

The Constitution Of Australia: Notes for UPSC Polity

The Constitution of Australia, is the supreme law under which the government of the Commonwealth of Australia operates, including its relationship to the States of Australia. The Royal Assent to the Commonwealth of Australia Constitution Act 1900 was given on July 9th 1900, and came into force on January 1st 1901.

The Constitution of Australia is an important topic in the Polity section of the UPSC Exam, as certain elements had been borrowed from it when the Indian Constitution was being drafted.

Background of the Constitution of Australia

British settlers began to arrive in Australia in the years following Captain James Cook claiming the land for Britain in 1770. The colonies that came up were governed by the British crown but were largely independent of each other with their own parliaments and judiciary.

In the mid-19th century, there were growing calls for co-operation on mutual interests, especially those pertaining to inter-colonial affairs and trade. Thus, a proposal was made to unite the separate British colonies of Australia under a single federation. However, the calls were mostly from the British Isles, while those living in the colonies only gave lacklustre support. In addition, smaller colonies feared economic domination from the larger ones. The support for federalism in the Australian colonies were further hampered by the breakout of the American Civil war in 1860s which was seen as a failure of federalism.

Henry Parkes, the Premier of New South Wales, was instrumental in pushing for a series of conferences in the 1890s to discuss federalism – one in Melbourne in 1890, and another in Sydney in 1891, attended by colonial leaders. By the 1891 conference, significant momentum had been built for the federalist cause, and discussion turned to the proper system of government for a federal state. Under the guidance of Sir Samuel Griffith, a draft constitution was drawn up. However, these conferences lacked support from the local population. Moreover, the draft overlooked certain issues such as tariff policy. The draft of 1891 was submitted to colonial parliaments but lapsed in New South Wales, after which the other colonies were unwilling to proceed.

In 1895, the six premiers of the Australian colonies agreed to establish a new Convention by popular vote. The Convention met over the course of a year from 1897 to 1898. The meetings produced a new draft which contained substantially the same principles of government as the 1891 draft, but with added provisions for responsible government. To gather popular support the new draft was presented to the elected representatives of each colony. Thus dispelling any chances of misinformation about the new draft spreading and dispelling any fears of economic domination.

Before the Bill was passed, one final change was made by the imperial government, upon lobbying by the Chief Justices of the colonies, so that the right to appeal from the High Court to the Privy Council on constitutional matters concerning the limits of the powers of the Commonwealth or States could not be curtailed by parliament. Finally, the Commonwealth of Australia Constitution Act was passed by the British Parliament in 1900. Western Australia finally agreed to join the Commonwealth in time for it to be an original member of the Commonwealth of Australia, which was officially established on 1 January 1901.

Chapters of the Constitution of Australia

The Constitution of Australia is divided into eight chapters, containing 128 sections. Their functions are highlighted briefly in the table given below:

Chapters of the Australian Constitution		
Chapter No.	Chapter Name	Description
Chapter I	The Parliament	The chapter sets up the legislative branch of government, the Parliament of Australia, which consists of three constituent parts: The Sovereign (King or Queen), who is represented by the Governor-General of Australia; the Senate; and the House of Representatives.
Chapter II	The Executive Government	Chapter II sets up the executive branch of government. Executive powers are exercised by the Governor-General, advised by the Federal Executive Council.
Chapter III	The Judicature	The chapter sets up the judicial branch of government; its provisions create the federal judicature and define the way it operates.
Chapter IV	Finance and Trade	Chapter IV deals with finance and trade in the federal system. Section 81 prescribes that all Commonwealth revenue shall form the Consolidated Revenue Fund.
Chapter V	The States	Chapter V contains provisions dealing with the States and their role under the federal system.
Chapter VI	New States	Chapter VI allows for the establishment or admission of new states. The new states can be formed with the assent of the parliament and referendums held in the state in question. So far no news state has been formed ever since the constitution came in to force

Chapter VII	Miscellaneous	Chapter VII contains three quite different provisions. Section 125 provides that the seat of government of the Commonwealth would be in Melbourne for the time being, but eventually in Commonwealth territory. Section 126 permits the Governor-General to appoint deputies. Section 127 provided that "aboriginal natives" were not to be included in any Commonwealth, State or other count of population. Section 12 was removed after a referendum in 1967.
Chapter VIII	Alteration of the Constitution	Chapter VIII specifies the procedures for amending the Constitution. Section 128 provides that constitutional amendments must be approved by a referendum

Comparison of the Australian Constitution with the Indian Constitution

The Constitution of India drew, as did the Australian Constitution, upon lessons and examples learnt from the Constitution of the United States of America. The Indian Constitution, like that of Australia, adopted the federal arrangement and the creation of a judicial branch wholly independent of the other branches of government.

The process of judicial review, to keep all recipients of public power within the Constitution and other applicable laws was faithfully imitated. But the Indian Constitution went further. It incorporated a Bill of Rights which, until very lately, has been regarded as a notion alien to the sovereignty of Parliament so central to the constitutional ideas of the United Kingdom. Yet, despite these important features which distinguish the Indian Constitution from that of Australia, overwhelmingly their governmental and legal systems are similar.

You can find out how much the comparison of Indian Constitution with that of other constitutions of the world, visit the linked article.