



AUSTRALIAN CONSTITUTION CENTRE

Nationhood in detail

A nation is defined by its system of government, its people and by its geographical boundaries. Australia became a nation in 1901 when the six separate, self-governing colonies joined in a federal union to create the Commonwealth of Australia. The Constitution summoned the Australian nation into existence and conferred a new identity on the people, who agreed to unite in “one indissoluble Federal Commonwealth”.

In 1846 discussions began about the need for the colonies to join together as a nation. There were a number of forces that drove Australia’s federation movement and one of the most important was the recognised need for a national system of defence. Unlike most nations of this time, Australia was formed by peaceful development, not after a war or revolution.

In the Preamble to the Constitution the people of the colonies agreed to unite as a permanent federal nation. The people who wrote our Constitution knew that our nation would evolve and change over time and they gave the people the power to alter the Constitution through referendums. Over time, our nationhood has been consolidated in war, by economic development, by the unifying influence of federal law and by the decline in our reliance on British military power.

But perhaps we don’t quite realise that our nationhood is tied to how our Constitution, as our nation’s rulebook, applies and is interpreted. Nationhood alters continually. In 1922 Justice Isaac Isaacs said:

It is the duty of the Judiciary to recognise the development of the Nation and to apply established principles to the new positions which the Nation in its progress from time to time assumes. The judicial organ would otherwise separate itself from the progressive life of the community, and act as a clog upon the legislative and executive departments rather than as an interpreter.

The High Court is charged with interpreting the Constitution and the meaning of words have evolved over time. For instance at Federation a person from the UK who lived in Australia could be elected to the Federal Parliament. These days the definition of ‘foreign power’ has changed and a UK citizen is incapable of being chosen as a Member of Parliament.

Australia’s status as a nation grew gradually after federation. The authors of the Constitution realised that the federal government would have to have powers to make laws about our foreign relations. Section 51(xxix) of the Constitution gives power to the Commonwealth Parliament to make laws about our “external affairs”. Our understanding of what this means has grown over time, and with it, the power of the Commonwealth has also grown to cover things which would never have been contemplated by those involved in writing our Constitution. External affairs can mean anything to do with our relations with other countries, matters of things which are geographically outside of Australia and the power can be used to give effect in our domestic law to treaties entered into by the Executive Government. Laws relating to terrorism, war crimes, crimes committed abroad, aerial navigation, industrial relations and environmental protection have all been passed under the external affairs power. Without this power, the Commonwealth Parliament could not have made such laws. Remember, the Constitution only gives limited powers to the Commonwealth Parliament to make laws, so the external affairs power is a very important power for the Commonwealth. One famous example was in 1983 when the High Court decided that under the external affairs power, the Commonwealth Parliament could pass laws giving effect to the World Heritage Convention, which gave it power to prevent the Tasmanian Government from building the Franklin Dam.



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Questions:

1. When did Australia become a nation?
2. What are some of the national emblems that represent our nationhood?
3. How does the Constitution contribute to our nationhood?
4. What is a referendum?

