

# THE CONSTITUTION OF THE COMMONWEALTH OF AUSTRALIA.

## WHAT IS A CONSTITUTION.

### DEFINITION.

The Annotated Constitution makes the following comments; Page 314 and 316, (relevant part only).

**A Constitution is a general law for the government of a political community, unamendable and unrepealable, except in the manner and on compliance with the conditions prescribed by the authority which created it.**

**A general law first, then, a Constitution is a general law or a collection of laws, capable of effective enforcement and binding on every member of the community, including the members of the Government in their private capacities.**

It is a law which should be understood in wide and general terms, avoiding tiny specifications and details and thus leaving room for unpredictable emergencies.

**In other words a constitution is a document that is full of laws that control the governance of this country.**

And what we mean by governance is that there are three distinct and totally separate organs of government in this country, and they are;

- a. The Parliament, which consists of the upper and lower houses (someone should tell Queensland about that, and is a very good example of why we should ask question 2 above far more frequently) and it is the Parliament that make, repeal and amend laws by first creating bills, and
- b. The Executive, which is headed up by the Governor General and it is one of their responsibilities to give or not to give Royal assent to bills created by Parliament so that they can become laws. The Police are also an integral part of the Executive, and

c. The Judicature, which is headed up by the Chief Justice of the High Court, it is their responsibility to interpret the law and administer justice. The High Court is also an integral part of the Judicature, their primary role is to interpret and uphold the Constitution of the Commonwealth and that of the States. They are not there to defend any form of Government, whether State or Federal, a characteristic that is becoming far too frequent, but rather to defend the people.

### **To understand anything about a Constitution, we must first ask ourselves three questions;**

1. What is a Constitution? (which we have already dealt with!)  
and
2. Why do we have such a thing?  
and
3. How did we get our Constitution?

### **Why do we require a Constitution?**

In the latter part of the 19<sup>th</sup> Century (1870 and 1880s) the wise men and women of Australia (The humanitarians) were not particularly happy with the way the Colonies were misbehaving.

To the extent, that in the eyes of those wise men and women a local umbrella body was needed (the Commonwealth Government) that had the ability to restrain the Colonies now States. It was also realised that the people required a document that would protect the people from that umbrella body. The Constitution was to be that document.

### **How did the people come by the Constitution?**

The Constitution took about thirteen years from conception to completion. In 1888 the wise men of Australia (largely lawyers) were called the framers of the Constitution and they conducted constitutional conventional debates all around the country. The constitutional conventional debates started in 1888, and went on for ten years.

Then in 1898, and only after the framers were satisfied they had a document that they could put to the people in a referendum (Landowners only), a document to seek their approval, at that point the document would become a Constitution.

That 1898 referendum was unsuccessful, the framers had to go back to the drawing board, talk to the people and readjust the document to better reflect their will, and have another referendum (again landowners only), which they did in 1899. This referendum was successful and now the people had a Constitution, which came into effect on the 1<sup>st</sup> January 1901.

### **Some words from CLRA.**

After federation, the people were excited about the formation of their new and independent country, all looked well.

But it did not last very long. Soon after Federation the rot started to set in, and governments started to exert their marauding tactics upon the people. Such behaviour has grown considerably worse since Federation.

The appalling behaviour by the three organs of government (parliament, executive and the judiciary) has been going on in this country for many decades, and is only able to take place because not enough people are reading and understanding the Constitution, nor asking the three questions mentioned above. We must also lobby our politicians and to let them know just how mad **you** are. It can all be summed up quite easily, the framers created the Constitution, the people approved the Constitution and such Constitution is in place to protect the people from the marauding governance.

For that reason, we all must read and understand the Constitution, if not enough of us do that, then the age old saying applies.

***“If you keep doing what you have always done (nothing), why would you be surprised if you keep getting what you always got (nothing)?”***

### **Some words from CLRA.**

In Australia we have a Constitution Act and a Constitution and we must understand what the difference is and why there is a difference.

The Constitution Act has a Preamble and 9 covering clauses and nothing more and is called the Commonwealth of Australia Constitution Act, usually called “the Constitution Act”.

The Constitution Act is an enabling document or an Act to constitute the Commonwealth of Australia and it does set out the conditions that enabled Australia to federate.

As described early, the Constitution Act has a Preamble and 9 covering clauses and one of those covering clauses, clause 9 that is the Commonwealth Constitution or the Constitution of the Commonwealth of Australia, usually called “the Constitution”. **That means that the Constitution is part of the Constitution Act.**

Now that takes us back to the beginning of this document, “what is a Constitution”.