

# **Constitution Act 1900.**

## **Commonwealth of Australia Constitution Act**

### **PREAMBLE.**

**An Act to constitute the Commonwealth of Australia [9th July 1900]**

At the time just before Federation, Australia consisted of six Colonies. To turn six Colonies into the Commonwealth of Australia required an Act from the UK Parliament. The Act that the UK Parliament used to Federate Australia was called; An Act to constitute the Commonwealth of Australia 9<sup>th</sup> July 1900 and came into force on the 1<sup>st</sup> of January 1901. That Act is a Law of the UK Parliament and they can repeal, amend or do nothing with it and the latter is what has happened.

There is no provision to change the Constitution Act other than the UK Parliament and it's extremely unlikely that they would do that without a referendum of the people in this country. The Constitution Act is made up of a Preamble and 9 Covering Clauses and no more

The Constitution Act is an enabling act, in other words an Act that enabled or allowed Australia to Federate.

**We must understand the difference between the Constitution Act and the Constitution. We also must understand that the Constitution is part of the Constitution Act. (Covering Clause 9)**

### **The Constitution Act.**

Below we have included the preamble, with some explanation of the Constitution Act.

**An Act to constitute the Commonwealth of Australia; and is referred to as the Constitution Act.**

### **PREAMBLE**

**Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, 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 this present Parliament assembled, and by the authority of the same, as follows:—**

**The Annotated Constitution make the following comments;** Page 283 and 284, (relevant part only).

Whereas the people of colonies which have adopted the Constitution and have agreed to form one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established.

Several largely-signed petitions had been received praying that there should be some recognition of God in the Constitution.

The Convention, however, felt some doubt as to the propriety of introducing at that stage any religious formula into the Constitution, and that idea was defeated by 17 votes to 11.

Numerous petitions were received to a similar effect, and a proposal to insert the words “humbly relying on the blessing of Almighty God” was agreed to.

In the Bill as introduced in the Imperial Parliament, the names of the five colonies which had accepted the Bill were inserted in the blank left for that purpose. The words “under the Constitution hereby established” was included.

#### **Whereas the people.....**

“Whereas the people” establish the fact that it was the people that Federated Australia and not any form of Government. “Whereas the people” is neither discriminatory nor racist. Those three words also establish the fact that the people are sovereign over and above any Parliament in Australia.

**The Annotated Constitution make the following comments;** Page 285 and 286, (relevant part only).

This opinion approaches near the truth, is the supreme absolute and uncontrollable authority remains with the people. The opening words of the preamble also proclaim that the Constitution of the Commonwealth of Australia is founded on the will of the people whom it is designed to unite and govern.

## **New South Wales, Victoria, South Australia, Queensland, and Tasmania.**

Those five Colonies now States, decided to unite as the Commonwealth of Australia and although Western Australia was not part of the Commonwealth at the time of the creation of the Constitution Act. They did however decide to become part of the Commonwealth about one month later. Now that all six Colonies have become six States they united to form the Commonwealth of Australia. New Zealand was invited to be part of the Commonwealth of Australia at that time but they declined the offer.

## **Have agreed to unite in one indissoluble Federal Commonwealth.**

Simply means that the six Colonies that became States, then went on to be part of the Federal Commonwealth that could not be split up. There is no provision in either the Constitution Act or the Constitution for any State to split from the Commonwealth.

## **under the Crown of the United Kingdom.**

The words “under the Crown of the United Kingdom” have very significant meaning.

## **The Annotated Constitution make the following comments;** Page 285 and 286, (relevant part only).

It is a concrete and unequivocal acknowledgment of a principle which pervades the whole scheme of Government; harmony with the British Constitution and loyalty to the Queen of the United Kingdom with its multitudinous peoples and its complex divisions of political power.

## **United Kingdom of Great Britain and Ireland.**

The words “United Kingdom of Great Britain and Ireland” simply mean that three Countries formed together. Prior to the Act of Union 1707, United Kingdom consisted of three separate Countries. Those Countries were England, Scotland and Ireland (Wales is part of England).

That on 1st May, 1707, the nations of England and Scotland were united into one kingdom by the name of Great Britain and that there should be one Parliament for the whole kingdom. In 1801, in another Act of Union, Great Britain and Ireland formed together to become the United Kingdom.

**and under the Constitution hereby established.**

The words, “Under the Constitution hereby established”

The Annotated Constitution written by Quick and Garran make the following comments;

The Commonwealth is a political community, carved out of the British Empire and endowed through its Constitution with a defined quota of self-governing powers. **Those powers are delegated by and derived from the British Parliament, and they are to be held, enjoyed, and exercised by the people of the Commonwealth in the manner prescribed by the grant, subject;**

**(1) to the supreme British Sovereignty (under the Crown), and**

**(2) to the Constitution of the Commonwealth.**

***The Commonwealth is consequently under a double subjection. It is subject in the first place to the British Parliament, which, as the ultimate sovereign authority of the Empire, has the legal power to legislate for the Commonwealth as a part of the Empire, and even to amend or repeal the Constitution of the Commonwealth. The grant of a Constitution to any dependency of the Empire is, however, a practical guarantee that no Imperial legislation conflicting with such grant will be passed except at the express request and with the concurrence of the dependency”***

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

**By the Queen's Most Excellent Majesty.**

The Annotated Constitution make the following comments; Page 301 and 306, (relevant part only).

The enacting words, showing the Authority by which the Commonwealth is created, are in the form in which Acts of Parliament have been framed from a remote period of English history,

subject only to the condition that this supreme power to create Bills must be exercised in Parliament and not otherwise. It is in the Crown, and not in Parliament, that legislative authority (royal assent) is, according to Constitutional theory, directly vested. Every Act of Parliament bears on its face the stamp and evidence of its royal authority.

It springs from the Queen's Most Excellent Majesty.

### **And the Lords Temporal.**

**The House of Lords is the house of review, and is a bit like our Senate in that respect.**

**The House of Lords are not elected by the people, only the House of Commons are elected by the people.**

### **The House of Commons.**

ORIGIN.

The House of Commons was originally the legislative chamber in which were represented the various communities meant the collections of persons residing in the same neighbourhood, entitled to the enjoyment of common rights, subject to common duties and burdens, having common interests; and occupying the same relation to the King.

**According the maxim prevailed that “what touched all should be approved by all;” that no change should be made in a law affecting any class, order or community, and certainly that no tax could be imposed, without the consent of the group of persons immediately concerned.**