

Our Constitution

The powers of a parliament, the way governments are formed, and the principles according to which laws are made are framed in a set of rules called a constitution. The Australian Constitution was drawn up during the 1890s, prior to Federation, and is a law of the British Parliament. Each state also has a constitution, which was originally passed in colonial times as an Act of the British Parliament. Most state constitutions were written during the 1850s when the states were colonies of Britain.

Drawing Up the Australian Constitution

Two of the people who wrote the draft Australian Constitution in 1891 were Sir Samuel Griffith of Queensland and Andrew Inglis Clark of Tasmania. Sir Samuel Griffith prepared a final draft that was taken to Britain.

Models from Canada and the United States

The Australian Constitution is partly based on other constitutions from around the world. The Canadian Constitution, written in 1867, was an early model, while Andrew Inglis Clark based his draft on the United States Constitution. The British Parliament does not have a written constitution, but all British laws combine to form a type of constitution, and much of the detail of the Australian Constitution comes from British law.

Effect of the Australian Constitution

When the Australian Constitution came into effect on 1 January 1901, it took some powers away from the colonial governments. At the same time, each colony became a state, and each colonial parliament became a state parliament.

The powers ceded (given) to the Commonwealth included immigration, defence, currency and interstate trade. State parliaments kept any powers not given to the Commonwealth by the Australian Constitution, including education, health, law and order.

Changing the Australian Constitution

The Constitution can only be changed by a direct vote of the people, called a referendum. This is like an election, and asks voters if they approve or reject a certain proposal. Not only do the majority of people have to vote in favour, but the referendum must also be passed in a majority of states. So far, very few referendums have been successful in Australia.

What the Constitution Says

The Australian Constitution sets out the national system of government. It also recognises the constitutions of the states which were passed by the British Parliament during the 1800s. However, federal laws overrule any state law on the same issue.

Under the Australian Constitution, the Commonwealth Government is responsible for laws dealing with things that affect the whole nation, such as:

- commerce (trade) between the states
- communication (posts and telegraphs, but now expanded to include television, radio and the Internet)
- defence (army, navy and now air force)
- foreign affairs (relations with other nations)
- immigration and emigration
- interstate industrial disputes
- marriage and divorce.



Courtesy State Library of Queensland

Sir Samuel Griffith was one of the main writers of the Australian Constitution. A suburb in Canberra is named after him.

As Britain still governed the Australian colonies, the new constitution had to be passed by the British Parliament. This occurred on 9 July 1900.