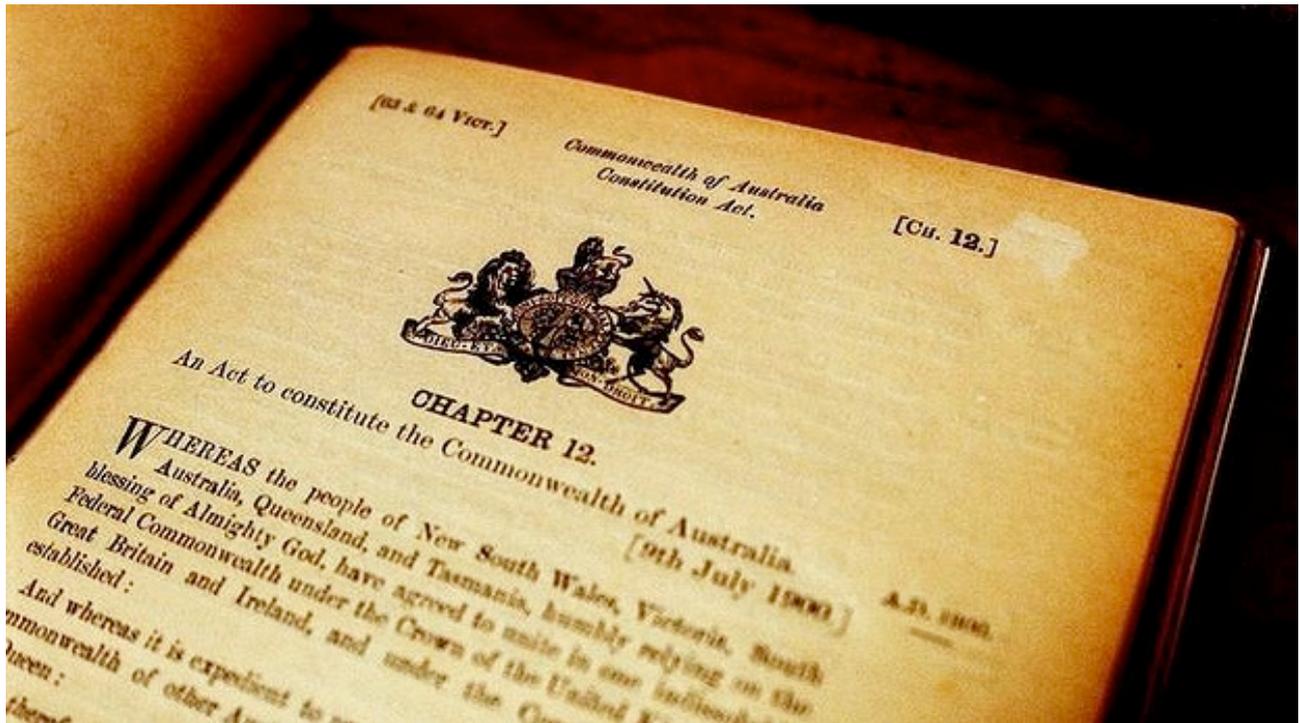


Our unique Constitution



The Australian Constitution differs from all other constitutions in the world with its unique Preamble which bases the Federation on the blessing of Almighty God: *“Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, (Western Australia was a couple of months late in holding its referendum but joined in time for the Federation ceremonies in January 1901) 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.”*

It was in this manner that Australia was established as a Christian nation. This does not mean that Christianity became the established religion, for Section 116 of the Constitution ensures freedom of worship, but that Australia was founded on the same Christian principles that led to the creation of British Law and British Justice.

The Constitution also brought together the six separate Australian colonies into one nation as a federation. This means that whilst they still retained their parliaments and with their own constitutions individually under the Crown, they all ceded central authority to a Federal Parliament with a lower House of Representatives elected directly by the people on a separate electoral basis with no connection to the State Parliaments, and a Senate elected on a state basis because, as well as being a House of

Review, its purpose is also to represent the interests of each state in the Federation.

When drawing up a Constitution to suit the unique conditions of the new nation of Australia, it was the choice of the delegates to the Constitutional Conventions that when Australia became a nation in its own right it would continue as a restrictive monarchy 'under the Crown of the United Kingdom' with the Monarch represented by a Governor-General where the authority of the nation would be vested in the Crown and not solely in a body of politicians.. They could have opted for a republican form of government, as had occurred a hundred years earlier in the United States of America. But they chose to depart from the sort of Westminster Government that had developed in Great Britain by establishing that the Constitution could only be changed by a state-based referendum, thereby making the Crown subject to the will of the Australian people

The Australian Constitution is therefore not like the other British-type Constitutions which are all subject to the will of the respective parliaments.

There were sound reasons for retaining the British Monarch as our own Australian Monarch. We had no quarrel with Britain, as the Americans did over taxes, and the Australians of the day wanted to be a part of the democratic institutions of government which the British had developed and nurtured.

How the Crown protects us from obligated politicians.

Today, some question how it can be democratic in having the arrangement of an ultimate (or de-jure) head of state who is unelected. The fact is that, by not being elected, the Queen and the Governor-General are free to exercise total impartiality as they are not beholden to a political process. On the other hand, should we have an elected head of state, that person would have to campaign like a politician and would require extensive campaign funding which means that major backers would expect favourable treatment and special access in a similar manner to that which they now enjoy with cabinet ministers. The president (if that is what he/she might be called) and presidential candidates would have such events as fund-raising luncheons resulting in the tarnishing of the integrity and impartiality we currently experience under our present system.

Similarly if a president was appointed by the parliament, there would eventually be some sort of pre-selection in the same manner as political parties select their candidates. Presidential candidates would be required to canvass for support, either directly or behind the scenes, with the result that their impartiality would be impaired.

Because the Governor-General is appointed by the Queen, he rises above party politics, even if he had previously been a politician. This is because, following appointment, his allegiance is to The Crown (and thereby the people) and not to the political party in government or in opposition.

When we talk about 'The Crown', we do not mean the jewelled headpiece worn by the Queen, but what is in reality an institution which has, at times, been described as 'the Corporation of the State'. It is in the name of 'The Crown' that the law is enforced and the Defence Forces operate. Officials of the government are employed by 'The Crown' and public lands are held in the name of 'The Crown'. The Crown has therefore come to mean not authoritarian power wielded by one or more persons, but rather the symbol of the people it protects.

When the British Colonies in America became independent, they established a Constitution that essentially replaced the King with a President who continues to this day to hold immense power in his own right. Whilst in Australia, the powers of Nation under the Crown, are exercised by a parliament elected by the people, the United States President retains much the same sort of imperial authority that King George III exercised over two hundred and thirty years ago, except that in the USA its Cabinet is selected from outside the elected Parliament.

In its first hundred years the United States of America had a civil war, countless internal territorial wars and a presidential assassination (to date four Presidents have been assassinated and there have been another five attempted assassinations), whereas in the first hundred years since Australia federated, there have been no internal wars and only one constitutional crisis which was speedily resolved by a vote of all the Australian people. This is because power is not concentrated in one individual, but in the government and the parliament, and even then that power is not absolute but is subject to checks exercised constitutionally, and mainly discretely, by the Governor-General whose allegiance is to the Crown - thereby to the people and not to the Prime Minister who may have nominated him (or her).

The people of the Australia of the 1890s did not want to make a clean break, as occurred in the United States, but wanted to allow our independence to evolve on a friendly basis for another two or three decades. As a part of what was called in those days 'the Imperial Family', it became customary to hold Imperial Conferences with representatives of the 'Dominions'; those nations which had their own Parliament but which remained under The Crown and which, were at the time, called 'Dominions'.

At the Imperial Conference held in 1926, it was decided that the process of evolution to sovereignty was complete and that the 'Dominions' were totally independent of any control of the British Government and that this should now be formally put into words in what is called the Statute of Westminster. The opening words of this Statute best explain what was then and is today the situation: "*inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown*".

Being 'under the Crown' and having as our Monarch a Queen who is also Queen of fifteen other nations has many compensations and few disadvantages. It is a criticism that the Queen does not reside in Australia. However, an absent monarchy means that we do not pay a salary to her and contribute nothing towards her upkeep or even towards her costs as Queen of Australia. In fact, other than for official visits, The Queen does not cost the Australian taxpayer one cent! From time to time the government extends an invitation to Her Majesty to visit Australia and, in accordance with normal practice, the expenses of the visit are paid by the government. However, the same practice extends to all State Visits ... just as when the Governor-General (or in some cases the Prime Minister) is invited to another country. Although the media make much of the expenses of the Queen's visits, they are a fraction of the expenses the Australian taxpayer must bear for visits even by heads of small states.

The Crown has been simply described as 'government under a Constitutional Monarchy', but this simplistic explanation does not accurately illustrate its real meaning.

QUESTIONS:

In what way does the Australian Constitution differ from most other Constitutions?

What did the Constitution do as far as the six Australian colonies were concerned?

Why did the Australian delegates to the Federation Conventions want to retain the Crown in the new Australian Constitution?

What is the benefit in having a 'Head of State' who is not elected?

What happens because the Governor-General is appointed by the Queen?

What is 'the Crown'?

What was decided at the Imperial Conference of 1926?

Does the Australian taxpayer pay for the upkeep of the Queen?