

Designing our political and legal system

On 1 January 1901 the Commonwealth of Australia, as we know it today, officially came into existence. It was created when the six former British colonies federated, to become six states—New South Wales, Queensland, South Australia, Tasmania, Western Australia and Victoria. Ten years later, in 1911, the two territories—the Australian Capital Territory and the Northern Territory—came into being as part of the Australian Commonwealth.

Altogether, the new nation became known as Australia. With the making of the new nation came the need for new rules. An important document, known as the Australian Constitution, was written to explain how this new nation would operate and what the main features of its government would be. The foundation of the Australian Government is based on the British Westminster system and is shaped by the Australian Constitution.

The Australian Constitution

Making the rules

In its most simple form, a constitution is a set of rules. Constitutions exist for many different groups, including businesses, school groups and sporting clubs. Constitutional documents outline how the particular group will be run and the procedures that need to be followed.

Australia's Constitution

When **Federation** took place in 1901 there was a need for a set of rules stating how Australia would be governed. This set of rules came into effect on 1 January 1901 and is known as the **Australian Constitution**.

Australia's Constitution is a large and complex document containing eight chapters and 128 sections. Some of the key features of the chapters are described in Source 1.1.1.

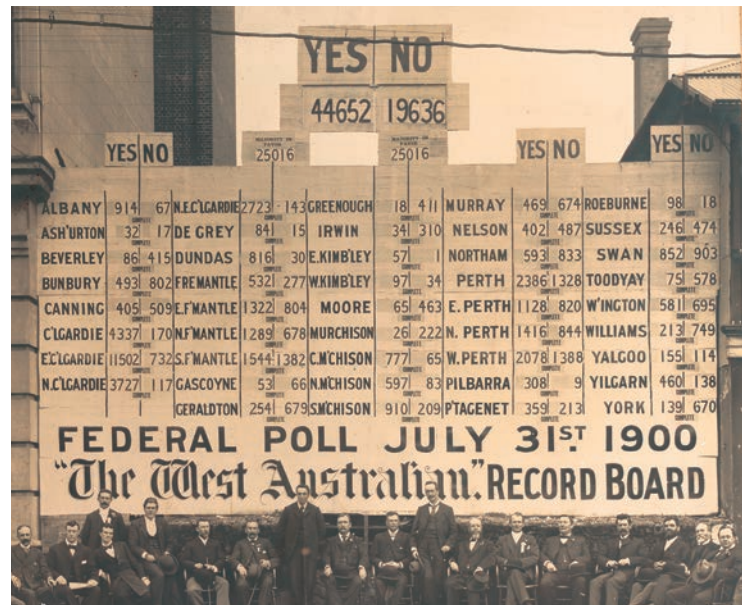
| Chapter | Features |
|---------|---|
| 1 | Describes how the federal parliament is made up of two Houses—the Upper House, or Senate, and the Lower House, or House of Representatives (a bicameral government)—and the Queen as the Head of State. |
| 2 | Describes the power of key people such as the Queen and the governor general. |
| 3 | Relates to the federal courts, including the High Court of Australia, which can settle disputes about the Constitution. |
| 4 | Deals with money and trade. |
| 5 and 6 | Explains the division of powers and the relationship between the Commonwealth, or federal, government and the states and territories. |
| 7 | Outlines where the capital of Australia should be and how the governor general has the right to appoint deputies. |
| 8 | Explains how the Constitution can be changed by referendum. |

Source 1.1.1 Some key features of the Australian Constitution

The Constitution describes how federal parliament is made up and how it works, how the power of the government is divided between various governmental institutions and the roles that each one plays in governing Australia. The Constitution also lists the areas in which the federal government has the power to make laws. Anything that the Constitution does not specifically say the federal government must do, the states can choose to do. It is possible for both federal and state governments to pass laws dealing with a particular issue, but in those cases the Constitution says the federal law is the one that needs to be followed.

While the document does not explicitly state all of the rights of Australian citizens, as constitutions from some other countries do, it does define some, such as the right to choose a religion.

In addition to the Australian Constitution, each Australian state has its own constitution. The two territories (ACT and Northern Territory) have similar documents called self-government acts. This means they are able to govern themselves, but do not have their own constitution.



Source 1.1.2 Western Australia agreed to federate on 31 July 1900, paving the way for the Commonwealth of Australia to come into existence and the Australian Constitution to be written.

Differing state and federal roles

The Australian Constitution lists those areas of government that come under federal and state responsibilities.

| Federal government | State government |
|-----------------------------------|---|
| foreign policy | schools |
| currency | hospitals |
| immigration | roads and railways |
| defence | police |
| weights and measures | mining and agriculture |
| social security | prisons |
| trade and commerce | public transport |
| postal and communication services | utilities such as electricity and water |

Source 1.1.3 Differing jobs of the federal and state governments

Changing the Australian Constitution

The Australian Constitution can only be changed if the majority of Australian people agree. For any changes to be made they must be proposed, usually by politicians or lobby groups, and then put to a **referendum** or vote. Then all eligible voters in Australia must vote in the referendum. A majority of voters in a majority of states have to vote 'yes' for a change to be made to the Constitution. Since 1901 there have been 44 referendums. These have varied in purpose, from changing the timing of Senate elections to giving the Commonwealth the ability to make laws about the aviation industry. Only eight changes have been agreed to in that time.

One important change was made in 1967, when Australians voted to include Aboriginal people in the census or count of the Australian population and give the federal government the power to make laws for Australians of Aboriginal and Torres Strait Islander descent. This referendum saw the

highest 'yes' vote ever recorded, with more than 90 per cent of voters agreeing to make the change to the Constitution.



Source 1.1.4 Bill Onus, Victorian Aborigines' Advancement League President, in a 1967 march for Aboriginal rights.

ACTIVITIES

Remembering and understanding

- 1 What is a constitution?
- 2 When did Australia's Constitution come into effect?
- 3 List at least four things the Constitution describes.
- 4 How many referendums have there been since 1901?

Applying and analysing

- 5 Identify the stages in the process required to change the Constitution.

Evaluating and creating

- 6 Determine why the referendum in 1967 saw the highest 'yes' vote ever recorded in a federal referendum.

The separation of powers

The three branches of government

There are three main branches of the Australian Government—the **parliament** or **legislature**, the **executive** and the **judiciary**. These groups, and the roles they play in governing our nation, are outlined in the Australian Constitution. The power to make and manage federal law is divided between the three groups and is known as the separation of powers. The parliament makes and amends the law, the executive puts the law into action and the judiciary makes judgements about the law. These roles have been separated to avoid one group having all the power.

This separation of powers is one key to the success of Australia’s government. It means that each of the three branches of government acts separately, and as a check on the others. That means they keep the other branches from gaining too much power or acting **oppressively**. For example, the executive branch may want a law, but the legislature has to pass it. The judiciary has the power to say if the law is against the Constitution and therefore should not be in place.

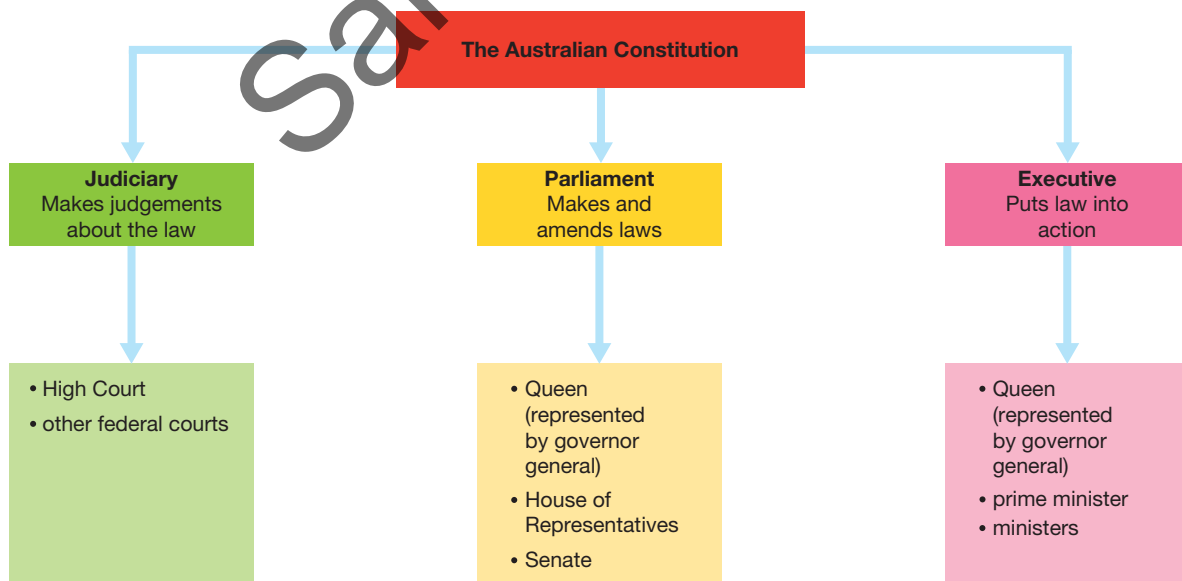
Australia does not have a complete separation of powers because some of the roles overlap. The prime minister, for example, is part of both the parliament and the executive.

The Parliament

Parliament is also known as the legislature, and is made up of:

- Queen Elizabeth II, who is Queen of the United Kingdom, Australia, New Zealand and also Head of the Commonwealth. She is represented in Australia by the **governor general**
- the **Senate** and the **House of Representatives**, which collectively are known as the Houses of Parliament.

The Parliament of Australia passes legislation to make laws. Any proposed laws need to be agreed to by both Houses of Parliament before they become law. The two Houses have equal powers, although the Senate has a number of restrictions relating to introducing and amending some kinds of laws. The governor general also has a role in making laws, by basically giving his or her approval or assenting to acts.



Source 1.2.1 The Australian Constitution sets out the powers of the three branches of government to make and manage federal laws.

Some of the other roles of the Parliament of Australia are:

- providing the members of the executive government from the political party that wins the election
- providing the place where the government is formed
- providing representation for the Australian people through 150 members in the House of Representatives and 76 senators
- providing a check on the work done by the government through debates and questioning issues during question time
- authorising, or approving, the executive government to spend public money.



Source 1.2.2 The leader of the governing party becomes the prime minister. Julia Gillard was the 27th prime minister of Australia and the first woman to hold this position. The prime minister is part of both the parliament and the executive.

The executive

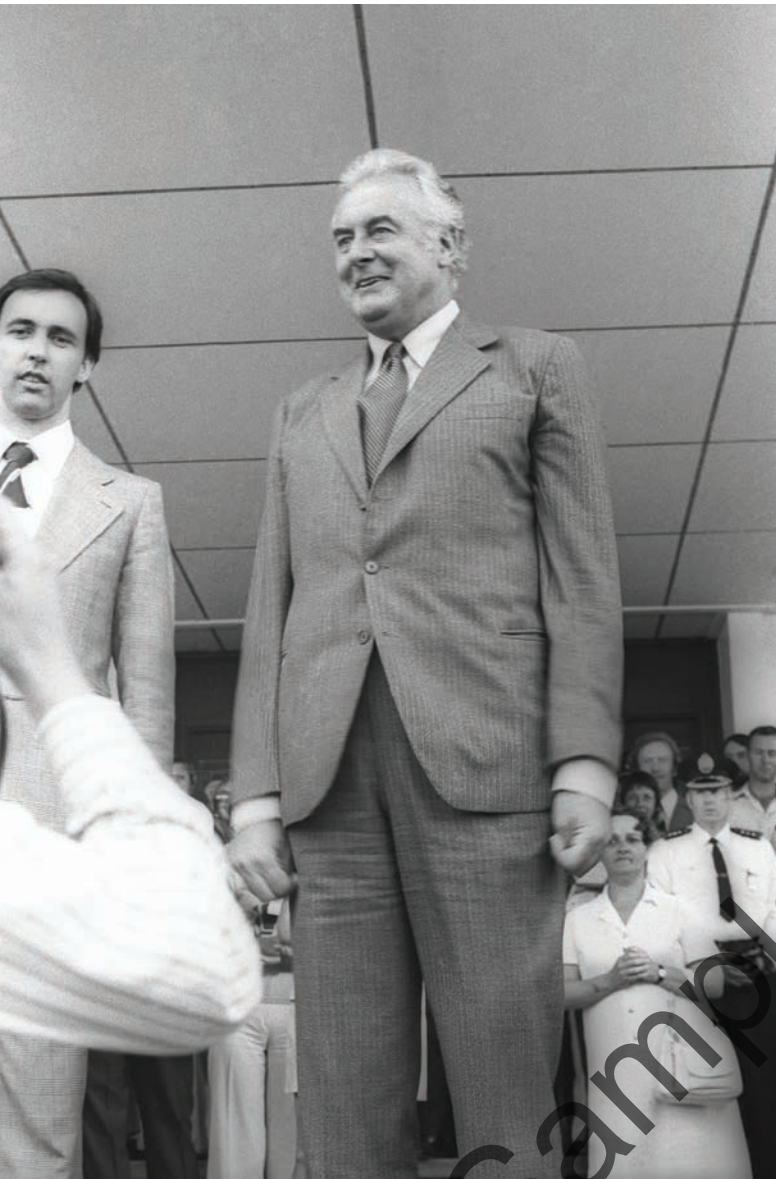
The executive is made up of the Queen, represented by the governor general, and the cabinet and ministry, led by the **prime minister**. The job of the executive is to carry out the day-to-day government and administration of the country and to carry out the laws made by the parliament. The governor general, as the Queen's representative, is part of the executive because Australia is a **constitutional monarchy**.

A constitutional monarchy is a form of government where the powers of the ruling monarch—a king or queen—are limited by law and usually carried out only on the advice of the elected government. Australia's Head of State is Queen Elizabeth II. Queen Elizabeth is also Queen of the United Kingdom and several other countries, but her role in Australia is quite separate from her role in the UK. The head of state is a formal, symbolic and ceremonial job, and in Australia the Queen's tasks have been delegated to her representative, the governor general.

The roles of the governor general and the Queen

The governor general is effectively the Queen's representative in Australia and performs the ceremonial functions on behalf of the Queen. The tasks of the governor general are written in the Constitution and can include:

- appointing and dismissing executive councillors and ministers
- appointing judges
- being the commander-in-chief of the defence forces
- deciding when parliament meets, suspending and dissolving parliament
- issuing writs for general elections
- recommending government spending to parliament
- signing off on proposed new laws
- blocking or proposing amendments to any laws passed by the Houses of Parliament
- receiving and entertaining official visitors to Australia.



Source 1.2.3 Prime Minister Gough Whitlam was dismissed by Australia's governor general on 11 November 1975.

The Constitution also gives the governor general the power to act independently in some areas. For example, the governor general is able to dissolve the House of Representatives or both Houses (called a double dissolution) in exceptional circumstances.

For example, in 1975, the then governor general, Sir John Kerr, made history by using his reserve powers to sack Gough Whitlam's Labor government. The Liberal Opposition had blocked money going to the government. Kerr appointed the Opposition leader, Malcolm Fraser, as temporary prime minister on the understanding that Fraser would approve the supply of money and call an election.

These powers are reserve powers not clearly defined in the Constitution, and the governor general usually acts on the advice of the prime minister.

The prime minister

The prime minister is the head of government and leader of the executive. He or she is the person who leads the party voted into office by the Australian people. The prime minister has a great deal of power to select the government and determine what its priorities will be. The prime minister is also the chief adviser to the governor general.

Australia's current prime minister, Malcolm Turnbull, is the fourth prime minister to hold office since 2013, and has recently won a second term of office. There have been 29 prime ministers in Australia and 45 elections up to 2016. Sometimes the prime minister may change without an election. Reasons for this could be that the prime minister died while in office or there has been a party leadership change.

Did you know?

On Sunday 17 December 1967 the 17th Australian prime minister, Harold Holt, disappeared while swimming at a beach on Point Nepean in Victoria. Despite a massive search, his body has never been found and there have been many conspiracy theories about the day that Australia lost a prime minister.

Cabinet

The **cabinet** is the group of senior ministers who make government policy for running the country. This group is made up of senior politicians, selected and presided over by the prime minister. There are currently 30 ministers, selected by the prime minister, with around 19 senior ministers managing the major departments, which include Agriculture and Water Resources, Foreign Affairs and Trade, Treasury, and Industry, Innovation and Science.



Source 1.2.4 The High Court of Australia, in Canberra

The judiciary

The power to interpret laws and to make judgements on them rests with the judiciary. This is done through courts such as the High Court, which is the highest court in Australia, and other federal courts. The High Court was established by the Constitution, while the other courts were created by legislation of the parliament.

The High Court consists of a chief justice and six other judges. Judges are appointed by the governor general after advice from the prime minister and cabinet, and can only be removed from their position by the governor general. Once they are on the bench, judges keep the position until they retire or reach the age of 70 years, when they are forced to step down by law.

One of the major roles of the High Court is to interpret the Constitution.

ACTIVITIES

Remembering and understanding

- 1 What are the three main branches of the Australian government?
- 2 List the three bodies that make up the Australian Parliament.
- 3 What is the job of the executive?
- 4 Who selects the ministers to form the cabinet?

Applying and analysing

- 5 Construct a diagram showing the roles of and the relationship between Australia's three branches of government.
- 6 Identify other roles of the High Court.

Evaluating and creating

- 7 Investigate why Governor General John Kerr dismissed the Whitlam Labor Government in 1975.
- 8 Determine why Australia has had four prime ministers since 2013 and decide what this reveals about Australia's parliament.

The three levels of government

Local, state and federal levels of government

Australia is a big country, so the job of running it is considerable! Not every decision can be made by Federal Parliament, and so the roles of governing the country are split up. This is known as the three levels of government. Each level of government has its own responsibilities, although sometimes these overlap. These levels of government work together to provide the services we all need.

The three levels are:

- Federal Parliament, which is based in Parliament House in Canberra

- state and territory parliaments in each capital city. Western Australia’s Parliament House is located in Perth
- local councils, and shires and municipalities across the nation. The area where you live, for example, will fall under a local government authority of some sort.

Australia has one federal parliament, six state and two territory parliaments, and more than 560 local councils. Australians aged 18 years and older who are eligible to vote, elect representatives to all three levels of government to make decisions on their behalf.

| Australia's three levels of government—examples | What is each level responsible for? | Making the law: legislative | Carrying out the law: executive | Interpreting or figuring out the law: judicial |
|---|--|--|---|---|
| Federal Parliament House in Canberra | <ul style="list-style-type: none"> • Defence • Taxation • Immigration • Postal services • Trade • Environment | Federal Parliament: <ul style="list-style-type: none"> • Senate (Upper House) • House of Representatives (Lower House) | <ul style="list-style-type: none"> • Governor general • Prime minister, Cabinet and ministers • Federal public service | <ul style="list-style-type: none"> • High Court • Federal Court • Family Court |
| State Parliament Court House in Perth, WA | <ul style="list-style-type: none"> • Schools • Hospitals • Roads and railways • Police and ambulance services • Housing | State Parliament: <ul style="list-style-type: none"> • Legislative Council (Upper House) • Legislative Assembly (Lower House) | <ul style="list-style-type: none"> • Governor • Premier • Cabinet and ministers • State public service | State courts: <ul style="list-style-type: none"> • Supreme Court • District Court • Magistrates Court |
| Local City of South Perth | <ul style="list-style-type: none"> • Town planning • Rubbish collection • Local roads • Pet control • Parks and ovals • Local libraries and swimming pools | <ul style="list-style-type: none"> • Elected council members • Municipal council • Shire council | <ul style="list-style-type: none"> • Mayor or shire president • Council members | |

Source 1.3.1 There are three levels of government in Australia working together for all.

Federal government

The federal government is responsible for those things that affect the whole nation, such as trade, defence, immigration and the environment. It is also responsible for countrywide services, such as money, postal services and telecommunications.

To run the country and pay for the services it provides, the federal government collects taxes, which are compulsory payments made by companies and individuals.

Did you know?

Before Federation all of the separate colonies had their own governments. Each colony had its own written constitution, parliament and laws, but the British Parliament could overrule any laws passed by any of the colonies. The Australian Constitution, written when the colonies joined together in federation, allowed the states to keep their own parliaments.

State government

Each state government is responsible for the issues that affect that particular state and/or territory. These are usually laws that are not covered by the federal government. For example, schools and police are state responsibilities.

In each state, except for Queensland, there are two Houses of Parliament—the Lower House, or Legislative Assembly, and the Upper House, also called the Legislative Council. The head of government in the states and territories is known as the premier or chief minister.

State governments receive funding to run their affairs from state taxes, stamp duty and grants and payroll taxes from the federal government. The federal government allocates money each year to the states and territories.



Source 1.3.2 The federal government funds a number of projects to protect environmental and cultural heritage. Gwalia, in Western Australia, received almost \$1 million in federal funding to preserve the historic mining town.



Source 1.3.3 Elizabeth Quay is an example of a state government initiative.

State government initiatives

State governments will often use their funding to develop new projects to revitalise areas that have fallen into disuse or disrepair. These projects create new job opportunities for people and often create vibrant, new, public spaces. The Elizabeth Quay project in Perth is one such example.

ELIZABETH QUAY PROJECT

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After decades of discussion and debate about connecting the Swan River to the city, Premier Colin Barnett and Planning Minister John Day have today officially opened Elizabeth Quay.

The Premier said Elizabeth Quay was a free space for all West Australians and visitors to our city to enjoy.

'When the Liberal National Government was elected in 2008, I pledged that we would be a government which made decisions and one of those was Elizabeth Quay,' Mr Barnett said.

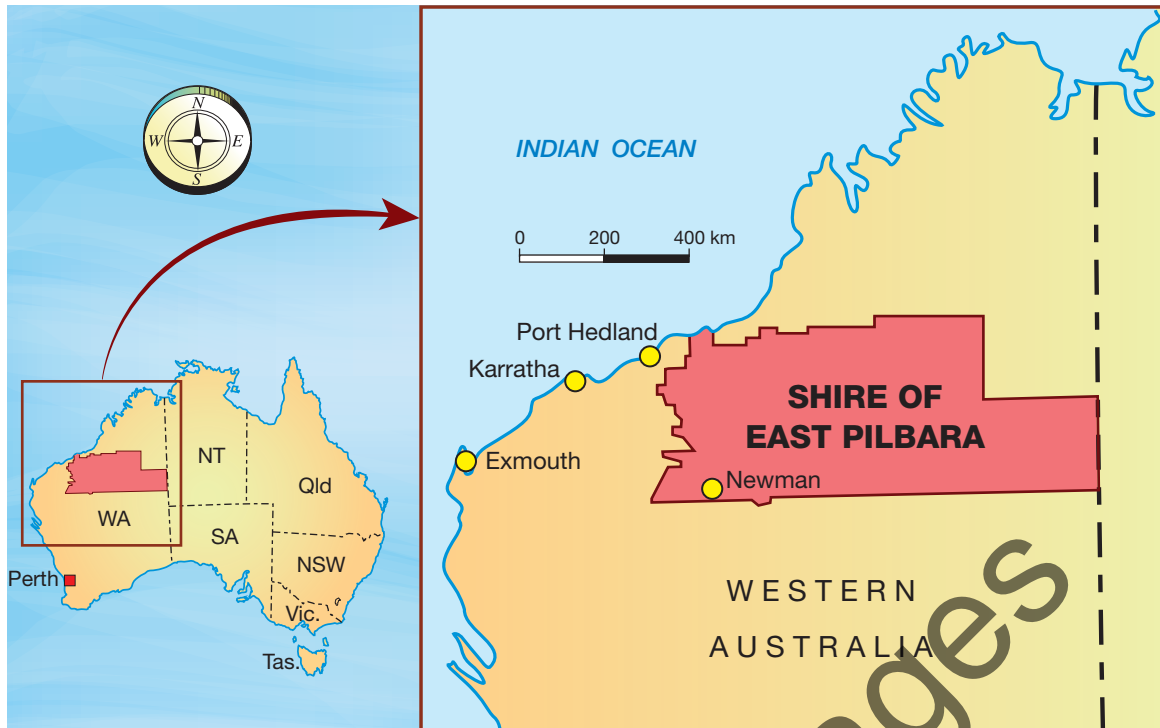
'This project fundamentally changes the face of Perth; it connects us to the Swan River and provides a huge boost to the vitality of our city. We have come a long way over the past decade and West Australians have a lot to be proud of. I am delighted that the public can now see what years of planning, creative development and hard work by many people has achieved.'

Mr Day said Elizabeth Quay was a once in a generation project that changed the physical and cultural landscape of our city.

'As well as the free spaces available, including the BHP Billiton Water Park and nature-based inspired playground, a calendar of events and activities have been planned to create a precinct that is an active and exciting place to be, whatever the time of day.'

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Source 1.3.4 Elizabeth Quay opened in Perth in 2016.



Source 1.3.5
The Shire of East Pilbara covers a vast area of Western Australia.

Local government

Local government is responsible for services in your local neighbourhood. The library you visit after school, the meals on wheels delivered to your elderly neighbour, the government recreational facilities you might go to on the weekend, are all examples of local government.

In Western Australia, local government areas or municipalities are usually known as cities or towns in urban areas and shires in country areas. Within each of these areas is a council or group of people who run the municipality. For councils to operate they need money, which they collect in the form of residential rates, licences and fines. Rates are an amount of money paid by all people who own property in the municipality. Councils are also given grants from the federal and state governments.

Councillors are elected local government representatives who usually volunteer their time for their municipality. These people are elected by local residents through local government elections. Councillors make the main decisions that affect their local area and they are supported by a range of paid staff who take care of the day-to-day running of the local area. Examples of these people include building and health inspectors, rangers, healthcare workers and librarians.

ACTIVITIES

Remembering and understanding

- 1 What are the three levels of government in Australia?
- 2 What are the names of the two Houses of Parliament in each state?
- 3 List where state governments receive funding from to run their affairs.
- 4 Provide three examples of services for which local governments are responsible.
- 5 Identify the title of the leader of each level of government.

Applying and analysing

- 6 Read Source 1.3.4. Write a report highlighting why the Elizabeth Quay project was important for the city of Perth.

Evaluating and creating

- 7 Argue in favour of or against the statement that Australia has too many levels of government.
- 8 Predict what might happen if your local government stopped providing some of its services, such as collecting waste and items for recycling.

Australia: Houses of Parliament

The bicameral parliament

The Australian Federal Parliament is called a **bicameral** parliament because it has two Houses. These are known as the House of Representatives, or Lower House, and the Senate, or Upper House. Each House has very different jobs.

House of Representatives

The House of Representatives is also known as the Lower House, or the People's House. This House represents the Australian people as a whole because it would be impossible for every Australian to vote on every decision that needs to be made.

Australia is divided into 150 areas called electorates. There are 150 members elected to the House of Representatives. Each member represents one electorate. Each of these areas holds roughly the same number of people. This means that in terms of land area some of the electorates are very small, while others, such as the electorate of Kalgoorlie, are very large.

The House of Representatives is traditionally the more powerful House of the two. Its most important role is forming the government after an election. The prime minister must come from this House. After a general election in which the Australian people have voted, the political party or group of parties that have won a majority of seats in the House of Representatives form the government. The leader of this party becomes the prime minister. The next largest party forms what is known as the Opposition.

Did you know?

The colour of the House of Representatives is green for two reasons—one is to show our link with the traditional green decor of the House of Commons in the British Parliament; the other is to represent the Australian eucalypt landscape. The furnishings and carpet in the Senate are red to show our traditional link with the House of Lords in the British Parliament, as well as representing the red earth that is typical of much of the Australian landscape, such as in the centre of Australia.



Source 1.4.1 The House of Representatives is also known as the People's House or the Lower House.



Source 1.4.2 The mace is a symbol of the authority of the House of Representatives.

The Senate

The Senate is also known as the Upper House, the States' House and the Red Chamber. This House is made up of elected men and women who represent the people of Australia's six states and territories. These people are known as senators. Currently there are 76 senators—12 from each state and two from each territory.

The Senate was established because of concerns raised by the states during Federation. When the idea of federation was first being proposed there was a great deal of debate. Many of the colonies with smaller populations, such as Western Australia, were worried that the new federal government's House of Representatives would not listen to their concerns. With the Federal Parliament due to be located in Canberra, delegates to the federation meetings were concerned that larger colonies of New South Wales and Victoria, would dominate discussions. This debate resulted in the second House, or Senate, being established. As a result, all states elect the same number of senators to represent them in the Senate or 'States' House', regardless of the size of the state's population. The Northern Territory and the ACT each elect two senators.

The role of a senator is to represent the view of Australians, to make and change federal laws by discussing proposals for new laws and voting on them, and examining the work of the government. The Senate's role as a States' House has become less important over the years as political parties have grown. Now senators generally vote on matters according to the party they belong to rather than the state they represent. The Senate also acts as a

'House of review' for any proposed laws, giving a second opinion and making changes after the law has passed through the House of Representatives.



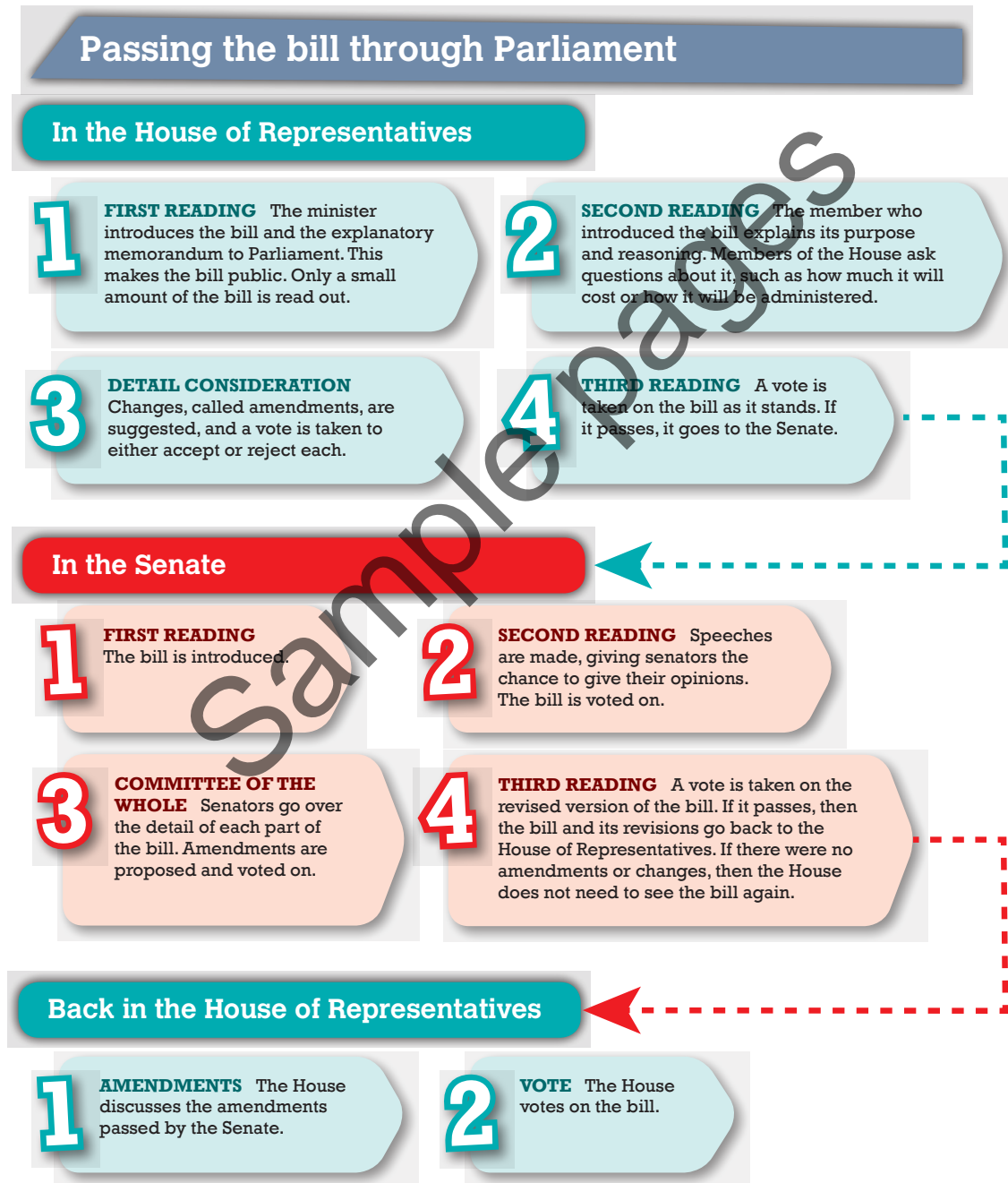
Source 1.4.3 The Usher of the Black Rod plays an important parliamentary role in the Senate.

A day in parliament

The days when parliament meets or sits are set out in a schedule at the beginning of each year when times for each day are set. Parliament sits for about 18 to 20 weeks each year. Sitting days usually follow a set schedule. The schedule includes:

- government business and statements from members
- question time, at 2 pm

- presentation of documents, such as reports from government agencies
- discussion on current issues of public importance, usually started by a non-government party
- the adjournment debate (a series of short speeches at the end of the day).



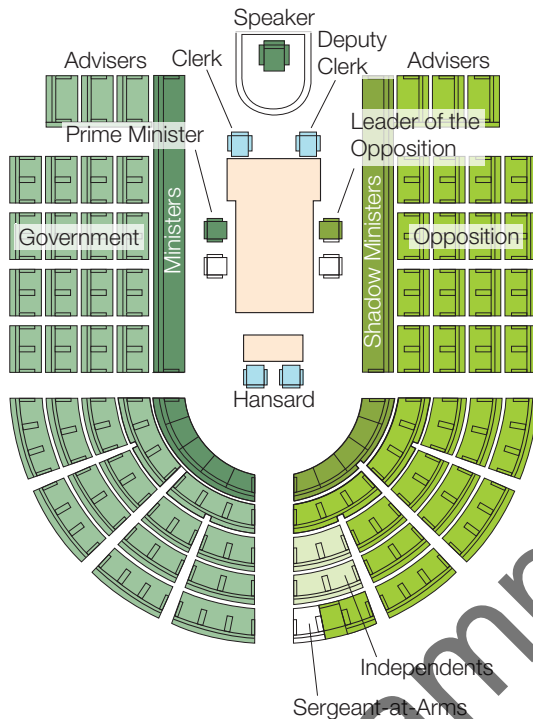
Source 1.4.4 A bill can only become law once it is passed by both the House of Representatives and the Senate.

How the two Houses work together

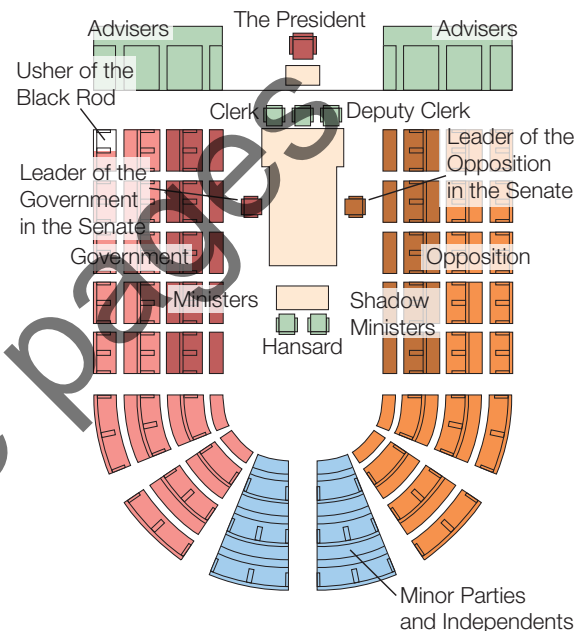
Both the Senate and the House of Representatives are almost equal partners, but usually the government does not have a majority of members in the Senate. Both Houses must agree before new bills become law, so there is often much debate. The Constitution has special provisions for how to deal with disagreements between the Houses.

A bill can only become law once it is passed by both the House of Representatives and Senate, and all language and amendments are the same in both Houses. It can be referred to the other body for reconsideration, if needed.

If the bill is passed, the governor general (acting on behalf of the head of state) signs the bill and it becomes law. This process is called 'royal assent'.



Source 1.4.5 House of Representatives seating plan



Source 1.4.6 Senate seating plan

ACTIVITIES

Remembering and understanding

- 1 Why is the Australian Federal Parliament called a bicameral parliament?
- 2 What is the most important role of the House of Representatives?
- 3 List the different roles of a senator.
- 4 Which document has special provisions for how to deal with disagreements between the House of Representatives and the Senate?

Applying and analysing

- 5 Identify the link between the number of electorates in Australia and the number of members in the House of Representatives.
- 6 Construct a brief timeline for a day in parliament, providing times for when you think events may occur.

Evaluating and creating

- 7 Investigate why the traditional colours of the Houses of the British Parliament are green and red.
- 8 Do you think it is fair to say that the Senate's role as the States' House has become less important over the years? Give reasons for your view.

Changing the Constitution

Referring to the people

The Australian Constitution can be changed to meet the changing needs or values of the community, but it is a complicated process and does not happen very often. To change the Constitution, the federal government must call a referendum.

The word *referendum* is Latin and means 'something referred', usually to the people. A referendum is a vote by eligible voters on a question. In Australia, referendums may be held at state and federal levels. The Australian Constitution can only be changed by referendum according to the rules set out in section 128 of the Constitution. If a majority of people in a majority of states, and

a majority of people across the nation as a whole, vote 'yes', then that part of the Constitution can be changed. This is known as a double majority.

A double majority

A majority is more than half the total number. Exactly half, or 50 per cent, is not enough; at least one more is needed. To change Australia's Constitution a double majority is needed. This means that two things need to happen:

- the total 'yes' vote across Australia needs to be more than 50 per cent
- there has to be a majority of 'yes' votes in more than half of the states. This means at least four states have to vote 'yes'.

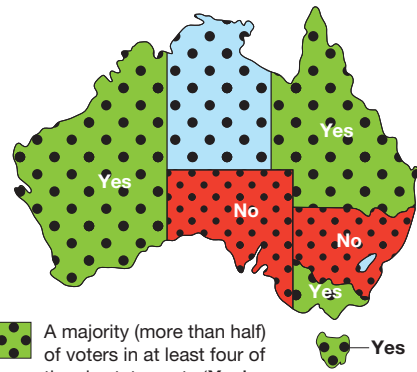
Source 1.5.1 How a double majority works

A referendum is passed when:



A national majority (more than half) of voters from all states and territories vote 'Yes'.

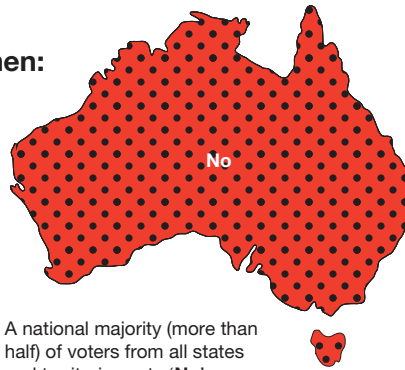
and



A majority (more than half) of voters in at least four of the six states vote 'Yes'.

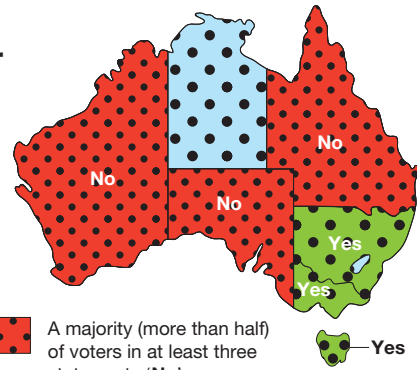
The votes of people living in the ACT, the NT and any of Australia's external territories count towards the national majority only.

A referendum is not passed when:



A national majority (more than half) of voters from all states and territories vote 'No'.

and/or



A majority (more than half) of voters in at least three states vote 'No'.

.....
Summary of Chapter VIII, Section 128

Mode of altering the Constitution

128. This Constitution shall not be altered except in the following manner:-

The proposed law for the alteration of the Constitution must be passed by an absolute majority of each House of the Parliament.

The proposed law must be put to a vote of electors between two and six months later.

If there are disagreements between the upper and lower house which cannot be resolved by amendments to the proposed law the governor-general can take charge and present the last version of the proposed law to the electors.

If in a majority of the states a majority of the electors voting approve the proposed law, and if a majority overall of all the electors voting also approve the proposed law, it shall be presented to the governor-general for the Queen's assent.

No changes to the Constitution, which change the proportionate representation or minimum number or representatives of any state in either house of parliament, shall become law unless the majority of electors voting in that state approve the proposed law.
.....

Source 1.5.2 The Constitution can only be changed by a majority vote by the people.



Referendums in Australia

The first referendum was held in 1906 and Australia has since held another 43 referendums. Of these questions about changing the Australian Constitution put to the Australian people, only eight changes have ever been agreed to.

Successful and unsuccessful referendums in Australia

Some of the successful referendums have included:

- the 1946 referendum. This allowed the Commonwealth to provide social service benefits to returned service men and women.
- the 1967 referendum. This gave the Commonwealth the power to make special laws for Indigenous Australians.

Some of the unsuccessful referendums have included:

- the 1951 referendum. This was about making laws to do with communism and communists.
- the 1999 referendum. This asked the Australian people if they wanted Australia to become a republic.

A referendum can also be held on issues other than changing the Constitution. This is known as a plebiscite. Plebiscites are often used to test public opinions on government ideas or actions. They do not have any legal force, unlike referendums.

Did you know?

In 1916 and 1917 there were two national plebiscites held about whether to introduce conscription during the First World War. Both were defeated. In 1977 Australians voted to choose the national anthem. The choices were *God Save the Queen*, *Waltzing Matilda*, *Song of Australia* and *Advance Australia Fair*. Similar plebiscites are also held in the Australian states and territories. Western Australians have voted in referendums asking about daylight saving and extended shopping hours.

Source 1.5.3 This artwork in Canberra commemorates the 1967 referendum and illustrates extracts from the referendum documents, the Australian Constitution and events which led to the referendum.



Source 1.5.4 Handing out 'How to vote "No"' cards in the 1999 referendum

The 1999 referendum on becoming a republic

In 1999 the people of Australia were asked a referendum question about what type of government our nation should have. The question was whether Australia should cut its remaining links with Britain and become a republic. The question voters were asked was:

.....
Do you approve of an Act to alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor General being replaced by a President appointed by a two-thirds majority of the Commonwealth Parliament?

During this referendum, voters were also asked about whether they wanted to add a **preamble**, or introduction, to the Constitution. The vote on becoming a republic and the vote on the preamble were separate issues and did not affect each other.

History of the republican debate

Although Australia became a nation in 1901 when the colonies were federated, it still kept many links with Great Britain. The king or queen, referred to as the **monarch** of Britain, remained the head of the Australian Government. The governor general is the representative of the monarchy in Australia. Under the Constitution, the Queen of England theoretically

holds a lot of power in Australia. As the Head of State she can remove the governor general and has the power to stop laws from being introduced by the Australian government. Despite this, in reality, the monarch has very little power in Australia. Due to the Queen's title of Head of State, as written in the Australian Constitution, our system of government is known as a **constitutional monarchy**.

A republic, on the other hand, is a democratic country that does not have a Queen or King as Head of State. Instead it has a ruler known as a president. An example of this type of government can be seen in the United States of America.

Up until World War Two, Australia had many ties with Britain. Many immigrants came from there; as a nation we traded with Britain and many Australians identified with British culture. In contrast, today much of our trade is with Asia, immigrants come to Australia from all over the world, and Australia is regarded as a multicultural nation.

Towards the end of the 20th century the Keating government began suggesting that Australia should become a republic. Prime Minister Keating and the Labor government wanted an Australian Head of State by the centenary of federation on 1 January 2001. Australians were divided on the issue, which was put to a referendum, with monarchists—people who supported the monarchy—and republicans, those wanting to change the system of government—both putting forward arguments for their views.

| For a republic | Against a republic |
|---|--|
| <ul style="list-style-type: none"> • Australia's Head of State should be a citizen of Australia • Australia has developed closer ties with other regions, such as Asia • Australia's population is more multicultural, not just from the UK • Britain's monarchy is not consistent with Australian views and is irrelevant • A president is usually chosen by the people, but a monarch is born into the position which is not democratic • The Australian people want a republic not a constitutional monarchy | <ul style="list-style-type: none"> • The system has worked well so it should not be changed • It would be expensive to change • Politicians may get more power through changing the Constitution • Australia has historically always been linked to Britain. We should maintain this link • Until the form of republic can be agreed upon Australia should stay with the present system • Most Australian people want to retain our links with Britain |

Source 1.5.5 Arguments for and against Australia becoming a republic

Australia votes against a republic

The referendum failed to gain the Australian public's support. Australians voted against the idea of becoming a republic with only the ACT returning a 'yes' vote. If it had succeeded, the Queen would no longer be Australia's head of state. Instead, Australia would have a president selected by a two-thirds majority of the members of parliament.

| State/Territory | Result | Yes % | No % |
|-----------------|--------|-------|-------|
| NSW | NO | 46.43 | 53.57 |
| Vic | NO | 48.84 | 50.16 |
| Qld | NO | 37.44 | 62.56 |
| WA | NO | 41.48 | 58.52 |
| SA | NO | 43.57 | 56.43 |
| Tas | NO | 40.37 | 59.63 |
| ACT | YES | 63.27 | 36.73 |
| NT | NO | 48.77 | 51.23 |

Source: Australian Electoral Commission

Source 1.5.6 Results of the 1999 referendum on the establishment of a republic in Australia

ACTIVITIES

Remembering and understanding

- 1 What language does the word 'referendum' come from?
- 2 Identify the two steps that need to happen for a double majority to occur.
- 3 List one successful referendum in Australia.
- 4 What was the result of the 1999 referendum on Australia becoming a republic?

Applying and analysing

- 5 Distinguish between a constitutional monarchy and a republic.
- 6 Construct a Venn diagram to show similarities and differences between a referendum and a plebiscite.

Evaluating and creating

- 7 Investigate the arguments for and against an Australian republic. State which arguments you agree with and why.
- 8 Research the status of the republican debate in Australia today and argue whether you think a referendum on the issue would be successful today.

Inquiry tasks

The separation of powers

The founders of Federation in Australia separated the roles of the parliament, executive and judiciary to avoid one group having all the power.

Write a discussion paper on why it is important to have this separation of powers. What might happen if there was no separation of powers? You can use examples from the governments of other countries to support your argument.

In your discussion paper, include:

- an introduction that describes Australia's political system with three separate arms of government
- a body made up of several paragraphs, each focused on one key reason
- a conclusion summarising the key points and evaluating the separation of powers
- a bibliography.

Teaching the Australian Constitution

The Australian Constitution is an important document that outlines the responsibilities of the federal government. It is a very long document and can be difficult to understand.

In groups of four, prepare a five-minute lesson for students your own age about the Constitution and what it means for the functioning of the Australian Government.

Extra information about Australia's Constitution can be found on the Parliament of Australia's education website.

The three levels of government

- Create a KWL chart about Australia's three levels of government. Use both the information in this chapter and extra research to fill out the chart.

K stands for what you already KNOW about the subject.

W stands for what you WANT to learn.

L stands for what you LEARN as you read.

| Level of government | What I know | What I want to learn | What I have learnt |
|---------------------|-------------|----------------------|--------------------|
| Local government | | | |
| State government | | | |
| Federal government | | | |

- Determine one possible change to either one level of government or all levels as a whole that will improve their function and coordination within the three levels of government. Create a poster or advertisement promoting your change.

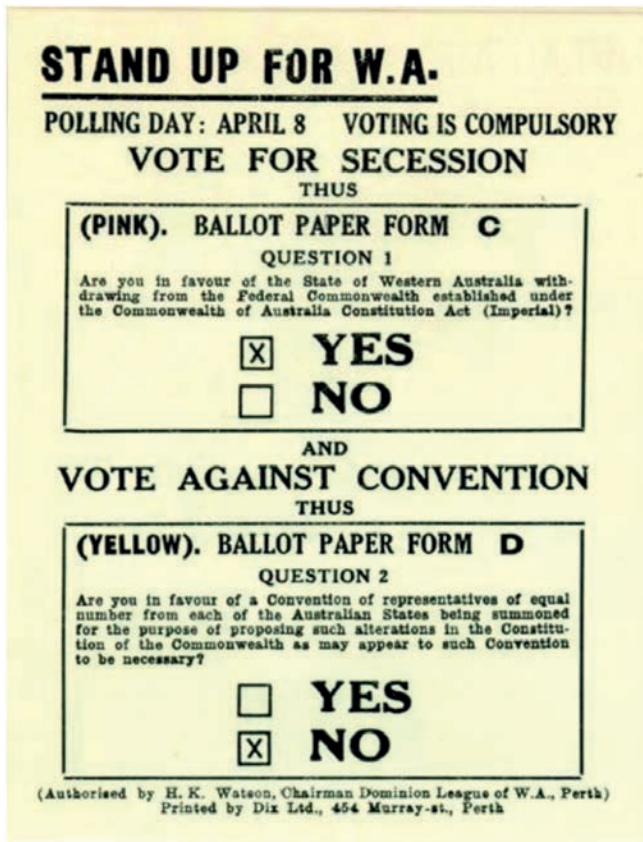
Referendums

The Australian Constitution can only be changed by referendum. There have been 44 referendums held since 1901 and only eight of these have been successful.

The most successful was the 'yes' vote giving the Commonwealth powers to make special laws for Indigenous Australians in 1967; the least successful was for Australia to become a republic in 1999. Research shows that education campaigns to inform voters about the referendum issue and process are the key to success.

Prepare a visual display of your choice (such as a blog, website, slideshow, poster or short film) to highlight the case either for or against one of the following questions:

- Australia becoming a republic
- Western Australia seceding from Australia and becoming a separate country.



Source 1.6.1 Western Australia was the last colony to join the federation. In 1933, a referendum was held to vote on Western Australia leaving the federation so that they could be a separate country. Although there was a 3:1 vote in favour of secession (withdrawal from the federation), it was ruled invalid because it did not have the support of the Australian federal government.

GLOSSARY

Australian Constitution the written document containing the principles and laws that describe the powers and duties of the Australian Government

bicameral having two Houses of Parliament—the House of Representatives and the Senate

cabinet a group of senior ministers who, with the prime minister, make government policy

constitutional monarchy a government headed by a monarch with powers limited by a constitution

executive responsible for implementing and enforcing laws

Federation when Australia's independent colonies came together to form a single nation called the Commonwealth of Australia in 1901

governor general Australia's head of state appointed by the Queen on advice of the prime minister, with powers set out in the Constitution

House of Representatives the elected Lower House of the Parliament of Australia

judiciary responsible for interpreting laws and deciding how they are applied

legislature responsible for making laws

monarch a king or a queen who generally holds power by birth right and not merit

parliament the place where the government is centred; it contains the House of Representatives and the Senate

prime minister the head of the Australian Government and leader of the executive

referendum a vote of the Australian electors on a proposed change to the Australian Constitution

Senate the Upper House of the Parliament of Australia where senators sit; also known as the States' House