

Thursday 18th April 2013

Attention: Senate Finance and Public Administration Committee

Re: Citizens Initiated Referendum Bill 2013 Enquiry

Dear Senators,

I write as a citizen of Australia to make partial objection to and give partial support to this bill.

My opinion is that in its current state it is unsupportable but that with appropriate amendment into an appropriate constitutional amendment proposal one of the bill's good ideas could be implemented in a supportable way.

My submission arguing this case is attached for your consideration.

Yours Faithfully,

Andrew Oliver

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1.0 Introduction: Participatory Democracy, An Examination Of Its Merits

Activists who feel frozen out of consideration in our parliamentary system sometimes develop a commitment to participatory democracy in one of its many forms as a response to their often quite genuine concerns on substantive matters of public policy not being addressed or even listened to.

This is true in both the anarchist left and in a number of radical right movements too.

In this submission I try to examine participatory democracy both historically and practically and suggest that constitutional reform is the only way forward for Australia not this well-meaning but misconceived bill.

2.0 A Concern: Voters And The Free Manna From Heaven Attitude

I believe in California today with its ongoing budgetary crisis we see the result of politicians lobbyists special interests and voters proceeding to vote and determine legislative questions without regard to their budgetary impact. I'd classify this problem as the "free manna from heaven" attitude to referenda.

The only way to make governments comply with covenants on budgetary coherence, limiting wasteful spending, responsible government etc etc is to establish an elected parliament that haggles and haggles with itself till it enacts a budget that adds up in the fiscal sense. If left to referenda voters will minimise taxes maximise wasteful spending on anything that benefits themselves personally and this leads to ever expanding deficits and financial ruin ...

Yet the traditional rights of governments to run deficits when necessary both investment in worthwhile infrastructure and in times of deflation and threatened depression to implement counter cyclical infrastructure spending of printed money not even borrowed money mean that voters think they can vote for free manna from heaven!

For example, Californian local governments still have their property taxes local rates capped by a referendum passed decades ago ... and this is part of the current problem situation there now!

3.0 Zero Sum Referenda: A Solution

A solution to the "free manna from heaven" attitude to referenda is to force every referendum enacted policy to be self-funding by requiring it to be part of a package of bills considered together with zero budgetary impact, including if necessary as part of the package a new tax or a new levy or a major increase in an existing tax's scales.

This would require extensive constitutional amendment to enact in Australia, not likely to happen in the lifetime of Queen Elizabeth II.

However, it does not distinguish between the proper role of legislators being the delegates of the ordinary people and getting things done on their behalf, and policy direction from the ordinary people to their delegates either via the ballot box by way of electoral results or referenda, or via policy input by way of letters petitions submissions and focus groups.

My opinion is that the happy medium that is supportable is the old practice of initiative in the English common law world of private bill legislative input from outside the parliament, whether done the old way or done in a new way more like the practice of initiative in the United States today.

4.0 The American Experience: Initiative, Referendum And Recall

In the late 1800's and early 1900's before world war one there was a populist movement mainly in the west and south of the United States led by the Populist Party that were rather unhappy in some ways with their lot and this movement succeeded in putting initiative referendum and recall in most of the United States state constitutions before the Democrats and Republicans got their act together and eclipsed this third party.

Now recall is not an idea that promotes responsible government. In the United States in recent decades it has been used to attack and remove state senators part way through their terms for the political crime of voting for a tax increase!

As previously argued, referenda does not always lead to a good fiscal outcome.

Yet the idea of initiative has however much to recommend itself. If a pressure group or local government or hospital board or university institute or whoever goes to the trouble of researching a social problem in depth looking at all the available solutions and develops a sensible policy that addresses the social problem very well and sometimes in a way far superior to the existing legislated legislative policy why wouldn't a government be pleased to take the drafted up legislative policy on board and enact the proposed legislation?

The real problem with the American experience of initiative is special interest groups and lobbyists that represent big business putting forward a piece of legislation that is really just a rich stealing from the poor try it on from paid representatives of some billionaire or billionaire family ...

This does not mean that environmental and labour groups cannot also use initiative to put forward sensible proposals ... it is just that the system really needs to have protections to prevent single issue groups especially selfish single issue groups from hijacking the legislative agenda with hastily enacted badly thought out bad public policy.

5.0 The British Experience: Private Legislation, Initiative In The English Common Law World

In previous decades earlier this century the English common law world had its own version of initiative called private legislation. Mostly this was the preserve of local governments in the more propertarian legal era when to build a road or railway or hospital or airport which needed to expropriate land and buildings but not pay an opportunity cost that led to corruption by planning insiders just pay out pre-existing land and buildings valuation any number of local government like authorities would petition the House of Commons to enact a private bill to perform the expropriation on their behalf. The procedure usually led to the bill being advertised seeking objections and the promoters were supposed to pay all the costs until they had held the objections public meeting and drafted it up and had it ready for parliament. Then a private bill committee of the House of Commons would examine the bill to see if there was any public benefit purpose to it and decide if it was to be proceeded with ... For more details see Eric Taylor's "The House Of Commons At Work" or Street and Brazier "Constitutional And Administrative Law".

Using the English approach rather than the American approach has its advantages there is less likelihood of selfish special interests looting public funds!

6.0 Industrial Democracy And Trade Unionism

At the moment there is a fuss being made of alleged corrupt practices in one of Australia's well known trade unions.

For those of a romantic bent who dream of utopia industrial democracy had been advanced as a way of enabling the working poor and the unskilled working class to build socialism from below rather than have it imposed by revolution with the gun and bullet.

Given in the modern world demented extremists have done more harm than good with the gun and bullet, may I question whether giving the workers a couple of elected representatives on all company boards of companies employing one hundred or more employees is a more sensible way forward?

However, to achieve anything much by this strategy the trade unions would have to be paragons of democracy themselves ...

7.0 Undemocratic Activists Agents Provocateur And Trolls: The Exact Opposite Problem

One problem with opening up the parliamentary process to more public input is undemocratic activists with extreme agendas. One subtype of these are agents provocateur. Given that Australia has sent troops to Iraq and Afghanistan I would not be surprised if certain regimes offended by these interventions sent a few agents provocateur to Australia by way of payback.

On the Internet today there are many public fora where one can debate all manner of reforms to public policy. However, many of these fora are polluted with trash by so-called trolls many of whom are said to be jaded malcontents stirring up trouble with insincere argumentation that not only doesn't lead anywhere but is not intended to lead anywhere they simply want to waste other people's time to no good public purpose.

Some trolls are said to have mild opinions of their own but go around preaching the opposite of what they half believe themselves in order to more effectively stir up trouble in order to better entertain themselves.

Really these three types of would be troublemakers do not add anything to reasoned public debate.

And, people like them make it possible that their sort of troublemaker could try to promote major public detriment via misusing any participatory democracy processes that are implemented to wreak havoc. Parliamentarianism has its good points and its bad points but certainly the existence of an active political class committed to making democracy work is even more necessary if these sorts of reforms are contemplated ...

And politicians whinge that a generation ago there were twice as many party local branch members as today!

8.0 Paid Lobbyists: People Representing Special Interests

Paid lobbyists are a perennial problem in politics. Some paid lobbyists lack of altruism is so bad one despairs at why anyone bothers to listen to them.

Any participatory democracy implementation has to be carefully engineered to stop paid lobbyists from promoting general public detriment.

I'd suggest that any less than one million signatures being required on a constitutional amendment requisition would lead to lobbyists collecting signatures with five dollar bills a la California and selfish private interests promoting plutocracy.

9.0 An Agenda For Australia: Constitutional Reforms To Enhance The Public's Input to Legislation

May I ask the committee in the light of all my arguments to oppose referenda for anything other than non-budgetary constitutional reforms? And to reject recall in principle. And to amend this bill if possible to make one million signatures collected over six months the requirement.

Consider also that even if one believes that the constitution needs a bill of rights of the civil and political sort that do not have major budgetary impact, then the idea of allowing such a brief policy covenant to be enacted constitutionally is an approach that has merit, even if allowing the voters to vote on every clause and sub clause amendments every which way in determining a bill of rights is not.

As to initiative I think the English approach better than the American one. My attempt at drafting up a Constitution Of The Republic Of Australia 2035 my work in progress draft constitution is attached as Appendix I, and attempts to codify a generalised implementation of how I perceive a reformed English approach to initiative would work.

A list of references for further reading is attached as Appendix II.

May I ask the committee to consider this submission in its deliberations?

(Preamble)

An Act to establish and constitute the Republic of Australia. [A draft dated 18th April 2013 prepared by Andrew Oliver.]

Whereas the peoples of New South Wales, Queensland, South Australia, Tasmania, Victoria, Western Australia, and other diverse Territories, have agreed to unite in one indissoluble federal Republic of Australia, and under the Constitution hereby established:

And whereas the said Australian peoples being desirous of high standards of good government, hope springing forth that the establishment of the ideal republic shall settle long held differences and address long unmet needs through the establishment of the Republic as a model of participatory democracy and the utilitarian theory of law with parliamentary institutions mediating an active and involved citizenry:

And whereas the said Australian peoples do hereby solemnly recognise:-

- (i) the prior occupation of Australia by the Aboriginal peoples and Torres Strait Islander peoples:
- (ii) the ongoing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters: and
- (iii) the continuing cultures languages and heritage of Aboriginal and Torres Strait Islander peoples:

And whereas this Constitution does hereby enact and declare English to be the legislative language of the Republic of Australia and furthermore English to be the default language of commerce of the Republic of Australia subject to the wishes of the parties involved therein and furthermore English and the Aboriginal and Torres Strait languages to be recognised as the constitutionally established languages of Australia for all other purposes to which language be put with such special considerations and accommodations to be given to Aboriginal and Torres Strait Islanders by government commerce industry and education institutions alike in respect of their languages and cultures, and also further special considerations and accommodations to be given to lawful immigrants and their children by government commerce industry and education institutions also in respect of the languages of their former country or countries of residence:

Be it therefore declared that the Commonwealth of Australia stands abolished together with all right of the English crown to govern or rule the land of Australia or own crown lands or crown properties in the land of Australia: and

Be it therefore made known to the peoples of the world this solemn declaration of the said Australian peoples that this Act do declare establishment of the Republic of Australia to exist from this time forward in perpetuity: and

Be it therefore declared enacted by loud proclamation acclamation and rejoicing by all the peoples, that the peoples of Australia, assembled in spirit, and voting by referendum, carried in every Australian State, and by the authority of the same, as follows:-

Chapter I. Justice And Liberty.

1. Every person born in Australia shall thereby become an Australian citizen, save for the children of foreign diplomats and occupying foreign military forces, as shall every person born to parents one of whom is an Australian citizen temporarily overseas. The Parliament shall legislate to provide for naturalisation procedures for lawful immigrants, who shall not be deprived of citizenship without cause, and like procedures for permanent emigrants.
2. (Magna Carta)
 - (i) No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties or free customs, or be outlawed or exiled, or any other wise destroyed: nor will we pass upon him, nor condemn him, but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right.
 - (ii) For the purpose of this section only the masculine shall include the feminine.
3. Citizens shall be endowed with certain inalienable rights enforceable by any federal state or local court which shall, save for express limitation specified in this Constitution or express limitation through legislative Act carried by the affirmative vote of 60 members of the House of Representatives and 60 senators, be as follows:-
 - (i) the right to life:
 - (ii) the right to petition parliament:
 - (iii) the right to freedom of thought and religious belief:
 - (iv) the right and duty to vote, save for run-off elections for lower Houses of Parliament:
 - (v) subject to this Constitution, the right to nominate for election:
 - (vi) the right to choose to serve or not serve in the naval, the military and the police forces:
 - (vii) the right to freedom of speech:
 - (viii) the right to freedom of the press:
 - (ix) the right to freedom of association:
 - (x) the right to peaceably assemble:
 - (xi) slavery being abolished, the right of free workers to strike for higher wages:
 - (xii) the right to silence:
 - (xiii) the right to fair trial:
 - (xiv) the right of habeas corpus:
 - (xv) the right to legal representation:
 - (xvi) the right of personal property:
 - (xvii) such language rights as are moot and just most especially the right to communicate in ones language of choice:
 - (xviii) the right to equality before the law:
 - (xix) the right of any individual citizen to take legal action or if not possible direct action to defend the Constitution of the Republic of Australia: and
 - (xx) such other rights and liberties as are prescribed by express provision of this Constitution, or recognised as such inalienable rights by the long tradition of the common law in Australian courts.
4. In respect of trade and commerce and private taxes and industrial relations, the individual citizen shall be equal before the law with no discrimination whatsoever, save for express limitation carried by the affirmative vote of 60 members of the House of Representatives and 60 senators.
5. In respect of government granted entitlements to benefit and public taxes, the individual citizen shall be equal before the law with no discrimination whatsoever, save for express limitation carried by the affirmative vote of 60 members of the House of Representatives and 60 senators.
6. The Republic shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Republic.
7. Subject to this Constitution, the Parliament shall enforce this Chapter with such legislation as it thinks fit.

Chapter II. The Presidency And Parliament.

Part I. The Presidency.

8. The legislative power of the Republic shall be vested in a Federal Parliament, which shall consist of a President, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament".
9. The President shall be directly elected for five years by the citizenry by optional preferential representation. Voting shall be by secret ballot on paper ballot papers. This election shall take place on the third Saturday in November in each year that is divisible by five. Provided that to be a candidate for President of the Republic a citizen shall lodge a nomination form with no fewer than 5000 citizens' signatures on the paper nomination form and annexure paper forms thereto.
10. The President shall be known as "The President of the Republic" or "The President".
11. The President shall have power to:-
 - (i) declare war when absolutely necessary in Defence of the Republic or its Allies, as commander in chief of the naval and military forces of the Republic:
 - (ii) sign peace treaties when absolutely necessary for the Sake the Defence of the Republic, to be tabled in both Houses of the Parliament:
 - (iii) sign other treaties with foreign powers, subject to later ratification and adoption by the Parliament carried with the affirmative vote of 60 members of the House of Representatives and 60 senators:
 - (iv) appoint a Prime Minister from the House of Representatives whenever the Prime Ministership is vacant:
 - (v) dismiss a Prime Minister censured by resolution carried with the affirmative vote of 51 members of the House of Representatives whenever the President considers it absolutely necessary for the Sake of the Republic, such dismissal to be within thirty days of the said vote:
 - (vi) appoint a Prime Minister nominated as replacement Prime Minister in a no confidence motion in the existing Prime Minister carried with the affirmative vote of 51 members of the House of Representatives, and shall do so unless dissolving both Houses pursuant to subsection (xii) hereof:
 - (vii) sign legislation, to be published and notified as being proclaimed to the citizenry:
 - (viii) veto legislation whenever of sincere opinion of the said legislation's unconstitutionality and when absolutely necessary for the Sake the Defence of the Republic, subject to being overridden by the affirmative votes of 60 members of the House of Representatives and 60 senators, and when so vetoing causing to be tabled a statement of reasons for said veto in both Houses of the Parliament within thirty days:
 - (ix) suggest amendments to proposed legislation, to be tabled in both Houses of the Parliament for consideration:
 - (x) appoint times for holding sessions of the Parliament, provided that any 20 members of a House may requisition a session of the said House within thirty days by joint petition to the President for the same:
 - (xi) liaise between the Parliament and the Republican Treasury Trust:
 - (xii) dissolve both the House of Representatives and the Senate after considering and adopting advice of the Prime Minister to the effect that the government business being deadlocked proves it necessary, and shall so dissolve both Houses should the Senate fail to pass the annual appropriation of monies bill - "The Budget" - within one month of receipt by resolution to reject it by 60 votes to the negative:
 - (xiii) appoint Ministers of State to administer departments of state on the advice and recommendation of the Prime Minister, who shall be members of the Federal Executive Council:
 - (xiv) take and confirm resignations of Ministers of State and other officers of the Republic:
 - (xv) note the deaths in office of Ministers of State and other officers of the Republic:
 - (xvi) dismiss a Minister of State named in a successful censure motion in the House of Representatives, and shall do so whenever a successful no confidence motion in the House of Representatives that names a replacement Minister of State be carried with the affirmative vote of 51 members of the House of Representatives, the named replacement being appointed unless another replacement is appointed pursuant to subsection (xiii):
 - (xvii) grant leave of absence to the Prime Minister or another Minister of State for health or other grounds, appointing another Minister of State to carry out any required duties for the term of absence:
 - (xviii) dismiss the Prime Minister or a Minister of State whenever the President considers it absolutely necessary for the Sake of the Defence of the Republic on the grounds of the said Minister's ill health or unsound mind or treasonable acts or any other exceptional circumstance:
 - (xix) dismiss other officers of the Republic pursuant to any dismissal provision of any legislative Act:
 - (xx) take and consider and adopt advice from the Federal Executive Council, both in respect of statutory and constitutional responsibilities: and
 - (xxi) make regulations pursuant to Acts of the Parliament as provided for in section 58, after taking and considering advice from the Federal Executive Council, to be tabled in both Houses of the Parliament within fourteen days of the next day of sitting and subject to disallowance within thirty days of the day tabled by simple majority resolution of either House.

12. Presidential casual vacancies on the occasion of the death or resignation or impeachment or otherwise of the President shall, other than in times of war, be referred to the electorate for a new election, and in times of war the Parliament shall otherwise provide.
13. The President may be removed from office by process of impeachment for treason, bribery, or other high crimes and misdemeanours. Upon indictment by the affirmative vote of 60 members of the House of Representatives, removal from office shall occur if 60 senators vote for impeachment after fair trial.
14. Parliament shall otherwise provide for some Justice of the High Court or senator to act as Acting President either pending a new election or for a temporary period not greater than three months should the President be unable to perform the duties of office for any reason. Provided that no Minister of State being a member of the Federal Executive Council shall simultaneously Act as Acting President.
15. The executive power of the Republic is vested in the President in Council and extends to the execution and maintenance of this Constitution, and of the laws of the Republic.
16. The provisions of this Constitution referring to the President in Council shall be construed as referring to the President of the Republic acting with the advice of the Federal Executive Council whose members shall be the Prime Minister and the Ministers of State appointed pursuant to section 11.
17. No Minister of State shall hold office for a longer period than three months unless the said minister is or becomes a senator or a member of the House of Representatives.
18. Subject to this Constitution, the appointment and removal of all other officers of the Executive Government of the Republic shall be vested in the President in Council, unless the appointment is delegated by the President in Council or by an Act of the Parliament to some other authority trust committee Minister of State university council territorial assembly or the like.
19. The commercial broadcasters of radio television and Internet broadcasting shall provide each candidate for Presidential office with a free half hour advertisement during the recognised campaign period. Each candidate for Presidential office shall submit a policy speech no longer than twenty printed pages which shall be posted to every citizen entitled to vote, the printing and postage being paid for by the Republican Treasury.

Part II. The Senate.

20. The Senate shall be composed of 100 senators elected by optional proportional representation by the citizenry directly with a quota requirement of 1% of first preference votes for political party tickets and 1% for any independent candidate with the whole of Australia being one electorate. Voting shall be by secret ballot on paper ballot papers. This election shall take place on the third Saturday in November in each year that is divisible by five. Where the Senate is dissolved early in a calendar year divisible by five it shall continue to serve as if elected later that year, otherwise it shall be elected to complete the term of the dissolved Senate. Provided that to be a candidate for the Senate a citizen shall lodge a nomination form for the political party ticket or independent single candidate as the case may be with no fewer than 5000 citizens' signatures on the paper nomination form and annexure paper forms thereto.
21. If the place of a senator becomes vacant before the expiration of the said senator's term, the place shall be filled by count back from the paper ballots, or electronic records taken therefrom.
22. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate: and as often as the office of President of the Senate becomes vacant the Senate shall again choose a senator to be the President of the Senate. The President of the Senate shall cease to hold that office if no longer a senator. The President of the Senate may be removed from office by a vote of the Senate, or by resignation in writing addressed to the President of the Republic.
23. Before or during any absence of the President of the Senate, the Senate may choose a senator to perform the requisite duties as Acting President of the Senate in the said absence.
24. A senator may resign by writing addressed to the President of the Senate, and the said place shall thereupon become vacant.
25. Every year every senator shall write a one page report to be consolidated into a 100 page Annual Report of the Senate to be delivered by post to every citizen entitled to vote between July and September, the printing and postage of said report being paid for by the Republican Treasury. Provided that a senator who fails to write such one page reports shall be declared as attainted of treason by the High Court on the application of 1000 citizens entitled to vote.
26. The commercial broadcasters of radio television and Internet broadcasting shall provide each candidate for the Senate who is the Senate leader of a recognised political party with no fewer than three members of the Parliament with a free half hour advertisement during the recognised campaign period. Each candidate for the Senate who is such a said Senate leader shall submit a policy speech no longer than ten printed pages which shall be posted to every citizen entitled to vote, the printing and postage being paid for by the Republican Treasury.

Part III. The House Of Representatives.

27. The House of Representatives shall be composed of 101 members directly chosen by the citizens of the Republic. In every year divisible by ten a census and redistribution of electoral boundaries shall be conducted, and the number of members chosen in the several States shall be in approximate proportion to the respective numbers of their citizens. For the purpose of this section only the Northern Territory, the Australian Capital Territory, and in addition any other Territories with at least 0.25% of the citizen population shall be treated as states. Provided also that for the purpose of this section no state shall have fewer than two electorates.
28. The House of Representatives shall be elected at elections that shall take place on the third and fourth Saturday in November in each year that is divisible by five. The method of election shall be first past the post in single member electorates with a run-off election the following Saturday where no candidate obtains an absolute majority of the formal votes. Voting shall be by secret ballot on paper ballot papers. Whenever the House of Representatives is dissolved early in a calendar year divisible by five it shall continue to serve as if elected later that year, otherwise it shall be elected to complete the term of the dissolved House of Representatives. Provided that to be a candidate for the House of Representatives a citizen shall lodge a nomination form to stand for election for a nominated House of Representatives electorate with no fewer than 10 constituency citizens' signatures on the paper nomination form said 10 citizens being ordinarily resident in the said electorate.
29. The President of the Republic shall appoint a returning officer for each federal electorate who shall conduct the election and declare the constituency result forthwith upon the said result being finally known, and the new member of the House of Representatives shall take office immediately notwithstanding any delay in any other electoral result. Provided that this shall not prevent the High Court hearing appeals against said declaration of election for grounds and dealing with any said appeal with due consideration.
30. Whenever a vacancy happens in the House of Representatives, the President shall issue within thirty days the writ for a by-election.
31. The House of Representatives shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker. The Speaker shall cease to hold office if no longer a member of the House, and may be removed from office by a vote of the House, or may resign as Speaker and maybe also as a member as well by writing addressed to the President of the Republic.
32. A member may resign from office by writing addressed to the Speaker, or to the President of the Republic, and the said members' place shall thereupon become vacant.
33. Every member of the House of Representatives shall convene a quarterly constituency meeting where the said member tables and speaks to a two page printed report and answers questions on notice and questions without notice by constituents.
Provided that:-
 - (i) a member who is overseas on a parliamentary or ministerial delegation totalling more than 60 days may elect to be exempt from this requirement for any respective calendar quarters:
 - (ii) this requirement may be suspended in part or whole by the President in the event that recent hostile military action by foreign powers or violent civil insurrection occurs within 100 kilometres of the electorate:
 - (iii) where a two page quarterly report is tabled pursuant to this section the member shall arrange the printing of the same and postage to the members' constituency:
 - (iv) the entire cost including publicity refreshments printing and postage of the said constituency meetings shall be paid for by the Republican Treasury: and
 - (v) a member who fails to properly convene such meetings shall be declared as attainted of treason by the High Court on the application of 1000 constituents entitled to vote in the said members' election.
34. The commercial broadcasters of radio television and Internet broadcasting shall provide each candidate for the House of Representatives who leads a recognised political party with no fewer than three members of the Parliament with a free half hour advertisement during the recognised campaign period.
35. Every candidate for the House of Representatives shall submit a policy speech no longer than two printed pages which shall be posted to every citizen entitled to vote in the respective constituency, the printing and postage being paid for by the Republican Treasury.

Part IV. Both Houses Of The Parliament.

36. There shall be a session of the Parliament at least once in every calendar quarter, save for in times of violent civil insurrection when circumstance prevents it and in times of war when hostile military action prevents it.
37. Every senator and every member of the House of Representatives shall before taking office make and subscribe before the President of the Republic an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.
38. A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.
39. Any person who:-
 - (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or citizen of a foreign power: or
 - (ii) is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offense punishable under the law of the Republic or of a State by imprisonment for one year or longer:

shall be incapable of being chosen as or of sitting as a senator or a member of the House of Representatives. Provided that by express public declaration prior to the close of nominations a citizen may renounce any citizenship or other relationship to any former country of residence or citizenship or as otherwise may be the case hitherto.

40. If a senator or member of the House of Representatives becomes subject to any of the disabilities mentioned in the last preceding section the place of the said senator or member shall thereupon become vacant.
41. There shall be no public funding of candidates' electoral expenses, other than recognition of the same as income tax deductions to the candidate if met by the candidate, and any other tax deductibility provisions the Parliament thinks fit to make.
42. The Candidates Convention for the election of the Trustees of the Republican Treasury shall have the privileges and immunities of the House of Representatives from the election day till the close of the said conventions' final session.
43. The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament from time to time, and until declared otherwise shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, as at 1st January 1901.
44. Subject to this Constitution, each house of the parliament shall establish rules and standing orders with respect to:-
 - (i) the mode in which its powers, privileges, and immunities may be exercised and upheld:
 - (ii) the order and conduct of its business and proceedings either separately or jointly with the other House:

and such rules and standing orders shall be carried by the affirmative vote of 60 senators or 60 members of the House of Representatives as the case may be.

45. Wherever in this Constitution it provides that a special majority be required of both houses for some Act or other measure to be enacted, that it be carried by the affirmative vote of 60 members of the House of Representatives and 60 senators, it shall suffice for the said special majority purpose that the final and successful third reading of the said Act regulation or other measure in the same terms in each house be carried by the said special majority.
46. All legislative Acts enacted by the Parliament, and all treaties with foreign powers adopted by the Parliament, shall require the special quorums, of 51 members of the House of Representatives, or of 50 senators, as the case may be, to be present when the final third reading vote is made. Provided that this shall not apply to the adoption or disallowal of regulations tabled in the Parliament pursuant to some Act, or to resolutions expressing matters of opinion or sympathy. Provided also that the Parliament shall otherwise provide for quorums of twenty or more for other all other circumstances.
47. Whenever a caretaker Prime Minister be in office the power of initiating constitutional amendment pursuant to Chapter VIII shall be suspended pending final election results and any final referenda results of referenda arranged prior to the caretaker period's beginning.

Part V: The Legislative Process.

48. Subject to section 49, no legislative Act of the Federal Parliament shall be longer than 100 paper pages. Such Acts shall be ultra vires. This section shall be entrenched for the sake of good government not amendable save by referendum carried by voters in each and every State.
49. Provided that for the purposes of the preceding section only:-
- (i) the annual appropriation of monies Act - "The Budget":
 - (ii) any food standards Act:
 - (iii) any chemical standards Act:
 - (iv) any customs Act:
 - (v) any patents Act:
 - (vi) any weights and measures Act:
 - (vii) any dangerous materials Act:
 - (viii) any manufacturing standards Act:
 - (ix) any employment regulation Act pursuant to the Chapter I or section 67 (xxx):
- may have schedules of described items or data items to the said Act not counted towards this quota of 100 paper pages which for the said Acts shall only apply to the main Act which shall include all policy covenant materials and not the schedules containing detailed descriptive matters. This section shall be entrenched for the sake of good government not amendable save by referendum carried by voters in each and every State.
50. This Chapter II Part V of this Constitution shall not fully come into force until the legislative statute book both Acts and Regulations have been consolidated in order that Chapter II Part V be fully complied with, but shall apply to the ongoing legislative work of the parliament nevertheless. This section shall be entrenched for the sake of good government not amendable save by referendum carried by voters in each and every State.
51. No regulation to any legislative Act of the Federal Parliament shall be longer than 100 paper pages, save for registers of data items described in some other regulation or form or schedule. Such regulations shall be ultra vires. This section shall be entrenched for the sake of good government not amendable save by referendum carried by voters in each and every State.
52. No legislative Act of the Federal Parliament shall have more than 100 concurrent regulations in force. Such Acts shall be ultra vires. This section shall be entrenched for the sake of good government not amendable save by referendum carried by voters in each and every State.
53. The numbers of members of the Senate and the House of Representatives shall be fixed at 100 and 101 respectively and this section shall be entrenched for the sake of good government not amendable save by referendum carried by voters in each and every State.
54. Wherever in this Constitution it provides that the affirmative vote of 60 members of the House of Representatives and 60 senators be required for some Act of parliament or regulation or other measure, reasonable notice of the special reasons for the use of the said legislative power shall be given in a green paper available at cost to the citizenry, or else the measure shall be ultra vires.
55. Whenever a private bill be considered, the promoters of the measure shall cause reasonable notice of the special reasons for the use of the said legislative power to be given in a green paper available at cost to the citizenry, or else the measure shall be ultra vires.
56. Whenever a private tax be considered, the Minister introducing it, the private member introducing it, or the promoters of the measure if also a private bill, as the case may be, shall cause reasonable notice of the special reasons for the use of the said legislative power to be given in a green paper available at cost to the citizenry, or else the measure shall be ultra vires.
57. Subject to this Constitution, if the Parliament be of the opinion that a judicial decision of any federal court or of any state court exercising federal jurisdiction be wrong in law, and that for the sake of the conciseness and clarity of the law the decision should be overturned by declarative legislation that declares the state of the law for a matter or related matters, then it shall be carried with a requirement of the affirmative vote of 60 members of the House of Representatives and 60 senators.

58. Whenever the Parliament be of the opinion that it be necessary and expedient that some legislative power, not being a power subject to Chapter II Part V, nor a power subject to Chapter VIII, should be delegated to some territorial assembly authority trust committee Minister of State university council or the like, then an Act embodying this delegation shall be carried with a requirement of the affirmative vote of 60 members of the House of Representatives and 60 senators. However, whenever the delegation be to the President in Council to make regulations pursuant to some Act of the federal parliament the majority required shall be the same as required for the said Act.
59. Whenever the Parliament be of the opinion that it be necessary and expedient that some piece of legislation have express and limited retrospective effect before the date the legislation is tabled in the Parliament, then it shall be carried with a requirement of the affirmative vote of 60 members of the House of Representatives and 60 senators.
60. Where no fewer than 100 citizens sign a paper petition to the Federal Parliament for the enactment of an Act within the scope of the Federal Parliament's legislative power and the principal petitioners draft it arrange hearings publicise it deal with objections and pay for all the same it shall be classed as a private bill and the Parliament shall appoint a private bill committee of parliamentary backbenchers to deal with the private bill that results and make a recommendation to the House or Representatives and the Senate as to whether it should be proceeded further with, and if so proceeded with, then it shall be carried with a the same majority as required were the measure a public bill promoted by the government.
61. Should any private bill deal with public taxes, or deal with appropriation of public monies from the Republican Treasury it shall be referred to a private bill committee of the House of Representatives who shall further refer it to each of the Trustees of the Republican Treasury for each Trustee's opinion, and not proceeded with unless at least one Trustee can countenance it.
62. Subject to the preceding two sections, any private bill dealing with appropriation of public monies from the Republican Treasury shall be part of a package of two private bills considered together one of which shall impose a public tax or an increase in an existing public tax that is in the opinion of a Trustee of the Republican Treasury sufficient to fund the appropriation measure, and not proceeded with unless such an opinion can be found, and the package of two private bills shall be carried if and only if:-
 - (i) at least one of the Trustees of the Republican Treasury can countenance both bills as a package: and
 - (ii) both bills be carried in the same terms with the same majority as required were the measures public bills promoted by the government.
63. Should any private bill attempt to use Parliament's power of declarative legislation it shall be ultra vires.
64. Should any legislative Act - being an original Act or an Act that amends other Acts - be signed that required the special majority of 60 members of the House of Representatives and 60 senators then that fact and the title and bibliographical details of the respective green paper shall be recorded as a note to the Act and notified together with the Act on proclamation.
65. Legislative Acts that had previously required a special majority of 60 members of the House of Representatives and 60 senators to enact or amend shall require the same special majority to amend, save for when the sole special power required were that of retrospectivity the Act is already proclaimed and no further use of the retrospective power be envisaged.
66. This Part shall not prevent the Parliament from repealing any Act and all its regulations in entirety by standard legislative procedure by simple majority votes, and shall not prevent the President of the Republic notifying and proclaiming the lapsing of any regulation by express provision of the said regulation.

Part VI. Powers of the Parliament.

67. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Republic with respect to:-
- (i) Trade and commerce:
 - (ii) Public taxes, but so as not to discriminate between States or parts of States:
 - (iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Republic:
 - (iv) Borrowing money on the public credit of the Republic:
 - (v) Postal, telegraphic, telephonic, and other like services:
 - (vi) Lighthouses, lightships, beacons and buoys:
 - (vii) Astronomical and meteorological observations:
 - (viii) Radio and television and broadcast media:
 - (ix) Fisheries in Australian waters:
 - (x) Census and statistics:
 - (xi) Currency, coinage, and legal tender:
 - (xii) Banking, the incorporation of banks, and the issue of paper money:
 - (xiii) Insurance:
 - (xiv) Weights and measures:
 - (xv) Bills of exchange and promissory notes:
 - (xvi) Bankruptcy and insolvency:
 - (xvii) Copyrights, patents of inventions and designs, trade marks and other intellectual property:
 - (xviii) Foreign corporations, and trading or financial corporations formed within the limits of the Republic:
 - (xix) Marriage, gay and lesbian marriage, and civil unions:
 - (xx) Divorce and matrimonial causes: and in relation thereto, parental rights, and the custody and guardianship of infants:
 - (xxi) Adoption and surrogacy:
 - (xxii) Invalid and old-age pensions:
 - (xxiii) Food stamps, benefit payments, and tax exemptions to those in need of food clothing and shelter for whatever reason:
 - (xxiv) Higher education, other than state higher education, and subject to Chapter I, regulation of secular private and religious higher education institutions:
 - (xxv) Higher education student loans schemes:
 - (xxvi) Standards for higher education, including standards for university and technical college entrance, and in relation thereto, curriculum standards for secondary education:
 - (xxvii) Civics, in respect of education, state or federal, public or religious or secular private:
 - (xxviii) Quarantine, public health measures, health insurance, hospital insurance, but not so as to authorise any form of civil conscription that deprives the patient of choice of practitioner or that requires any practitioner to do anything against the practitioner's individual conscience:
 - (xxix) Orderly marketing schemes for primary produce, water resources, and drought assistance:
 - (xxx) The protection of the environment:
 - (xxxi) Industrial relations, the terms and conditions of employment, but not so as to outlaw common law contracts between individuals individually or collectively and their employers that pay as much or more than community standards and preserve workers' rights to health and personal security as recognised in community standards:
 - (xxxii) The service and execution throughout the Republic of the civil and criminal process and the judgments of the courts of the States:
 - (xxxiii) The recognition throughout the Republic of the laws, the public Acts and records, and the judicial proceedings of the States:
 - (xxxiv) The people of any race for whom it is deemed necessary to make special laws: being laws for the benefit of the said race, or being laws to implement in good faith in a non-racialist manner the Convention Relating to the Status of Refugees 1951, or being laws to implement in good faith in a non-racialist manner the Geneva Conventions of War:
 - (xxxv) Naturalisation and citizens of foreign powers:
 - (xxxvi) Immigration and emigration:
 - (xxxvii) The influx of criminals:
 - (xxxviii) External affairs:
 - (xxxix) The acquisition of property for valuable consideration by voluntary contract written or verbal from any State or person for any purpose in respect of which the Parliament has power to make laws:

- (xl) The acquisition of property for valuable consideration by express legislative Act from any State or person for any purpose in respect of which the Parliament has power to make laws:
 - (xli) The expropriation of property by express legislative Act with or without compensation or payment or any benefit at all for any purpose in respect of which the Parliament has power to make laws, carried by the affirmative vote of 60 members of the House of Representatives and 60 senators and countenanced by at least one of the Trustees of the Republican Treasury both in respect of the type and nature of the property and the legislative purpose the said property is to be applied to:
 - (xlii) Private taxes, such as blank media royalties, infrastructure levies to private companies building and operating infrastructure, infrastructure levies to companies owned by a State or a local government or a number of local governments building and operating infrastructure, racing clubs rights to royalties from betting agencies, and other like private taxes that relate to any purpose in respect of which the Parliament has power to make laws, carried by the affirmative vote of 60 members of the House of Representatives and of 60 senators:
 - (xlili) The control of railways with respect to transport for the naval and military purposes of the Republic:
 - (xliv) The acquisition of any railways of any State, provided that federal railways planned for closure be offered for sale to the States concerned, and then put up for public auction, before closure:
 - (xlv) Railway construction and extension and operation:
 - (xlvi) Regulation and funding of interstate state and territorial infrastructure public or private, and in respect of public interstate infrastructure and defence infrastructure, building and owning and operation of such infrastructure:
 - (xlvii) Administration and collection of public taxes pursuant to a law of a State, passing the entire proceeds net of administrative expense to the State:
 - (xlviii) Administration and collection of private taxes pursuant to an Act of the Parliament, passing the entire proceeds net of administrative expense to the private or corporate beneficiaries:
 - (xlix) Conferences of the leaders of the States with a view to the promotion of responsible government and the finding of political solutions to the each State's revenue and debt problems, for each State Parliament and the Parliament to implement in whatever way each thinks fit subject to Chapter III:
 - (l) The naval and military defence of the Republic and of the several States, and the control of the forces to execute and maintain the laws of the Republic:
 - (li) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:
 - (lii) Matters referred to the Parliament of the Republic by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law, such laws to be carried by the affirmative vote of 60 members of the House of Representatives and 60 senators:
 - (liii) Subject to this Constitution, the exercise within the Republic, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power reserved to the States, such laws to be carried by the affirmative vote of 60 members of the House of Representatives and 60 senators:
 - (liv) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Republic, or in the Republican Treasury Trust, or in the Federal Judicature, or in any department or officer of the Republic.
68. The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Republic with respect to:-
- (i) The seat of the government of the Republic, and all places acquired by the Republic for public purposes:
 - (ii) Territories of the Republic:
 - (iii) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Republic:
 - (iv) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

Chapter III. The Republican Treasury.

Part I. Trustees of Republican Treasury.

69. Not later than three months after a Federal Election there shall be a Candidates Convention to elect the Trustees of the Republican Treasury. All members of the Senate and the House of Representatives shall be eligible to stand for Trustee of the Republican Treasury, provided that:-
 - (i) not more than three members of any recognised political party can stand: and
 - (ii) Ministers of State and parliamentary secretaries to Ministers of State are ineligible.
70. Voting shall be by non-preferential ballot, with each candidate for President, the Senate, and the first round of the House of Representatives election having as many votes as the said candidate's first preference tally. Every candidate for Trustee receiving more than 5000 votes shall be elected to hold office as a Trustee with that number of votes on the Republican Treasury Trust.
71. Trustees may seek re-election whether or not re-elected to Parliament.
72. Trustees shall nominate another person of those eligible to stand for election to take the said Trustee's place should the Trustee resign or die or for whatever other reasons the Parliament otherwise provides that do cause the said Trustee's office to become vacant for proper ground.

Part II. Protocol for Trustees of Republican Treasury.

73. Proposed laws appropriating revenue or moneys, or imposing public taxes fines license fees or royalties, shall be referred to each of the Trustees of the Republican Treasury for the said Trustee's sincere opinion as to whether the said Trustee can countenance that form of expenditure or taxation.
74. A proposed law borrowing monies on the public credit of the Republic for express specific purpose shall be referred to each of the Trustees of the Republican Treasury for the said Trustee's sincere opinion as to whether the said Trustee can countenance borrowing said monies for that said purpose.
75. A proposed law establishing a government business corporation for express specific purpose shall be referred to each of the Trustees of the Republican Treasury for the said Trustee's sincere opinion as to whether the said Trustee can countenance borrowing said monies for that said purpose.
76. The accounts of the Republican Treasury shall be kept in such fashion as to linearly allocate revenues to nominal accounts of those Trustees who can countenance the relevant public tax fine license fee or royalties likewise linearly to the number of votes held by each of those Trustees.
77. The accounts of the Republican Treasury shall be kept in such fashion as to linearly allocate expenditures from nominal accounts of those Trustees who can countenance the relevant legislative purpose likewise linearly to the number of votes held by each of those Trustees.
78. The accounts of the Republican Treasury shall be kept in such fashion as to linearly allocate borrowed monies to nominal accounts of those Trustees who can countenance the relevant legislative purpose likewise linearly to the number of votes held by each of those Trustees.
79. The accounts of the Republican Treasury shall be kept in such fashion as to linearly allocate monies received from a government business corporation being sold to private owners or local government or a State or States to nominal accounts of those Trustees who can countenance the relevant legislative purpose of establishment likewise linearly to the number of votes held by each of those Trustees.
80. The accounts of the Republican Treasury shall be kept in such fashion as to linearly allocate monies received from asset sales of government assets held in the name of the Republic being sold to private owners, or local government or to a State or States, to the nominal accounts of those Trustees who can countenance the relevant legislative purpose of what the asset was purchased for or developed for or established for likewise linearly to the number of votes held by each of those Trustees.
81. Where a Trustee of the Republican Treasury has nominal accounts in deficit and the Trustees are unable to agree by consensus to that deficit, then that Trustee shall nominate a proportion of the said Trustee's expenditures as unavoidable excess, such excess shall be authorized by an Act carried with a requirement of the affirmative vote of 60 members of the House of Representatives and 60 senators.
82. A Trustee who does not seek re-election shall nominate one or more of the just elected Trustees to take responsibility for any balance in the former Trustee's Republican Treasury account, to be allocated linearly to the number of votes held by each of those just elected Trustees.

Part III. The Parliament and Finance

83. The Parliament may grant financial assistance to any State or any local government on such terms and conditions as the Parliament thinks fit, provided that all financial assistance shall be for express specific purpose pursuant to the powers of the Parliament of Chapter II Part VI, and provided that each state and local government shall be responsible for any shortfall in that state's or that local government's general revenue. Each express specific purpose shall be countenanced in the sincere opinion of a Trustee of the Republican Treasury.
84. The Parliament shall not prevent any State Parliament from imposing a state income tax, state sales tax, state estate duties, state gift duties, state excise duties, state stamp duties, state mining royalties, or other lawful state tax, and shall keep federal public taxes at a level where each of the States can by these and other state public taxes finance the annual state budget.
85. The Parliament shall not prevent any local government from imposing a local income tax, local sales tax, local estate duties, local gift duties, local excise duties, local stamp duties, local mining royalties, or other lawful local tax, and shall keep federal public taxes at a level where each local government area can by these and other local public taxes finance the annual local government budget.
86. Proposed laws appropriating revenue or moneys, or imposing public taxes, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose public taxes, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses, or fees for services under the proposed law.
87. The Senate may not amend proposed laws imposing public taxes, or the annual appropriation of monies bill.
88. The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.
89. Except as provided in this Chapter and section 61, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.
90. The annual appropriation of monies bill - "The Budget" - shall deal only with such appropriation. Provided that whensoever the Senate fails to pass it within one month of receipt from the House of Representatives and does not reject it by a resolution of 60 votes to the negative it may be signed into law by the President of the Republic notwithstanding.
91. Laws imposing public taxes shall deal only with the imposition of public taxes, and any provision therein dealing with any other matter shall be of no effect, and the names of the Trustee or Trustees of the Republican Treasury who have countenanced that form of public taxation shall be communicated by message of the President to both Houses when the said law or laws be first tabled.
92. Laws imposing public taxes, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only: but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.
93. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose or related purposes of the appropriation has in the same session been recommended in favour or recommended against by message of the President to the House in which the proposal is dealt with, together with the names of the Trustee or Trustees of the Republican Treasury who favour the measure and have countenanced that purpose or related purposes singly or jointly.
94. No money shall be drawn from the Republican Treasury except under appropriation made by law or by express authority for specific purpose by this Constitution.
95. Whenever it is in the sincere opinion of a Trustee of the Republican Treasury that a taxation or like measure be so excessive in effect on the citizenry or classes thereof as to constitute expropriatory taxation, and no fewer than 40 senators agree in all good faith and sincerity in giving speeches in opposition, the measure shall be declared to be expropriatory taxation pursuant to section 67 (xli) and shall require the affirmative vote of 60 members of the House of Representatives and 60 senators to be enacted or be ultra vires. Provided that whenever a senator is deprived of the right to speak by any standing order the said senator may be counted in said opposition as of right by seeking leave to have incorporated in the record of debate a written speech in opposition tabling said speech.

Chapter IV. The Judicature.

96. The judicial power of the Republic shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice and no fewer than six other Justices.
97. The Justices of the High Court and of the other courts created by the Parliament shall:-
- (i) be appointed by the President in Council:
 - (ii) not be involuntarily removed except by the President in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:
 - (iii) receive such remuneration as the Parliament may fix: but the remuneration shall not be diminished during their continuance in office.
98. A Justice of the High Court or of a court created by the Parliament may resign the said office by writing to the President of the Republic, said resignation to take effect upon the later of the date of receipt of said letter and any stated date of effect nominated in said letter.
99. A reference in this section to the appointment of a Justice of the High Court or of a court created by the Parliament shall be read as including a reference to the appointment of a person who holds office as a Justice of the High Court or of a court created by the Parliament to another office of Justice of the same court having a different status or designation.
100. The Full Bench of the Justices of the High Court sitting together shall have jurisdiction, with such exceptions and subject to such rules as the High Court adopts, to hear and determine appeals by special leave from all judgments, decrees, orders, and sentences:-
- (i) Of any Justice or Justices exercising the original jurisdiction of the High Court:
 - (ii) Of any other federal court, or court exercising federal jurisdiction: or of the Supreme Court of any State:
- and the judgment of the High Court in all such cases shall be final and conclusive, save for when retrospective declarative legislation pursuant to Chapter II Part V be enacted by the Federal Parliament by the affirmative vote of 60 senators and 60 members of the House of Representatives, the High Court in determining some case be declared to be wrong in law, the true state of the law be forthwith declared, and hence that the case is referred back to the Full Bench of the High Court for re-determination.
101. But no exception or High Court rule or law made by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter by special leave.
102. In all matters:-
- (i) Arising under this Constitution, or involving its interpretation:
 - (ii) Arising under any treaty:
 - (iii) Affecting consuls or other representatives of other countries:
 - (iv) In which the Republic, or a person suing or being sued on behalf of the Republic, is a party:
 - (v) Between States, or between residents of different States, or between a State and a resident of another State:
 - (vi) In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Republic:
- the High Court shall have original jurisdiction.
103. The Parliament may make laws conferring original jurisdiction on the High Court in any matter:-
- (i) Arising under any laws made by the Parliament:
 - (ii) Of Admiralty and maritime jurisdiction:
 - (iii) Relating to the same subject-matter claimed under the laws of different States.

104. Every citizen shall have the right to seek without application fee typed written special leave to bring action in the High Court in relation to any matter:-
- (i) Arising under this Constitution, or involving its interpretation, claiming that a law of the Parliament, or of a state Parliament, is unconstitutional:
 - (ii) Arising under this Constitution, or involving its interpretation, claiming that a law of the Parliament, or of a state Parliament, breaches the inalienable rights of the citizen as declared in Chapter I, or otherwise breaches Chapter I, and that any express limitation of rights was not carried by the requisite Constitutional process:
 - (iii) Arising under this Constitution, or involving its interpretation, claiming that a law of the Parliament, or of a state Parliament, was, though Constitutional in itself, was enacted through an unconstitutional process:

and the High Court shall deal with such special leave applications appropriately and with due consideration. Provided that the said citizen may be levied with court costs should the said citizen's special leave application fail or court action fail, and if in addition the court declares the said citizen a vexatious litigant the said citizen may be levied a special leave application fee.

105. Should any such special leave application to the High court be rejected, the citizen shall have the right to a two hour federal court hearing in some federal court of suitable jurisdiction for hearing of argument on the matter, and if necessary on the applicant's motion a half hour in camera chambers hearing with a judge to state claims in chambers, to establish a prima facie case for such special leave: if right of special leave be upheld this do cause a right to a High Court hearing to be held within three months on said special leave application, said process attracting court costs.
106. With respect to any of the matters detailed in this Chapter the Parliament may make laws:-
- (i) Defining the jurisdiction of any federal court other than the High Court:
 - (ii) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:
 - (iii) Investing any court of a State with federal jurisdiction.
107. Subject to this Chapter, the Parliament may make laws conferring rights to proceed against the Republic or a State in respect of matters within the limits of the judicial power.
108. The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes or the said courts' rules prescribe.
109. The Parliament shall establish by law a Federal Magistrates' Court as a low cost jurisdiction and further define by legislative provision this courts' jurisdictional power provided that in the said Federal Magistrates' Court every plaintiff and every defendant shall only meet the said plaintiffs' or said defendants' own court costs in every matter, save when the court declares any party a vexatious litigant.

Chapter V. Trade and Commerce.

110. Subject to this Chapter and to section 67 (xxx) and section 67 (xlii) and section 67 (xlvi), trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free of tariffs, bounties, and like taxes levies and payments.
111. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.
112. The Republic shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.
113. A State may levy on imports or exports, or on goods passing into or out of the State such charges as may be necessary for executing the inspection laws of the State: and any such inspection laws may be annulled by the Parliament.
114. A State shall not, without the consent of the Parliament, impose any tax on property of any kind belonging to the Republic, nor shall the Republic impose any tax on property of any kind belonging to a State. Provided that universal levies and universal public taxes and universal private taxes whether enacted federally or by a State may be exempt from this declaration by express provision in order to facilitate efficiencies in the economy, or in order to facilitate efficiencies in tax administration, or for the sake of protection of the environment, and any such exemptions in State laws may be annulled by the Parliament.

Chapter VI. The States.

115. The Constitution of each State of the Republic shall, subject to this Constitution, continue as at the establishment of the Republic, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.
116. The Constitution of each State of the Republic shall provide that each electorate for the House of Representatives shall be divided every ten years at the time of census into a number of Legislative Assembly single member electorates, in order that each state have between 14 and 86 Legislative Assembly directly elected members.
117. Each state shall also have a Legislative House of Review directly elected by optional proportional representation with between 14 and 25 members elected with the state voting as a single electorate.
118. Each state constitution shall make provision for a position of state Governor who shall be directly elected by optional preferential voting with the state voting as a single electorate.
119. Every power of the Parliament of a State of the Commonwealth of Australia which has become or becomes a State of the Republic of Australia, shall, unless it is by this Constitution exclusively vested in the federal Parliament or withdrawn from the Parliament of the State, continue as at the establishment of the Republic, or as at the admission or establishment of the State, as the case may be.
120. Every federal law in force in the Commonwealth of Australia, and the rules and standing orders of the federal Parliament, shall, subject to this Constitution, continue in force in the Republic.
121. Every law in force in a State of the Commonwealth of Australia which has become or becomes a State of the Republic of Australia, and relating to any matter within the powers of the federal Parliament, shall, subject to this Constitution, continue in force in the State: and, until provision is made in that behalf by the federal Parliament, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the State had heretofore.
122. When a law of a State is inconsistent with a law of the Republic, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.
123. The Republic shall protect every State against invasion and against violent civil insurrection. A State shall not, without the consent of the federal Parliament, raise or maintain any naval or military force.
124. Full faith and credit shall be given, throughout the Republic to the laws, the public Acts and records, and the judicial proceedings of every State.
125. Every State shall make provisions for the detention in its prisons of persons accused or convicted of offences against the laws of the Republic, and for the punishment of persons convicted of such offences, and the Federal Parliament may make laws to give effect to this provision.

Chapter VI. New States.

126. The Parliament may admit to the Republic or establish new States, and may upon such admission or establishment make or impose such terms and conditions as it thinks fit.
127. The Parliament may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any other State affected.
128. A new State may be formed by separation of territory from a State, but only with the consent of the State Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.
129. The new States and new Territories established or acquired pursuant to this Chapter may be represented in the Parliament as and when a census in a year divisible by ten do cause and establish new boundaries to be made for single member electorates in the House of Representatives and Legislative Assemblies.

Chapter VII. Miscellaneous.

130. The seat of Government of the Republic shall be Canberra, in the Australian Capital Territory, save for when hostile military action forces the temporary relocation of the said seat of Government.
131. Throughout each State and Territory there shall be a system of local government, save for uninhabited areas. Subject to this Constitution and the legislative Statutes of the States, the Mayors and Councillors of each local government area howsoever described may be paid allowances from the Republican Treasury to represent local issues should monies be appropriated for that purpose by a federal appropriations law and expended by lawful authority by said local government.
132. Subject to this Constitution, the Parliament may make provision by law for citizens residing in unrepresented Territories or as yet unrepresented new States or citizens temporarily deprived of some or all voting rights by State boundary alterations or citizens temporarily residing overseas to vote in elections or referenda by registering them to vote in such manner as it thinks fit.

Chapter VIII. Alteration Of The Constitution.

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

The proposed law for the alteration thereof must be passed by a majority of 60 members of each House of the Parliament, or alternatively be petitioned for by no less than one million citizens' signatures in a paper petition that shows expressly the proposed alterations in printed detail, and not less than two nor more than six months after said passage through both Houses, or said tabling in both Houses of said petition, the proposed law shall be submitted in each State and Territory to the citizenry.

When such a proposed law that alters the text of this Constitution by express provision is submitted to the electors, the vote shall be taken in such manner as the Parliament prescribes.

And if States in which a majority of the electors voting approve the proposed law constitute at least 60 per cent of the total number of States, and if also a majority of all the electors voting also approve the proposed law, it shall be presented to the President, who shall sign it unless invalid pursuant to the following three clauses.

No alteration increasing, diminishing, or otherwise altering the limits of any State shall become law unless the majority of the electors voting in the affected States approve the proposed law.

No alteration affecting in any manner the provisions relating to increasing, diminishing, or otherwise altering the limits of the States, or affecting any section entrenched for the sake of good government, shall become law unless the majority of the electors voting in each and every State approve the proposed law.

And whenever a number of referenda proposing amendments be carried in polls on the same day that are contradictory or otherwise legally incoherent, the President and the Parliament shall cause to be convened an elected constitutional convention of 201 members elected by the procedures of the House of Representatives and the Senate, to merge said carried referenda into this constitution in a coherent manner and make a recommendation to the citizenry voting in a single referendum to enact said merged alterations or not as the electorate do determine by a new vote on the consolidated proposed amendment that merges the alterations that were previously but invalidly carried.

Schedule.

OATH

I, A.B., do swear that I will be faithful and bear true allegiance to the Republic of Australia, and to defend the Constitution of the Republic of Australia, according to law. SO HELP ME GOD!

AFFIRMATION

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to the Republic of Australia, and to defend the Constitution of the Republic of Australia, according to law.

Appendix II: References

For some informed and influential further reading on this important area of constitutional law may I give the following as references to my submission:-

David Coates (Ed), "Paving The Third Way: The Critique Of Parliamentary Socialism", especially Chapter 15, pub. The Merlin Press 2003.

Ken Coates and Anthony Topham, "Industrial Democracy In Great Britain", pub. MacGibbon & Kee Ltd 1968.

Dimitrious Roussopoulos and C. George Benello (Eds), "Participatory Democracy: Prospects For Democratising Democracy", pub. Black Rose Books 2005.

Chris Spannos, "Real Utopia: Participatory Society For The 21st Century", pub. AK Press 2008.

Alan Stone and Richard P. Barke, "Governing The American Republic: Economics, Law, And Policies", 2nd Ed, pub St Martin's Press 1989.

Harry Street and Rodney Brazier (Eds), "Constitutional And Administrative Law de Smith", 4th Ed, pub. Penguin 1981.

Eric Taylor, "The House Of Commons At Work", 4th Ed, pub Pelican 1961. A Penguin Books imprint.