

Chapter 1: The Australian Constitution

Contents

- 1.1 Why do we have a constitution?
- 1.2 Sharing the power
- 1.3 How do we change the Constitution?
- 1.4 How hard is it to change the Constitution?
- SkillBuilder: Questioning and research
- Review and reflect

Note to students and teachers: This PDF has been provided as an offline solution for times when you do not have internet access or are experiencing connectivity issues. It is not intended to replace your eBook and its suite of resources. While we have tried our best to replicate the online experience offline, this document may not meet Jacaranda's high standards for printed material. Please always refer to your eBook for the full and latest version of this title.

Chapter 1: The Australian Constitution

Overview

Can you imagine playing your favourite sport without any rules? All sports have rules so that the players know what is allowed on the field of play, and what is not. Most sports also have rules for the conduct of competition between different teams, with progress ladders and rules for the conduct of finals series. All participating clubs are expected to abide by these rules.



FIGURE 1

We need rules for the government of our nation just as we need rules for playing sport.

The way we are governed in Australia also has rules. Governments, parliaments and the law courts are all expected to follow these rules. Such rules outline the powers of those governing us, and what they are and are not permitted to do in exercising those powers. This set of rules is known as our Constitution.



FIGURE 2 Parliament house in Canberra. The powers of the federal parliament are determined by the Australian Constitution.

eBook plus

eLesson

The Australian Constitution

Watch this video to learn more about the Australian Constitution.

Searchlight ID: ELES-2076

STARTER QUESTIONS

1. Draw up a list of three powers that you think a government should have for the benefit of the community. (For example, the government should have the power to fine people for speeding in their cars. This helps to keep all road users safe.)
2. Draw up a list of three restrictions that you think should be placed on government to protect the rights and freedoms of Australians. (For example, the government should not have the power to imprison people without a fair trial.)
3. The Australian Constitution requires elections for the parliament every three years. What do you think are the reasons for this requirement? What problems could arise if people were only required to vote every ten years?
4. Imagine you are launching a new social media platform (similar to Facebook). Brainstorm a set of rules for this platform that would allow the maximum amount of information to be shared but would still respect the individual rights and privacy of users. (You could start by identifying some of the problems with existing social media.)

1.1 Why do we have a constitution?

During the 1890s, there was a lot of support for the idea of joining the six colonies on the Australian continent to create one united country. This united country of Australia would need a new national government, as well as retaining the existing parliaments to make laws for their respective states. Representatives of the different colonies met on several occasions to create a set of rules that would allow for a division of powers between these parliaments.

How did we get our Constitution?

After the gold rush era of the 1850s, the population of all six Australian colonies grew rapidly. During the 1880s, the population rose from just over 2 million to around 3 million. By 1890, over 60 per cent of the population had been born locally (that is, in the Australian colonies rather than overseas). Large numbers of these people felt a greater loyalty to the colonies of their birth than to the countries of their parents' birth. It was not surprising that many saw the unification of the colonies into one country — the Commonwealth of Australia — as a desirable idea.

During the 1890s, representatives of the different colonies held meetings to develop a [constitution](#). These men are often referred to as the 'founding fathers' of our Constitution. (No women took part in the process!) None of the colonial governments wanted to hand over all their law-making powers to a central government, so they had to adopt a structure that would allow these powers to be shared.



FIGURE 1 Representatives of the colonies met on a number of occasions to draft a constitution for the newly unified Australia.

When a group of states decide to join together and hand over some of their powers to central government, this arrangement is known as a [federation](#). In this arrangement, it is important that everyone understands which powers are retained by the states and which powers will be taken over by the central government. This was a major reason for the development of the Australian Constitution. It allowed the state parliaments to keep some law-making powers for issues that could be managed at the state level. At the same time, it gave the central parliament the power to make laws of national importance. For example, before federation, each colony had its own currency, army and navy. With federation, it made sense to have one consistent currency and a national defence force.

By 1898 the main principles of the new Constitution had been agreed to, and each of the colonies held a [referendum](#) to allow their citizens to vote on whether they wished to join this new federated Australia. By 1900, a majority in all six colonies had voted in favour, and the new Constitution was passed into law by the British Parliament. The newly created Commonwealth of Australia came into being on 1 January 1901. Elections for the national parliament were held in March of that year, and

eBook plus

eLesson

Federation

Watch this video to learn more about Australia's federation.

Searchlight ID: ELES-2080

the newly elected parliament was opened in Melbourne's Exhibition Building on 9 May 1901. Federal Parliament then met in Victoria's Parliament House until 1927, when it was transferred to the new national capital of Canberra.



FIGURE 2 *Opening of First Federal Parliament by HRH the Duke of Cornwall & York, by Charles Nuttall, 1901*

Why have a constitution?

Not all countries in the world have a written constitution such as Australia's. The United States of America is one country that, like Australia, is a federation guided by a written constitution. However, some countries that are similar to Australia in many ways have no single constitutional document. Australia, Canada and New Zealand all recognise the British monarch as their head of state and have similar systems of government, but neither Canada nor New Zealand has a written constitution. Their rules of government are contained in a number of different pieces of [legislation](#).

Advantages of having a constitution

1. A constitution provides a system of rules that government is required to follow. In Australia it means that laws have to be made by a democratically elected parliament, not by any individual.
2. A written constitution can include some rights and freedoms to be enjoyed by all citizens of the country. For example, the Australian Constitution guarantees freedom of religion.
3. In Australia, the Constitution allows for a clear distinction between the powers of the federal parliament and the powers of the state parliaments.



FIGURE 3 The Australian Constitution guarantees freedom of religion for all Australians.

Disadvantages of having a constitution

1. A written constitution can be difficult to change as society changes. Australia today is not the same as the colonies of the 1890s when the Constitution was written, and yet we are still bound by a document that is over 100 years old. Back then it was illegal for anyone to bathe on public beaches between 6 am and 8 pm. Imagine if such a law still existed today!
2. Any written document can be open to interpretation. Some words have a number of different meanings. People could argue over those meanings, making a constitution less clear than we would want.
3. Enforcing a constitution depends on the willingness of everyone to obey it. In some countries, **dictators** have seized power by force and refused to follow the constitution of that country. In 1933, for example, Adolf Hitler seized complete power in Germany. Although Germany had a constitution at the time, Hitler was able to convince the German Parliament to pass laws suspending many of the safeguards in that constitution. This made it easier for him to persecute his political opponents and minority groups such as the Jewish people. Once he gained complete control of Germany, he murdered more than 6 million Jewish people.



FIGURE 4

Adolf Hitler became a dictator in Germany in 1933 by arranging for constitutional safeguards to be suspended.

ACTIVITIES

REMEMBER

1. Outline two reasons why the idea of a united Australia became popular during the 1880s and 1890s.
2. Explain the process by which the Australian Constitution came into existence.

EXPLAIN

3. In your own words, explain the meaning of the term 'federation'.
4. What is the main feature of a federation?

DISCOVER

5. The current states of Australia were originally British colonies. Using internet or library resources, answer the following:
 - a. What is a colony?
 - b. Identify three countries other than Australia that were previously British colonies.

PREDICT

6. Would it be possible for a dictator to seize power in Australia? Give reasons for your answer.

THINK

7. After reading about the advantages and disadvantages of having a written constitution, do you believe that such a constitution is a positive or a negative feature of our system of government? Outline your opinion in writing, and compare it with the opinions of your classmates.

1.2 Sharing the power

One of the key reasons for having a constitution is to reinforce the rights of citizens in a **democracy** such as Australia. Our Constitution does this by ensuring that no one person or organisation within our structure of government has all the power. Instead, power is shared in a number of ways, and the Constitution reinforces this arrangement.

The division of powers

Most of the colonial parliaments that were to become state parliaments after federation had been in existence since the 1850s. State parliaments were accustomed to passing laws and governing

their areas of Australia, and everyone expected them to continue doing this after 1901. For this reason, the Constitution supports the idea of a division of powers between the state parliaments and the federal parliament. Law-making powers are divided in such a way that national issues can be handled by the central government, while state governments can concentrate on providing essential services for their citizens.

Section 51 of the Constitution lists all the areas of government that are the responsibility of the federal parliament. These are usually referred to as the 'specific powers', and they include:

- trade and commerce with other countries
- postal and telephone services
- the defence forces
- quarantine regulations
- immigration and emigration issues
- weights and measures used in Australia
- the banking and currency systems
- relationships with other countries (through our embassies and diplomats).



FIGURE 1 The federal government controls the issuing of currency to ensure the same money is used throughout Australia.

Any area of government not included in section 51 remains the responsibility of state parliaments. Examples include:

- health and hospitals
- police and emergency services
- primary and secondary education
- transport, including public transport, road rules and road construction.

The powers that remain with state parliaments are known as the 'residual powers'.



FIGURE 2 The provision of essential services such as firefighting is the responsibility of state governments.

Although not mentioned in the Constitution, there is another level of government — local government — operating in Australia. Local government is carried out by city and municipal councils. These councils usually have responsibility for:

- parks and recreational facilities, such as swimming pools and sports grounds
- town planning
- rubbish removal
- maintenance of local streets
- libraries and kindergartens.



FIGURE 3 Public swimming pools are valuable facilities provided by local councils.

The separation of powers

At both the federal and state levels, the functions of government are not all concentrated in the parliament. The Australian Constitution supports the idea of the separation of powers to allow for three arms of government:

1. legislative arm
2. executive arm
3. judicial arm.

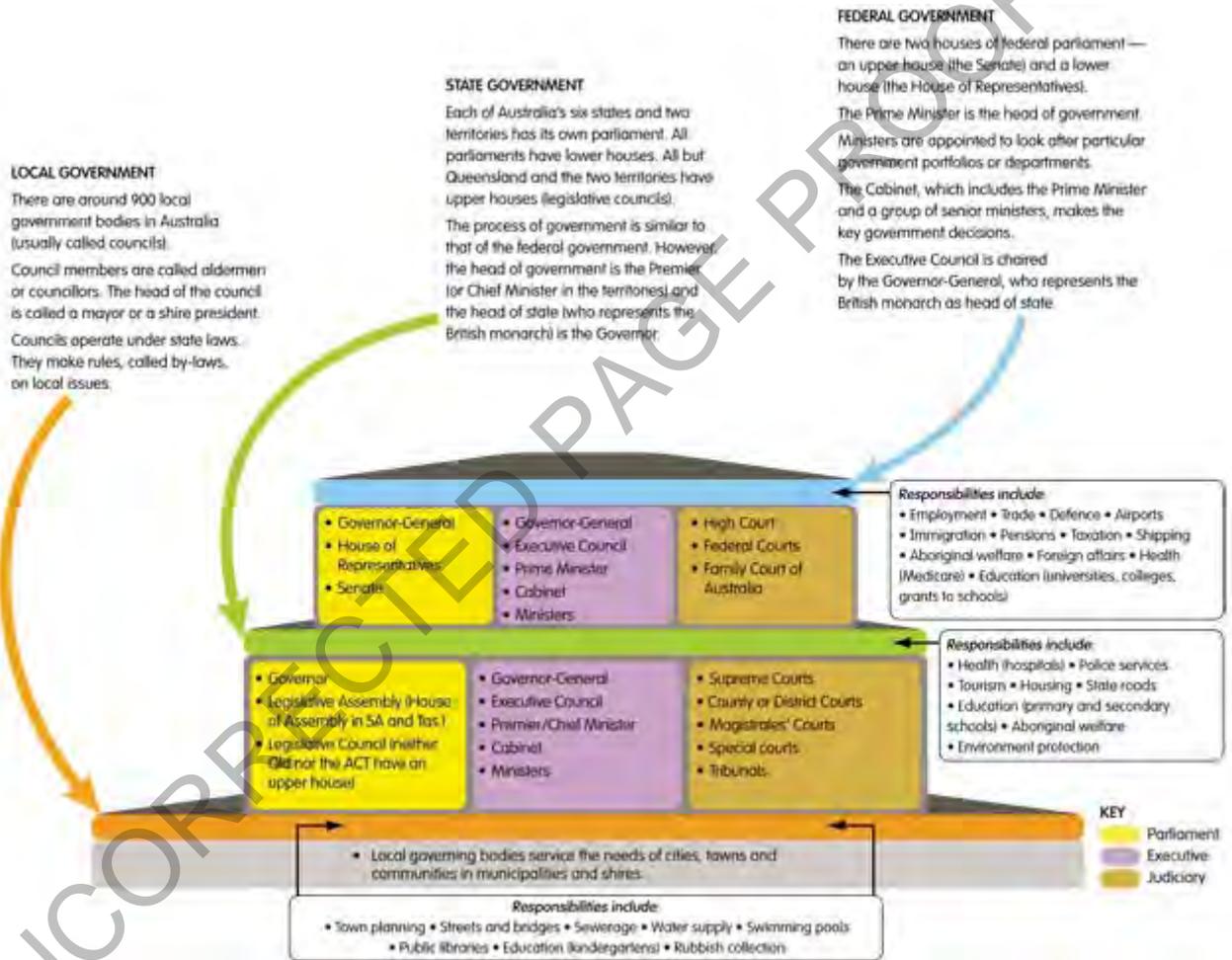


FIGURE 4

The division of powers and the separation of powers

The legislative arm

This is the parliament, which has the power to make new laws and to change or **repeal** existing laws. It consists of two separate 'houses' — the House of Representatives and the Senate — together with the Governor-General as the representative of the Queen. A proposed law is known as a Bill. To become law, a Bill must be debated and voted on by both houses of parliament, and

then approved by the Governor-General. It then becomes known as an Act or a statute, which are the formal names of laws that have been passed by parliament.

The executive arm

This is the arm of government with the responsibility of putting the laws into action. Executive power officially lies with the Governor-General, but it is usually exercised by government ministers. These are members of parliament who have special responsibility for particular areas of government. For example, the minister for defence is responsible for administering all laws that relate to the defence forces; the minister for immigration is responsible for laws dealing with migrants wishing to come to Australia; and the minister for the environment is responsible for those laws that are designed to protect the environment. Public servants and other government employees are part of the executive arm of government.



FIGURE 5

When all government ministers meet together, they are known as the Cabinet. Such meetings usually take place in the Cabinet Room in Parliament House.

The judicial arm

This includes the **judiciary** and the courts, which are responsible for enforcing the law and settling disputes that might arise under the law. The courts can also ensure that the law is applied fairly and equally to everyone, so they are a safeguard for our rights and freedoms. The High Court of Australia has the power to interpret and enforce the Constitution. It can make sure that neither the

legislative arm nor the executive arm acts in a way that is outside the constitutional powers of that arm. Once a judge has been appointed, he or she cannot be easily removed by the executive arm. This means that judges can be independent and make decisions without fear or favour.



FIGURE 6 The High Court of Australia has the power to interpret and enforce the Constitution.

Why do we have the separation of powers?

The separation of powers provides a system of checks and balances on the power of government. This works in the following ways:

- Members of parliament can make laws but have to face elections on a regular basis. If laws prove to be unpopular or unfair, the people can vote for new and different members to replace them.
- An independent judiciary has the power to ensure that parliament and the executive are acting within the limits of the Constitution. This is a way of protecting individual freedoms. The High Court can declare any law invalid if it is contrary to the Constitution.
- Government ministers have to gain the approval of a majority of both houses of parliament if they want to bring in any new laws. If they cannot convince enough members, the law will not be passed.
- Government ministers are all members of parliament, and are individually accountable to parliament. They are required to answer questions in parliament about actions they take as part of their executive role.

Activities

REMEMBER

1. List three examples of the responsibilities of each of the following levels of government:
 - a. federal government
 - b. state government
 - c. local government.
2. Outline the role of each of the following arms of government, and provide an example of each:
 - a. legislative arm
 - b. executive arm
 - c. judicial arm.

eBook *plus*

Interactivity

Time out: Responsibilities

Searchlight ID: INT-1207

EXPLAIN

3. Explain each of the following:
 - a. specific powers
 - b. residual powers.
4. What is the difference between the division of powers and the separation of powers?

DISCOVER

5. Using internet resources, find out who currently performs the following roles in our system of government. For each one, indicate whether their role is legislative, executive or judicial:
 - a. the minister for defence
 - b. your local member of the House of Representatives
 - c. the Chief Justice of the High Court
 - d. the state minister for education.

THINK

6. 'The separation of powers is an important safeguard of our rights and freedoms in Australia.' Do you agree or disagree with this statement? Give reasons for your answer

1.3 How do we change the Constitution?

When the founding fathers developed our Constitution, they wanted to make sure that it could not be changed by politicians seeking to gain more power for themselves. They also wanted to make sure that the two most populous states, New South Wales and Victoria, could not dominate government in a way that could disadvantage the smaller states. For these reasons, they made sure that it would not be easy to change the Constitution.

What does the Constitution say?

The process for changing the Constitution is contained in the last part of the document — chapter 8, section 128. The following steps must be observed if any change is to occur:

- Any proposed change to the Constitution must first be approved by a majority of members of both houses of the federal parliament.
- Within six months of being approved by the parliament, the proposed change must be put to the people to vote in a referendum. All registered voters are entitled to have a say.
- The referendum will usually be in the form of a question asking the voters whether or not they approve of the change. Voters write the word 'Yes' or 'No' in a box on the voting paper to signify their support or opposition to the proposed change (see figure 1).
- For the change to be approved, more than 50 per cent of all voters in Australia must vote yes to the proposal.
- In addition, there must be a majority in favour in at least four of the six states.
- If the above requirements are met, the proposal goes to the Governor-General for final approval and the change is made to the Constitution.

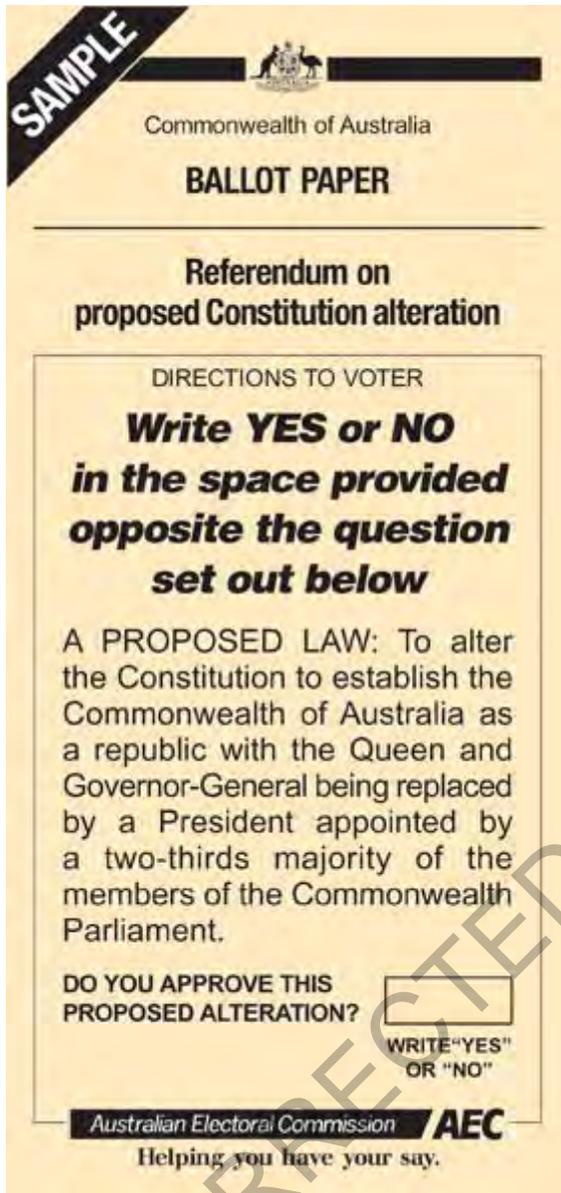


FIGURE 1 A referendum ballot paper

The double majority

As we can see from the previous discussion, it is not enough for a majority of all voters in Australia to approve a change to the Constitution. There must also be a majority in favour in at least four of the six states. This principle is known as the 'double majority', and is a requirement for constitutional change outlined in section 128 of the Constitution.



FIGURE 2 The Constitution can only be changed through a vote of the people.

The founding fathers introduced the need for a double majority because they wanted to make sure that the states with larger populations could not out-vote the states with smaller populations, and so change the Constitution to gain some advantage for their own inhabitants. Throughout most of Australia's history, New South Wales and Victoria have been the biggest states in terms of population. Today, with over 13 million people between them, they make up more than 50 per cent of our population of just over 23 million, and elect 85 of the possible 150 members of the House of Representatives (see figure 3).

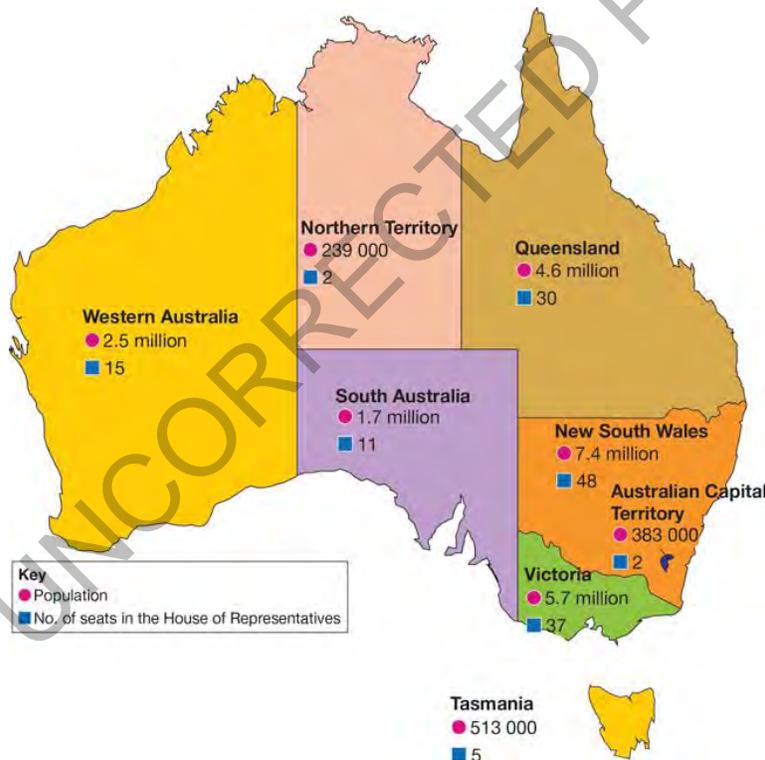


FIGURE 3 The population and the number of elected representatives of each state

Remember that the Constitution was developed by representatives of the original six colonies that were to become states within the new Commonwealth of Australia. These men knew that they were giving up some of their colonial powers to the new federal parliament. Many of those who represented the smaller states were suspicious of the motives of the larger states, and were afraid that New South Wales and Victoria might try to dominate the others. For this reason, they insisted on the inclusion of the double majority to protect the interests of the smaller states. Without this double majority, it would be possible for the voters in the two largest states to out-vote the combined voters in the other four states and two territories.

eBook plus

eLesson

Referendums

Watch this video to learn more about referendums.

Searchlight ID: ELES-2288

Where do proposals for change come from?

Proposals to change the Constitution can come from several sources. For example, a number of state governments may get together and decide that a particular change would be valuable. Sometimes the federal government will hold an inquiry into a particular issue, and this may lead to recommendations for constitutional change. There have been times when community pressure has led to government recognising the need for a change. This occurred in the 1960s when many people campaigned to have the federal government gain the power to make laws for Indigenous Australians (see section 1.4). Proposals for change have also come from special constitutional conventions, such as that held in 1998 to consider the issue of Australia becoming a republic (see section 1.4).



FIGURE 4

In 1998, a special constitutional convention was held in the old Parliament House in Canberra to consider the issue of Australia becoming a republic.

No matter where a proposal comes from, it usually needs the support of the government of the day to have any prospect of bringing about constitutional change. This is because the proposal must have the majority support of the parliament before it can be put to a referendum. As we shall see in

the next section, it has been very difficult to achieve constitutional change since federation. For this reason alone, a government will want to make sure there is strong popular support for any proposal before considering the cost and effort of holding a referendum.

ACTIVITIES

REMEMBER

1. Rewrite the following stages for constitutional change in the correct order:
 - The proposed change is put to the people to vote in a referendum.
 - The proposal goes to the Governor-General for approval.
 - The proposed change must achieve a double majority for the referendum to be successful.
 - A proposed change to the Constitution must be approved by a majority of members of both houses of the federal parliament.
 - Voters write the word 'Yes' or 'No' in a box on the voting paper to signify their support or opposition to the proposed change.
2. Identify two possible sources of proposals for changing the Constitution.

EXPLAIN

3. What is a double majority? What has to happen for a double majority to be achieved?

PREDICT

4. Imagine that there has been a proposal to hold a referendum to change section 128 of the Constitution so that the double majority is no longer required for constitutional change.
 - a. Outline one argument in favour of making such a change and one argument against the change.
 - b. Do you believe that this proposal would be successful at a referendum? Give reasons for your answer.

1.4 How hard is it to change the Constitution?

The founding fathers wanted to make sure that the Constitution could not be changed too easily. They also wanted to ensure that Australia would have a form of government that was stable and predictable. Consequently, only a small minority of proposals for change have ever succeeded through the referendum process.

Success or failure?

There have been 44 occasions since 1901 when proposals for constitutional change were put to the voters of Australia through the referendum process, and only 8 of them were successful. Let us look at some examples.

1951 – banning the Communist Party

In the years following World War II, **communism** spread through a number of countries. In eastern Europe, countries that had been occupied by Russia at the end of the war were ruled by communist governments. China became a communist country in 1949. Australia also had an active Communist Party at the time. The Australian government, led by Prime Minister Robert Menzies, believed the Communist Party to be a threat to national security. In September 1951, the Menzies government proposed a change to the Constitution to give the government the power to ban the Communist Party in Australia.

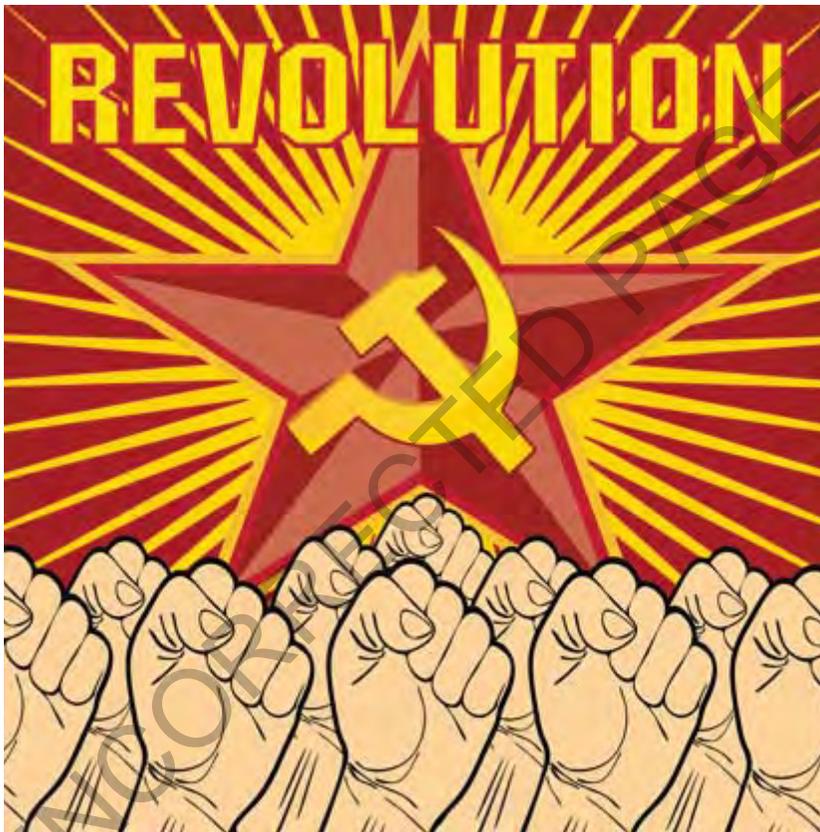


FIGURE 1

The Communist Party was considered a threat to Australia's security.

Many people campaigned against this proposal because they believed it was against the principles of freedom of speech and freedom of association. Even people who were not Communist Party members or supporters opposed the proposal. The referendum failed to gain a majority of votes, losing by 49.4 per cent to 50.6 per cent. It did gain majority support in Queensland, Tasmania and Western Australia, but it did not have a double majority and so it failed. The Communist Party only had a relatively small number of supporters and members, and most Australians were strongly

opposed to communism. Nevertheless, the failure of the referendum is a good example of the unwillingness of Australian voters to change the Constitution without strong community support for the change.

1967 – recognising Indigenous Australians

When the Constitution was drafted, the federal parliament was specifically denied the power to make laws affecting Aboriginal and Torres Strait Islander peoples. Only the states could make laws in relation to those Indigenous peoples living within their own borders. Section 127 of the Constitution specifically excluded Aboriginal peoples from being counted in the official [census](#). This was seen to be discriminatory by many people, as it was effectively denying the existence of Indigenous Australians. As the rights of Indigenous peoples varied from state to state, it was felt that there needed to be a consistent national approach to ensure that they could enjoy the same rights as all Australians.



FIGURE 2 Oodgeroo (also known as Kath Walker) was a leading campaigner for Aboriginal rights in the 1960s.

From the early 1960s, Aboriginal leaders began campaigning strongly to remove section 127 from the Constitution, and to change the clause that prevented the federal parliament from making laws affecting Indigenous Australians. In 1967, a referendum to make these changes was put to the voters. It was strongly supported by all political parties as well as the general public. This proposal became the most successful constitutional referendum in Australia history. Over 90 per cent of voters were in favour across the country, with a majority in favour in every state. As a result of this constitutional change, the federal government has been able to pass laws such as the Racial Discrimination Act, which aims to ensure that all Australians are treated equally regardless of their

racial or ethnic origins. It has also allowed the federal parliament to make laws relating to Aboriginal land rights.

1999 — becoming a republic

During the 1990s, support grew for the idea that Australia should become a republic. This would have required the removal from the Constitution of references to the British monarch as the official Australian head of state, and of the Governor-General as the monarch's representative. The position of head of state would be occupied by an Australian president. There were different ideas as to how such a president might be appointed. Some believed that he or she should be directly elected by the Australian voters, while others believed the president should be appointed by the parliament.



FIGURE 3 The Australian Republican Movement and Australians for Constitutional Monarchy were active in campaigning during the 1999 republic referendum.

In 1998 a constitutional convention was held in Canberra, with representatives from a variety of political and community groups represented. The convention was given the task of coming up with a proposal to put to voters in a referendum. After much discussion, the convention proposed a model by which the president of an Australian republic would be appointed by a vote of the federal parliament. A successful presidential nominee would need to be supported by two-thirds of those members. The proposal was opposed both by people who wanted to retain the British monarch as head of state and by those who wanted a president to be directly elected by the voters. Without

broad community support, the referendum did not win majority support throughout the country or gain a majority in any state.

ACTIVITIES

REMEMBER

1. Why did the Menzies government wish to ban the Communist Party in Australia?
2. Which two issues were the subject of the 1967 referendum relating to Aboriginal rights?
3. What process was used to develop the model voted on in the 1999 republic referendum?

DISCOVER

4. Using internet resources, identify three pieces of legislation that have been passed as a result of the federal parliament gaining the power to make laws for Aboriginal Australians.

THINK

5. Using the examples of the 1951 and 1999 referendums, brainstorm three reasons why it is very difficult for a constitutional referendum to be successful in Australia.
6. Despite the loss of the referendum in 1999, many people still believe that Australia should eventually become a republic. On the other hand, media coverage of the marriage of Prince William and Kate Middleton and the birth of Prince George has revived interest in the monarchy. Using the **Australian Republican Movement** weblink and the **Australians for Constitutional Monarchy** weblink in your Resources section, list three arguments in favour of Australia becoming a republic, and three arguments against. Compare your arguments with your classmates. Your teacher may be able to organise a class debate on the issue.

 eBookplus

SkillBuilder: Questioning and research

Tell me

When carrying out your own research, the steps in figure 1 can provide a useful guide.

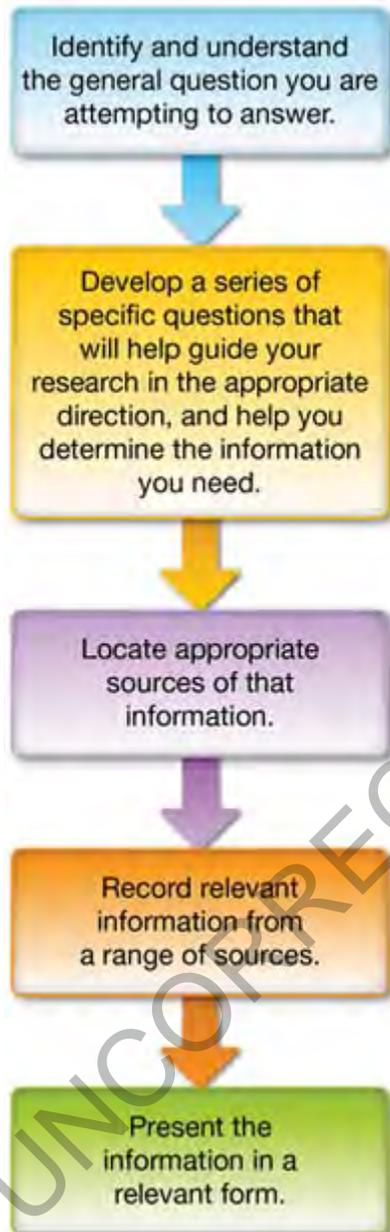


FIGURE 1 How to carry out your own research

Show me

Imagine you have been asked to investigate the process that led to Australian federation in 1901.

Your first step is to clearly identify the essential key question. This could be expressed as: 'What was the sequence of events that led to Australian federation in 1901?'

It is now necessary to break this down into a series of more specific questions. These could include:

1. Who or what started the process? (Was there an individual, a group of people or a significant event that began the process?)
2. How or why did each of the state governments become interested in pursuing the idea of federation?
3. What organisations were set up to promote the idea?
4. Who were the founding fathers? (What were their names? Which colonies did they represent?)
5. What processes did the founding fathers use to develop a constitution?
6. When and where did they meet to carry out these processes?
7. Where did they get their ideas from?
8. What important principles did they include in the Constitution?
9. Did they have the complete support of all colonies? Were some colonies harder to convince than others?
10. What were the final legal processes that were necessary for the Constitution to come into effect?

The next step is to locate appropriate sources. By entering the search term 'Australian federation' in your favourite search engine, you will be presented with a number of sources. A Wikipedia entry is often found at or near the top of the list of sources found, and many students will be familiar with this resource. There is no problem in using Wikipedia as one of your sources — so long as you remember that it is not always reliable, and any information gathered from Wikipedia should always be checked against another source to make sure it is accurate. To help ensure that your information is correct, it is a good idea to use at least two sources to answer each question.

Keep your questions beside you as you read each source, and note the location of material that provides answers. You can select and print some text, and then highlight those sentences or paragraphs that provide answers to your questions. Sometimes a complete answer to a question may be found in several places in a piece of text. Be sure to highlight all relevant text, and indicate with a number which question the information answers.

When you are satisfied that you have found the answers to all the questions, you need to write the answers in order, making sure to use your own words as much as possible. You can then use the answers to present your information in the required form. This may be a report to the rest of the class, an essay to be marked by your teacher, a PowerPoint or Keynote presentation, or any other format that is appropriate.

Let me do it

Practise the skill

Using the above process as a model, devise a series of questions and carry out the research to produce a report on the following key question: 'Why was the 1967 referendum on Aboriginal rights the most successful in Australia's history?'

Review and reflect

Review

The way we are governed in Australia is determined by a set of rules. This set of rules is known as our Constitution. It outlines the powers of those governing us, and what they are and are not permitted to do in exercising those powers. Commonwealth and state parliaments are all expected to operate within the rules laid out in this Constitution. The law courts are also expected to uphold the rules contained in the Constitution, and to ensure that all individuals and organisations act within these rules.

- A constitution was necessary because Australia already consisted of six self-governing colonies. As a national parliament would be introduced to govern the new nation, it was important to have a clear statement of how power would be shared between the national parliament and the six existing parliaments.
- The Constitution provides for a division of powers between the state parliaments and the federal parliament. Law-making powers are divided in such a way that national issues can be handled by the central government, while state governments can concentrate on providing essential services for their citizens.
- Under our Constitution, we also have a separation of powers. This means that power is separated between the legislative arm of government, which makes laws; the executive arm, which implements the laws; and the judicial arm, which resolves disputes that may arise under those laws.
- Our Constitution can only be changed through a referendum in which a double majority vote in favour of the proposed change.
- It is relatively difficult to change our Constitution. There have been 44 occasions when constitutional change has been attempted, and only 8 of them were successful.


Interactivity
Multiple choice
Searchlight ID: INT-3896


Interactivity
True/false
Searchlight ID: INT-3897


Interactivity
Crossword
Searchlight ID: INT-5311

Reflect

Australia's Constitution would never have been agreed to if it had not guaranteed a role for state governments. It was state politicians who met to develop the Constitution, believing that they would continue to have considerable powers. Over the last hundred years, many Australians have argued that we no longer need state governments. They argue that countries with much larger populations than Australia manage without two levels of parliament. They also argue that local councils could be enlarged to become elected regional authorities, so that we would have only two levels of government. Those who support retaining state governments argue that the federal parliament is too distant from ordinary people, and that state governments are best placed to deliver essential services.

Removing state parliaments would require several changes to the Constitution. Consider the following questions, and give reasons for your responses:

1. Modern communications did not exist when the Constitution was drafted, so the federal government would have seemed very distant. State governments, however, were based in every capital city and so were closer to the people. Have changes in our forms of communication made state governments unnecessary?
2. Identify three changes that would have to happen for a referendum to abolish the states to be successful.
3. Can you think of some powers that are currently held by one level of government that could be transferred to a different level of government?