, and if

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]:—

- (1.) The seat of Government (see section 124), and all places acquired by the Commonwealth for public purposes ;
- (2.) Matters relating to the departments transferred to the Commonwealth (see section 69) ;
- (3.) Other matters in which the Constitution gives exclusive power (see section 90).

53 to 56. *Money Bills.*—Neither Appropriation 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.

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 Repre-

The Bill.**Explanation.**

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 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.

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 the 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.

representatives, and each time the Senate rejects it, or shelve 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.]

58, 59, 60. *Assent to Bills.*—There are the usual provisions as to the Royal assent to Bills, 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.

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

61, 62, 63. *Executive Power.*—The Queen is to be the executive head of the Commonwealth [as she is of every other part of the Empire]; and the executive power will be exercised by the Governor-

The Bill.

Explanation.

this Constitution, and of the laws of the Commonwealth.

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

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

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

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

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

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

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

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

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

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

Posts, telegraphs, and telephones.

Naval and military defence.

Lighthouses, lightships, beacons, and buoys.

Quarantine.

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

70. In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a colony, or in the Government 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.

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 Government of the States.

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

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

[These provisions are intended to ensure the adoption of the system known as "responsible government."]

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.

68. *Commander-in-chief of Forces*.—The Governor-General is to be the Commander-in-chief of the naval and military forces.

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; lighthouses, lightships, beacons and buoys; quarantine.

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.

The Bill.

Explanation.

CHAPTER III.—THE JUDICATURE.

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

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

- (1.) Shall be appointed by the Governor-General in Council;
- (2.) 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;
- (3.) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

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

- (1.) Of any Justice or Justices exercising the original jurisdiction of the High Court;
- (2.) 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;
- (3.) Of the Inter-State Commission, but as to questions of law only;

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

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

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

74. No appeal shall be permitted to the Queen in Council 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 rights 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.

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.

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.]

The Bill.	Explanation.
<p>75. In all matters—</p> <ol style="list-style-type: none"> (1.) Arising under any treaty ; (2.) Affecting consuls or other representatives of other countries ; (3.) In which the Commonwealth or a person suing or being sued on behalf of the Commonwealth, is a party ; (4.) Between States, or between residents of different States, or between a State and a resident of another State ; (5.) In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth, 	<p>75, 76, 77. <i>Original Jurisdiction.</i>—The High Court is to have original jurisdiction [that is, a right to hear cases in the first instance] in five kinds of cases, of a specially federal or inter-State character.</p> <p>The Parliament is empowered to extend the original jurisdiction of the High Court to four other kinds of cases.</p> <p>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.</p>
<p>the High Court shall have original jurisdiction.</p> <p>76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter :—</p> <ol style="list-style-type: none"> (1.) Arising under this Constitution, or involving its interpretation ; (2.) Arising under any laws made by the Parliament ; (3.) Of admiralty and maritime jurisdiction ; (4.) Relating to the same subject-matter claimed under the laws of different States. 	
<p>77. With respect to any of the matters mentioned in the last two sections, the Parliament may make laws :—</p> <ol style="list-style-type: none"> (1.) Defining the jurisdiction of any federal court other than the High Court ; (2.) 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 ; (3.) Investing any court of a State with federal jurisdiction. 	
<p>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.</p>	<p>78. <i>Suits against Crown.</i>—The Parliament may regulate the right of suing the Commonwealth, or a State, in the courts of federal jurisdiction.</p>
<p>79. The federal jurisdiction of any court may be exercised by such number of Judges as the Parliament prescribes.</p>	<p>79. <i>Number of Judges.</i>—The Parliament may prescribe the number of Judges who may exercise the federal jurisdiction of any court.</p>
<p>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.</p>	<p>80. <i>Trial by Jury.</i>—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.</p>

CHAPTER IV.—FINANCE AND TRADE.

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

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

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

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

81, 82, 83. *Consolidated Revenue Fund.*—All the revenues of the Commonwealth are to 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.

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

The Bill.

Explanation.

the Commonwealth and for the holding of the first elections for the Parliament.

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

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

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

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

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

- (1.) All property of the State of any kind, used exclusively in connection 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.
- (2.) The Commonwealth may acquire any property of the State of any kind, used, but not exclusively used, in connection 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.
- (3.) 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.
- (4.) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. On the establishment of the Commonwealth, the collection and control of duties of customs and

84. *Transfer of Officers.*—Officers of the transferred departments (see section 69) are to become servants of the Commonwealth.

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 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 proportion.

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.

86. *Customs, Excise, and Bounties.*—From the first, the Commonwealth will collect all duties of

The Bill.

Explanation.

of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

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.

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

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

89. Until the imposition of uniform duties of customs :—

(1.) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(2.) 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.

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

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

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

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

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

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

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. *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.

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

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.

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.

90, 91. *After Uniform Duties; Exclusive Powers.*—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.

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.

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.]

The Bill.

Explanation.

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

- (1.) 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.
- (2.) Subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

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

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

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

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

96. Until the Parliament otherwise provides, the law 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.

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.

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.

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.

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 freetrade, Western Australia has special permission, for *five years* after uniform duties, to impose certain customs duties on goods from the other States.

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, 98, 99. *Trade and Commerce.*—The power of the Parliament to make laws with respect 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.

The Bill.

Explanation.

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.

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 connection 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.

102. The members of the Inter-State Commission—

- (1.) Shall be appointed by the Governor-General in Council.
- (2.) 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.
- (3.) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

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.

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.

CHAPTER V.—THE STATES.

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.

100, 102. *Inter-State Commission*.—There is to be an Inter-State Commission to carry out the provisions of the Constitution and of the 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.)

101, 103. — *Railway-rates*.—The power of the Parliament, 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

1. Due regard must be had to the financial responsibilities incurred by a State in connection with its railways;
2. No preference or discrimination shall be held to be undue, unreasonable, or unjust, unless the Inter-State Commission decides that it is so;
3. 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).]

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

The Bill.

Explanation.

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.

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.

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.

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

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.

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.

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.

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.

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

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.

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.

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, 108. *State Laws.*—Every State law on a subject 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 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 Government may annul the charges.

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.]

113, 114. *Powers Withheld.*—No State may (except 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.

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

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

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

The Bill.

Explanation.

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.

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

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.

CHAPTER VI.—NEW STATES.

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.

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.

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 the provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

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.

CHAPTER VII.—MISCELLANEOUS.

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

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

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

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.

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

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.

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.

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

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.

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 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.

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

The Bill.

Explanation.

affect the exercise by the Governor-General himself of any power or function.

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. *Aboriginals.*—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] aboriginals are not to be counted.

CHAPTER VIII.—ALTERATION OF 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.

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.

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.)

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