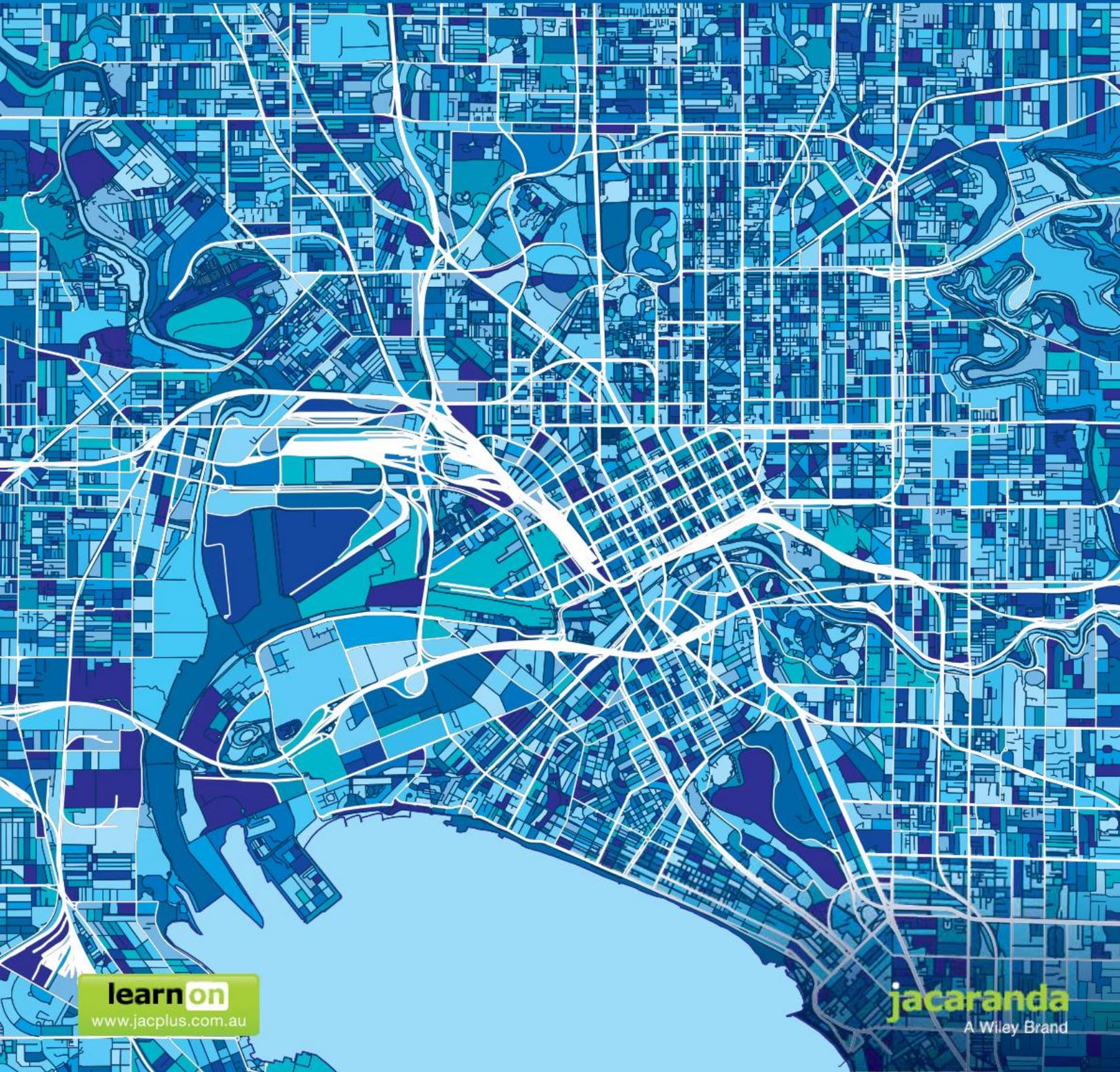


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JACARANDA
**CIVICS AND
CITIZENSHIP ALIVE** **7**
VICTORIAN CURRICULUM | SECOND EDITION



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GRAEME SMITHIES

BENJAMIN ROOD

MATTHEW RICHARDSON

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HOW TO USE

the *Jacaranda Civics and Citizenship Alive* resource suite

The ever-popular *Jacaranda Civics and Citizenship Alive for the Victorian Curriculum* is available as a stand-alone Civics and Citizenship series or as part of the *Jacaranda Humanities Alive* series, which incorporates Civics and Citizenship, History, Geography, and Economics and Business in a 4-in-1 title. The series is available across a number of digital formats: learnON, eBookPLUS, eGuidePLUS, PDF and iPad app.

Skills development is integrated throughout, with key skills targeted through SkillBuilders.

This suite of resources is designed to allow for differentiation, flexible teaching and multiple entry and exit points so teachers can *teach their class their way*.

Features

All topics start with an **Overview** which includes a pre-test to gauge students' readiness to begin.

2 The legal system and you

2.1 Overview

Are we all subject to the law and equal before the law? What does that mean for everyday Australians?

2.1.1 Our legal system

Picture yourself standing in court, accused of a crime you did not commit. Facing a trial and the being found guilty of the crime. Australia's rule of law and our legal system should protect you from this happening. How much do you know about Australia's legal system? Would you know where to find a lawyer? Would you know what would make you trial free? All Australian citizens should have the opportunity to access justice no matter who they are.



Resources

01 Workbook Customisable worksheets for this topic

Water edition The courts are 100% digital

LEARNING SEQUENCE

2.1 Overview

2.2 What a court looks like

2.3 The presumption of innocence

2.4 A fair trial

2.5 Access to justice and legal representation

2.6 **SkillBuilder**: Debating an issue

2.7 **Thinking Big research project**: Create your own 'Just for' video

2.8 **Review**

To access a pre-test and starter questions and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON format at www.jacaranda.com.au.

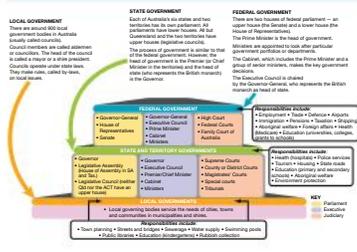
Topics open with an **inquiry question** to spark students' curiosity about the topic.

An online **workbook** is available for customisation and printing.

01 Resources

Interactivity Time out Responsibilities (p.120)

FIGURE 7 The division of powers and the separation of powers



1.3 ACTIVITY

Using internet resources, find out who currently performs the following roles in our system of government. For each role, indicate whether their role is legislative, executive or judicial:

- the minister for defence
- your local member of the House of Representatives
- the Chief Justice of the High Court
- the state minister for education.

Questioning and evaluating

1.3 EXERCISES

Civics and citizenship skills key: CS1 Remembering and understanding CS2 Describing and explaining CS3 Examining, analysing, interpreting CS4 Classifying and evaluating CS5 Reasoning, creating, proposing CS6 Communicating, reflecting

1.3 Exercise 1: Check your understanding

1. CS2 Outline the role of each of the following arms of government, and provide an example of each:

- legislative arm
- executive arm
- judicial arm.

OnResources feature boxes provide guidance about additional resources online.

SkillBuilders, Thinking Big research projects and Reviews are available online for every topic.

01 Resources

1.3 ACTIVITY

Using internet resources, find out who currently performs the following roles in our system of government. For each role, indicate whether their role is legislative, executive or judicial:

- the minister for defence
- your local member of the House of Representatives
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1.3 Exercise 1: Check your understanding

1. CS2 Outline the role of each of the following arms of government, and provide an example of each:

- legislative arm
- executive arm
- judicial arm.

Corrective feedback and **Sample responses** are available online for every question.

A range of activities is provided to promote deeper inquiry, encourage collaboration and help students to develop their research skills.

01 Resources

1.3 ACTIVITY

Using internet resources, find out who currently performs the following roles in our system of government. For each role, indicate whether their role is legislative, executive or judicial:

- the minister for defence
- your local member of the House of Representatives
- the Chief Justice of the High Court
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1.3 Exercise 1: Check your understanding

1. CS2 Outline the role of each of the following arms of government, and provide an example of each:

- legislative arm
- executive arm
- judicial arm.

Exercise sets at the end of each subtopic allow students to **check and apply** their understanding.

Skillbuilders model and develop key skills in context.

In each topic, a Thinking Big research project provides opportunities for students to delve deeper, think creatively and work collaboratively.

1.10 SkillBuilder: Problem solving and decision making

How do we solve problems and make decisions?
Problem solving and decision-making involve working collaboratively to generate, negotiate and using teamwork to solve an issue and develop a plan for action.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it)



1.11 Thinking Big research project: An Australian republic?

SCENARIO
Many people believe that Australia should eventually become a republic. Your task is to produce a presentation that explains the issue, what has to happen for this to occur and the arguments proposed by each side.

Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.

Resources

projectPLUS Thinking Big research project: An Australian republic? (pp. 69-83)



3.4 The search for an Australian identity

3.4.1 Our differences define us

You wear a school uniform to help identify you as being part of your school. Without this uniform, there would be no way to tell which school you belong to. But what if your school was known for not having a uniform, instead allowing its students to wear their casual clothes to school? This freedom of choice and diversity of dress would then become a way in which your school could be identified. Australian society is exactly like this kind of school. Our identity is characterised by its diversity, and our differences bring us together.

3.4.2 What is national identity?

National identity is much more than a national cuisine, costume or anthem. It is a way for people to identify with others and feel a sense of community. When a country is made up of people from only one cultural group, it is easier to see examples of their national identity. Such is the case with many of the smaller eastern European nations such as Slovakia, Serbia and Croatia. However, when countries have a more multicultural population, like Australia, it can be harder to define a singular national identity.

3.4.3 To integrate or to congregate?

Upon arrival in Australia, new migrants may face a range of difficulties. They need to find somewhere to live and somewhere to work, and often need to learn English as well. Migrants are also faced with a cultural challenge: they must find a balance between their existing national identities and their new Australian identity. With close to 200 nationalities already represented in Australian society, new migrants can usually find existing communities of people sharing the same background. But should they congregate in these communities and follow their existing traditions and customs, or should they integrate into multicultural communities? This question is fiercely debated by both politicians and members of the general public. Without displays of migrant culture, we would not have the diverse society we see today. However, if new migrants only associate with their own communities, they will not gain exposure to Australian culture and values. Therefore, a balance between these two choices is needed to ensure the protection of traditional identities and the development of new ones.

DISCUSS
Instead of being concerned with identifying one single Australian cultural identity when we live in such a multicultural society, would it be simpler to accept that an Australian cultural identity doesn't actually exist?
Discuss as a class. [Intercultural Capability]




Discuss features explicitly address Curriculum Capabilities.

Content is presented using age-appropriate language, and a wide range of engaging sources, diagrams and images support concept learning.

3.4.4 Indigenous identity

At the 1964 Commonwealth Games, Indigenous athlete Cathy Freeman controversially draped herself in both the Australian and Aboriginal flags upon winning the 200 metre sprint. Freeman's celebration caused much debate because the Aboriginal flag was not considered an official flag of Australia. Freeman chose her victory as an opportunity to demonstrate and celebrate her Indigenous identity. For her, being recognised as an Aboriginal person as well as an Australian was an important symbol of reconciliation and pride.

FIGURE 3 A traditional Indigenous Australian smoking ceremony.



FIGURE 4 Cathy Freeman's controversial celebration at the 1994 Commonwealth Games.



At the beginning of school assemblies around Australia, we read the "Welcome to Country" — an acknowledgement of the Indigenous Australian land owners. At state and federal government events, Indigenous leaders are in attendance and appropriate customs, such as smoking ceremonies, are conducted. These acts recognise Indigenous culture and foster Indigenous Australian identity. However, it is important for us to remember why we do these things. If we do not, these actions lose their meaning and become only tokens of Indigenous culture and identity. The impact of *Intercultural* cultural performances is serious. If the meaning behind these and other customs is lost, then so too is a part of Indigenous identity.

3.4 ACTIVITY
In groups of two or three, create a Student Action Pledge — a list of values and subsequent actions that you believe will contribute to a fair and cohesive school environment. **Reasoning, creating, proposing**

3.4 EXERCISES
Class and Citizenship skills key: C84 Remembering and understanding C82 Describing and explaining C83 Gaining, analysing, interpreting C84 Questioning and evaluating C86 Reasoning, creating, proposing C88 Communicating, reflecting

3.4 Exercise 1: Check your understanding

- C82 How is national identity important to a country?
- C82 Explain the difference between the terms 'congregate' and 'integrate' in relation to migration.
- C83 Why did Cathy Freeman's celebration at the Commonwealth Games cause such controversy?
- C82 Identify three examples of above in Victoria that reflect the diversity of Australian society.
- C82 What is a "Welcome to Country" and what does it signify?

1.12 Review

1.12.1 Key knowledge summary
Use this dot point summary to review the content covered in this topic.

1.12.2 Reflection
Reflect on your learning using the activities and resources provided.

Resources

- Workbook Reflection (pp. 321-45)
- Crossword (pp. 321-45)
- Interactivity The Australian Constitution, Parliament and government crossover (pp. 77-78)

KEY TERMS

bicameral a parliament with two houses
census a regular survey used to determine the number of people living in Australia. It also has a variety of other statistical purposes.
communitarian a belief system that promotes the overthrow of existing society and replacing it with one in which all property and possessions are shared equally, and resources are controlled by the government.
constitutional a set of rules that determines the structure of government and its law-making powers.
democracy a political system according to which citizens choose the way in which they are governed.
dictator a person who has absolute power within a country, and who usually cannot be voted out of power by democratic elections. A government headed by a dictator is usually referred to as a dictatorship.
federalism the formation of a united country from a number of separate states or colonies, with law-making power shared between the national government and the governments of each of the states.
judiciary a collective name given to the judges who preside over law courts.
legislation a term used to describe laws passed by parliament.
referendum a process of allowing the people to vote on an important issue.
recall to remove a law so that it no longer applies.
royal assent the formal approval by the monarch's representative, and the final step necessary before a law comes into force.
unicameral a parliament with only one house.
Westminster system the parliamentary system of Great Britain, which has been copied and adapted by many other countries including Australia. It is called that because the British Parliament meets in a building called the Palace of Westminster.

A range of questions and a post-test are available online to test students' understanding of the topic.

Key terms are available in every topic review.

learnON

Jacaranda Civics and Citizenship Alive learnON is an immersive digital learning platform that enables student and teacher connections, and tracks, monitors and reports progress for immediate insights into student learning and understanding.

It includes:

- a wide variety of embedded videos and interactivities
- questions that can be answered online, with sample responses and immediate, corrective feedback
- additional resources such as activities, an eWorkbook, worksheets, and more
- Thinking Big research projects
- SkillBuilders
- teachON, providing teachers with practical teaching advice, teacher-led videos and lesson plans.



teachON

Conveniently situated within the learnON format, teachON includes practical teaching advice, teacher-led videos and lesson plans, designed to support, save time and provide inspiration for teachers.



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1 The Australian Constitution, parliament and government

1.1 Overview

The Constitution, parliament and government. How do they keep Australia running smoothly?

1.1.1 Governing Australia

Can you imagine playing your favourite sport without any rules? All sports have rules so that the players know what is allowed on the field of play, and what is not. The way we are governed in Australia also has rules. Such rules outline the powers of those governing us, and what they are and are not permitted to do in exercising those powers. This set of rules is known as our Constitution.

Governments, parliaments and the law courts are all expected to follow these rules set out by the Constitution. Parliament is the main law-making body in Australia. Parliaments are elected to create laws that represent the wishes and values of their citizens. We describe our system of government as a **democracy** because the people vote to decide who sits in the parliament to make our laws for us. State parliaments were mostly established in the six former colonies from the 1850s onwards, while the federal parliament came into being with federation in 1901.

Many features of our parliamentary democracy have been adapted from the British system of government, known as the **Westminster system**. As a group of former British colonies, we adopted many features of the Westminster system, including having two houses of parliament at both the federal level and in most of the states.

Resources

-  **eWorkbook** Customisable worksheets for this topic (ewbk-0072)
-  **Video eLessons** The Australian Constitution (eles-2076)
What is parliament? (eles-2077)

LEARNING SEQUENCE

- 1.1 Overview
- 1.2 Why we have a constitution
- 1.3 Sharing the power
- 1.4 Changing the Constitution
- 1.5 Difficulties in changing the Constitution
- 1.6 **SkillBuilder:** Questioning and research
- 1.7 Role and structure of the Commonwealth Parliament
- 1.8 State and territory parliaments
- 1.9 Water management — an issue for all levels of government
- 1.10 **SkillBuilder:** Problem solving and decision making
- 1.11 **Thinking Big research project:** An Australian republic?
- 1.12 **Review**

 online only

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To access a pre-test and starter questions, and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON format at www.jacplus.com.au.

1.2 Why we have a constitution

1.2.1 The creation of our Constitution

During the 1890s, there was a lot of support for the idea of joining the six colonies on the Australian continent to create one united country. This united country of Australia would need a new national government, as well as retaining the existing parliaments to make laws for their respective states. Representatives of the different colonies met on several occasions to create a set of rules that would allow for a division of powers between these parliaments.

After the gold rush era of the 1850s, the population of all six Australian colonies grew rapidly. During the 1880s, the population rose from just over 2 million to around 3 million. By 1890, over 60 per cent of the population had been born locally (that is, in the Australian colonies rather than overseas). Large numbers of these people felt a greater loyalty to the colonies of their birth than to the countries of their parents' birth. It was not surprising that many saw the unification of the colonies into one country — the Commonwealth of Australia — as a desirable idea.

During the 1890s, representatives of the different colonies held meetings to develop a **constitution**. These men are often referred to as the 'founding fathers' of our Constitution. (No women took part in the process!) None of the colonial governments wanted to hand over all their law-making powers to a central government, so they had to adopt a structure that would allow these powers to be shared.

When a group of states decide to join together and hand over some of their powers to central government, this arrangement is known as a **federation**. In this arrangement, it is important that everyone understands which powers are retained by the states and which powers will be taken over by the central government. This was a major reason for the development of the Australian Constitution. It allowed the state parliaments to keep some law-making powers for issues that could be managed at the state level. At the same time, it gave the central parliament the power to make laws of national importance. For example, before federation, each colony had its own currency, army and navy. With federation, it made sense to have one consistent currency and a national defence force.

By 1898 the main principles of the new Constitution had been agreed to, and each of the colonies held a **referendum** to allow their citizens to vote on whether they wished to join this new federated Australia. By 1900, a majority in all six colonies had voted in favour, and the new Constitution was passed into law by the British Parliament. The newly created Commonwealth of Australia came into being on 1 January 1901. Elections for the national parliament were held in March of that year, and the newly elected parliament was opened in Melbourne's Exhibition Building on 9 May 1901. Federal parliament then met in Victoria's Parliament House until 1927, when it was transferred to the new national capital of Canberra.

FIGURE 1 Representatives of the colonies met on a number of occasions to draft a constitution for the proposed federation of Australia.

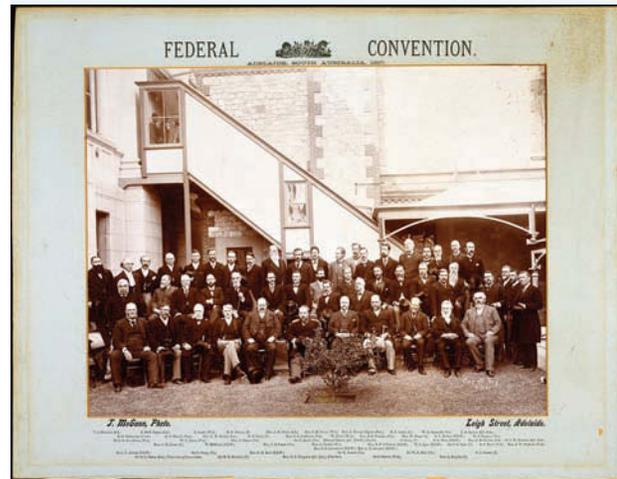


FIGURE 2 Opening of First Federal Parliament by HRH the Duke of Cornwall & York by Charles Nuttall, 1901



1.2.2 Why have a constitution?

Not all countries in the world have a written constitution such as Australia's. The United States of America is one country that, like Australia, is a federation guided by a written constitution. However, some countries that are similar to Australia in many ways have no single constitutional document. Australia, Canada and New Zealand all recognise the British monarch as their head of state and have similar systems of government, but neither Canada nor New Zealand has a written constitution. Their rules of government are contained in a number of different pieces of **legislation**.

Advantages of having a constitution

1. A constitution provides a system of rules that a government is required to follow. In Australia it means that laws have to be made by a democratically elected parliament, not by any individual.
2. A written constitution can include some rights and freedoms to be enjoyed by all citizens of the country. For example, the Australian Constitution guarantees freedom of religion.
3. In Australia, the Constitution allows for a clear distinction between the powers of the federal parliament and the powers of the state parliaments.

FIGURE 3 The Australian Constitution guarantees freedom of religion for all Australians.



Disadvantages of having a constitution

1. A written constitution can be difficult to change as society changes. Australia today is not the same as the colonies of the 1890s when the Constitution was written, and yet we are still bound by a document that is over 100 years old. Back then it was illegal for anyone to bathe on public beaches between 6 am and 8 pm. Imagine if such a law still existed today!
2. Any written document can be open to interpretation. Some words have a number of different meanings. People could argue over those meanings, making a constitution less clear than we would want.
3. Enforcing a constitution depends on the willingness of everyone to obey it. In some countries, **dictators** have seized power by force and refused to follow the constitution of that country. In 1933, for example, Adolf Hitler seized complete power in Germany. Although Germany had a constitution at the time, Hitler was able to convince the German Parliament to pass laws suspending many of the safeguards (protections) in that constitution. These suspended safeguards included rights such as free expression of opinion and freedom of the press, as well as constitutional protections that made sure executive government did not have excessive power. The new laws made it easier for Hitler to persecute his political opponents and minority groups such as the Jewish people. Once he gained complete control of Germany, he murdered more than six million Jewish people.

FIGURE 4 Adolf Hitler became a dictator in Germany in 1933 by suspending the protections in Germany's constitution.



1.2 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.2 Exercise 1: Check your understanding

1. **CS2** Outline two reasons why the idea of a united Australia became popular during the 1880s and 1890s.
2. **CS2** Explain the process by which the Australian Constitution came into existence.
3. **CS2** In your own words, explain the meaning of the term 'federation'.
4. **CS1** What is the main feature of a federation?
5. **CS3** Identify one advantage and one disadvantage of having a constitution.

1.2 Exercise 2: Apply your understanding

1. **CS4** The current states of Australia were originally British colonies. What do you think a colony is?
2. **CS5** Would it be possible for a dictator to seize power in Australia? Give reasons for your answer.
3. **CS5** Identify some freedoms and groups in Australia that could possibly be threatened if a dictator seized power.
4. **CS2** How could a written constitution not be clear to everyone?
5. **CS6** After reading about the advantages and disadvantages of having a written constitution, do you believe it is a positive or a negative feature of our system of government? Outline your opinion in writing and compare it with the opinions of your classmates.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.3 Sharing the power

1.3.1 The separation of powers

The Australian continent had been colonised by the British, and the vast majority of white colonisers were of British origin, so the founding fathers looked to the British Westminster system of government as a model for the new Australian Commonwealth government. The Westminster system had a long history, dating back to the Middle Ages, and had a number of safeguards designed to protect its citizens. One such safeguard was known as the 'separation of powers'. Under the separation of powers, government functions are shared across three 'arms' of government: the legislative, the executive and the judicial. It means that the power to make laws (legislative) is separate from the power to put those laws into action (executive), and that both of these arms are separate from the power to enforce the law and settle legal disputes (judicial). It means that we have a court system that is presided over by independent judges who are sworn to uphold principles of justice and fairness. The concept of the separation of powers can be traced back to the signing of the Magna Carta in England in 1215.

FIGURE 1 Our parliamentary system is based on the Westminster system. Westminster is a district of London in which the British Parliament is located.



The Magna Carta

During the years 1199 to 1216, England was ruled by King John, who believed he had absolute power to do as he wished. As king he could make any laws he wanted to, and he also had the power to act as a judge to decide on the fate of any of his subjects who might come before a court. This meant that he could find anyone he didn't like guilty of a crime, whether they were genuinely guilty or not. He sometimes used this

power to heavily tax the people, and to confiscate the lands of some of the powerful barons in the kingdom. In 1215, these barons rebelled against the king, and demanded that he guarantee them certain rights. They presented these rights to the king in a 'Magna Carta' (Latin for 'Great Charter') and demanded that he sign it as a promise that he would respect these rights. These rights included freedom from excessive taxes, and the right to own and inherit property. It also established a Council of 25 barons to act as an advisory group for the king, and to ensure he did not abuse his powers. This is seen by many as the beginnings of a body, such as a parliament, to limit the powers of the king. Another significant clause in the Charter related to legal entitlements before the courts. Clause 39 read:

No free man shall be arrested or imprisoned ... or outlawed or exiled or in any way victimised, neither will we attack him or send anyone to attack him, except by the lawful judgment of his peers or by the law of the land.

This effectively reduced the power of the king to imprison anyone without a proper legal process. It is the beginning of the idea of an independent judicial arm of government, free of the influence of the king, and also reinforces the principle of trial by jury. This is stated in the words 'lawful judgement by (one's) peers'. A person's peers are those considered to be their 'equals' in society.

The separation of powers in the Australian Constitution

The Australian Constitution supports the idea of the separation of powers to allow for three arms of government:

1. legislative arm
2. executive arm
3. judicial arm.

1.3.2 The legislative arm

This is the parliament, which has the power to make new laws and to change or **repeal** existing laws. It consists of two separate 'houses' — the House of Representatives and the Senate — together with the Governor-General as the representative of the King. A proposed law is known as a Bill. To become law, a Bill must be debated and voted on by both houses of parliament, and then approved by the Governor-General. It then becomes known as an Act or a statute, which are the formal names of laws that have been passed by parliament.

1.3.3 The executive arm

This is the arm of government with the responsibility of putting the laws into action. Executive power officially lies with the Governor-General, but it is usually exercised by government ministers. These are members of parliament who have special responsibility for particular areas of government. For example, the minister for defence is responsible for administering all laws that relate to the defence forces; the minister for immigration is responsible for laws dealing with migrants wishing to come to Australia; and the minister for the environment is responsible for those laws that are designed to protect the environment. Public servants and other government employees are part of the executive arm of government.

FIGURE 2 When all government ministers meet together, they are known as the Cabinet. Such meetings usually take place in the Cabinet Room in Parliament House.



1.3.4 The judicial arm

This includes the **judiciary** and the courts, which are responsible for enforcing the law and settling disputes that might arise under the law. The courts can also ensure that the law is applied fairly and equally to everyone, so they are a safeguard for our rights and freedoms. The High Court of Australia has the power to interpret and enforce the Constitution. It can make sure that neither the legislative arm nor the executive arm acts in a way that is outside the constitutional powers of that arm. Once a judge has been appointed, he or she cannot be easily removed by the executive arm. This means that judges can be independent and make decisions without fear or favour.

FIGURE 3 The High Court of Australia has the power to interpret and enforce the Constitution.



Why do we have the separation of powers?

The separation of powers provides a system of checks and balances on the power of government. This works in the following ways:

- Members of parliament can make laws but have to face elections on a regular basis. If laws prove to be unpopular or unfair, the people can vote for new and different members to replace them.
- An independent judiciary has the power to ensure that parliament and the executive are acting within the limits of the Constitution. This is a way of protecting individual freedoms. The High Court can declare any law invalid if it is contrary to the Constitution.
- Government ministers have to gain the approval of a majority of both houses of parliament if they want to bring in any new laws. If they cannot convince enough members, the law will not be passed.
- Government ministers are all members of parliament, and are individually accountable (or answerable) to parliament. They are required to answer questions in parliament about actions they take as part of their executive role.

DISCUSS

'The separation of powers exists to protect us from the abuse of power.' Discuss arguments to support this case and then counterarguments to represent opposing points of view. Which point of view do you support?

[Critical and Creative Thinking Capability]

1.3.5 The division of powers

One of the key reasons for having a constitution is to reinforce the rights of citizens in a **democracy** such as Australia. Our Constitution does this by ensuring that no one person or organisation within our structure of government has all the power. Instead, power is shared in a number of ways, and the Constitution reinforces this arrangement.

Most of the colonial parliaments that were to become state parliaments after federation had been in existence since the 1850s. State parliaments were accustomed to passing laws and governing their areas of Australia, and everyone expected them to continue doing this after 1901. For this reason, the Constitution supports the idea of a division of powers between the state parliaments and the federal parliament. Law-making powers are divided in such a way that national issues can be handled by the central government, while state governments can concentrate on providing essential services for their citizens.

Section 51 of the Constitution lists all the areas of government that are the responsibility of the federal parliament. These are usually referred to as the ‘specific powers’, and they include:

- trade and commerce with other countries
- postal and telephone services
- the defence forces
- quarantine regulations
- immigration and emigration issues
- weights and measures used in Australia
- the banking and currency systems
- relationships with other countries (through our embassies and diplomats).

Any area of government not included in Section 51 remains the responsibility of state parliaments. Examples include:

- health and hospitals
- police and emergency services
- primary and secondary education
- transport, including public transport, road rules and road construction.

The powers that remain with state parliaments are known as the ‘residual powers’.

Although not mentioned in the Constitution, there is another level of government — local government — operating in Australia. Local government is carried out by city and municipal councils. These councils usually have responsibility for:

- parks and recreational facilities, such as swimming pools and sports grounds
- town planning
- rubbish removal
- maintenance of local streets
- libraries and kindergartens.

FIGURE 4 The federal government controls the issuing of currency to ensure the same money is used throughout Australia.



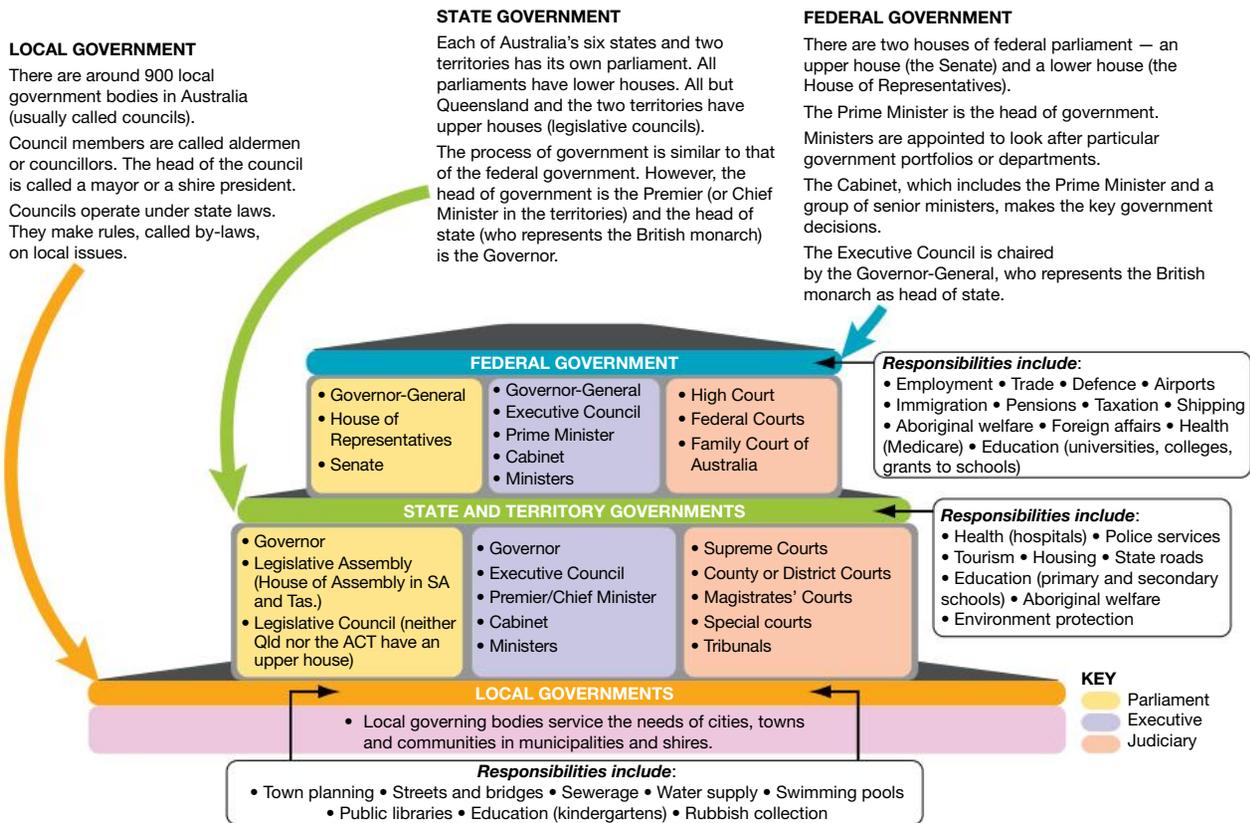
FIGURE 5 The provision of essential services such as firefighting is the responsibility of state governments.



FIGURE 6 Public swimming pools are valuable facilities provided by local councils.



FIGURE 7 The division of powers and the separation of powers



1.3 ACTIVITY

Using internet resources, find out who currently performs the following roles in our system of government. For each one, indicate whether their role is legislative, executive or judicial:

- the minister for defence
- your local member of the House of Representatives
- the Chief Justice of the High Court
- the state minister for education.

Questioning and evaluating

1.3 EXERCISES

Civics and citizenship skills key: CS1 Remembering and understanding CS2 Describing and explaining CS3 Examining, analysing, interpreting CS4 Questioning and evaluating CS5 Reasoning, creating, proposing CS6 Communicating, reflecting

1.3 Exercise 1: Check your understanding

- CS2** Outline the role of each of the following arms of government, and provide an example of each:
 - legislative arm
 - executive arm
 - judicial arm.

2. **CS1** List three examples of the responsibilities of each of the following levels of government:
 - (a) federal government
 - (b) state government
 - (c) local government.
3. **CS2** Explain each of the following:
 - (a) specific powers
 - (b) residual powers.
4. **CS2** What is the difference between the division of powers and the separation of powers?
5. **CS1** Outline the role of the Governor-General.

1.3 Exercise 2: Apply your understanding

1. **CS3** For each of the following, indicate whether the role is legislative, executive or judicial:
 - (a) members of parliament
 - (b) government minister
 - (c) High Court judge
 - (d) the Cabinet.
2. **CS5** Of the three levels of government, federal, state and local, which has most influence on ordinary people? Give reasons or examples to support your opinion.
3. **CS3** In what way is the executive arm not completely separate from the legislative arm of government?
4. **CS6** Explain why it is significant that the High Court has the power to interpret the Australian Constitution?
5. **CS5** 'The separation of powers is an important safeguard of our rights and freedoms in Australia.' Do you agree or disagree with this statement? Give reasons for your answer.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.4 Changing the Constitution

1.4.1 The process for changing the Constitution

When the founding fathers developed our Constitution, they wanted to make sure that it could not be changed by politicians seeking to gain more power for themselves. They also wanted to make sure that the two most populous states, New South Wales and Victoria, could not dominate government in a way that could disadvantage the smaller states. For these reasons, they made sure that it would not be easy to change the Constitution.

The process for changing the Constitution is contained in the last part of the document — chapter 8, Section 128. The following steps must be observed if any change is to occur:

- Any proposed change to the Constitution must first be approved by a majority of members of both houses of the federal parliament.
- Within six months of being approved by the parliament, the proposed change must be put to the people to vote in a referendum. All registered voters are entitled to have a say.
- The referendum will usually be in the form of a question asking the voters whether or not they approve of the change. Voters write the word 'Yes' or 'No' in a box on the voting paper to signify their support or opposition to the proposed change (see **FIGURE 1**).
- For the change to be approved, more than 50 per cent of all voters in Australia must vote yes to the proposal.
- In addition, there must be a majority in favour in at least four of the six states.
- If the above requirements are met, the proposal goes to the Governor-General for final approval and the change is made to the Constitution.

FIGURE 1 A ballot paper from the referendum held in 1999



DISCUSS

Do you think that Australia should become a republic? Would you have written ‘yes’ or ‘no’ in the 1999 referendum? Discuss as a class.

The double majority

As we can see from the previous discussion, it is not enough for a majority of all voters in Australia to approve a change to the Constitution. There must also be a majority in favour in at least four of the six states. This principle is known as the ‘double majority’, and is a requirement for constitutional change outlined in Section 128 of the Constitution.

The founding fathers introduced the need for a double majority because they wanted to make sure that the states with larger populations could not out-vote the states with smaller populations, and so change the Constitution to gain some advantage for their own inhabitants. Throughout most of Australia’s history, New South Wales and Victoria have been the biggest states in terms of population. Today, with over 14 million people between them, they make up more than 50 per cent of our population of just over 25 million, and elect 86 of the possible 151 members of the House of Representatives (see **FIGURE 3**).

Remember that the Constitution was developed by representatives of the original six colonies that were to become states within the new Commonwealth of Australia. These men knew that they were giving up some of their colonial powers to the new federal parliament. Many of those who represented the smaller states were suspicious of the motives of the larger states, and were afraid that New South Wales and Victoria might try to dominate the others. For this reason, they insisted on the inclusion of the double majority to protect the interests of the smaller states. Without this double majority, it would be possible for the voters in the two largest states to out-vote the combined voters in the other four states and two territories.

1.4.2 Where do proposals for change come from?

Proposals to change the Constitution can come from several sources. For example, a number of state governments may get together and decide that a particular change would be valuable. Sometimes the federal government will hold an inquiry into a particular issue, and this may lead to recommendations for constitutional change. There have been times when community pressure has led to government recognising the need for a change. This occurred in the 1960s when many people campaigned to have the federal government gain the power to make laws for Indigenous Australians (see subtopic 1.5). Proposals for change have also come from special constitutional conventions, such as that held in 1998 to consider the issue of Australia becoming a republic (see subtopic 1.5).

No matter where a proposal comes from, it usually needs the support of the government of the day to have any prospect of bringing about constitutional change. This is because the proposal must have the majority support of the parliament before it can be put to a referendum. As we shall see in subtopic 1.5 it has been very difficult to achieve constitutional change since federation. For this reason alone, a government will want to make sure there is strong popular support for any proposal before considering the cost and effort of holding a referendum.

FIGURE 2 The Constitution can only be changed through a vote of the people.



FIGURE 3 Population and the House of Representatives.

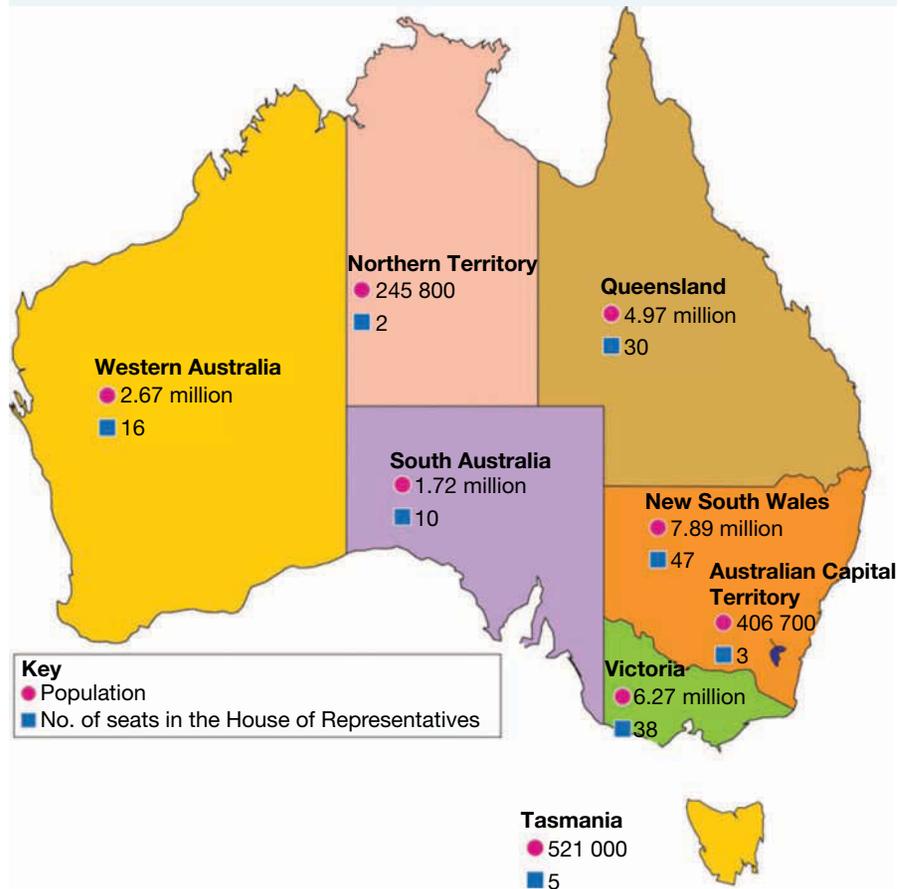


FIGURE 4 In 1998, a special constitutional convention was held in the old Parliament House in Canberra to consider the issue of Australia becoming a republic.



1.4 EXERCISES

Civics and citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.4 Exercise 1: Check your understanding

- CS1** Rewrite the following stages for constitutional change in the correct order:
 - The proposed change is put to the people to vote in a referendum.
 - The proposal goes to the Governor-General for approval.
 - The proposed change must achieve a double majority for the referendum to be successful.
 - A proposed change to the Constitution must be approved by a majority of members of both houses of the federal parliament.
 - Voters write the word 'Yes' or 'No' in a box on the voting paper to signify their support or opposition to the proposed change.
- CS3** Identify two possible sources of proposals for changing the Constitution.
- CS1** What is a double majority?
- CS1** What has to happen for a double majority to be achieved?
- CS1** Why did the founding fathers feel that it was necessary to include the double majority as a requirement for constitutional change?

1.4 Exercise 2: Apply your understanding

- CS6** If a referendum to change the Constitution was approved by the majority of voters in New South Wales, Victoria and Queensland, as well as the two territories, explain why the proposed constitutional change would not be achieved.
- CS6** Imagine that there has been a proposal to hold a referendum to change Section 128 of the Constitution so that the double majority is no longer required for constitutional change.
 - Outline one argument in favour of making such a change and one argument against the change.
 - Do you believe that this proposal would be successful at a referendum? Give reasons for your answer.
- CS6** Do you believe that a proposal to remove the requirement for the double majority would be successful at a referendum? Give reasons for your answer.
- CS5** There have recently been suggestions that our Constitution should include recognition of Australia's Indigenous peoples, and their previous occupation and ownership of the land. Outline two things that might have to occur for such a proposal to be put to a referendum.
- CS4** Most proposals for constitutional change come from the parliament. Should it be possible for the general public to initiate constitutional change, perhaps through a petition to parliament? Explain why you think this would be a good idea or a bad idea.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.5 Difficulties in changing the Constitution

1.5.1 Why is it difficult to change the Constitution?

The founding fathers wanted to make sure that the Constitution could not be changed too easily. They also wanted to ensure that Australia would have a form of government that was stable and predictable. Consequently, only a small minority of proposals for change have ever succeeded through the referendum process.

There have been 44 occasions since 1901 when proposals for constitutional change were put to the voters of Australia through the referendum process, and only 8 of them were successful. Let us look at some examples.

1951 – banning the Communist Party

In the years following World War II, **communism** spread through a number of countries. In eastern Europe, countries that had been occupied by Russia at the end of the war were ruled by communist governments. China became a communist country in 1949. Australia also had an active Communist Party at the time. The Australian government, led by Prime Minister Robert Menzies, believed the Communist Party to be a threat to national security. In September 1951, the Menzies government proposed a change to the Constitution to give the government the power to ban the Communist Party in Australia.

Many people campaigned against this proposal because they believed it was against the principles of freedom of speech and freedom of association. Even people who were not Communist Party members or supporters opposed the proposal. The referendum failed to gain a majority of votes, losing by 49.4 per cent to 50.6 per cent. It did gain majority support in Queensland, Tasmania and Western Australia, but it did not have a double majority and so it failed. The Communist Party only had a relatively small number of supporters and members, and most Australians were strongly opposed to communism. Nevertheless, the failure of the referendum is a good example of the unwillingness of Australian voters to change the Constitution without strong community support for the change.

FIGURE 1 The Communist Party was considered a threat to Australia's security.



1967 – recognising Indigenous Australians

When the Constitution was drafted, the federal parliament was specifically denied the power to make laws affecting Aboriginal and Torres Strait Islander peoples. Only the states could make laws in relation to those Indigenous peoples living within their own borders. Section 127 of the Constitution specifically excluded Aboriginal peoples from being counted in the official **census**. This was seen to be discriminatory by many people, as it was effectively denying the existence of Indigenous Australians. As the rights of Indigenous peoples varied from state to state, it was felt that there needed to be a consistent national approach to ensure that they could enjoy the same rights as all Australians.

From the early 1960s, Aboriginal leaders began campaigning strongly to remove Section 127 from the Constitution, and to change the clause that prevented the federal parliament from making laws affecting Indigenous Australians. In 1967, a referendum to make these changes was put to the voters. It was strongly supported by all political parties as well as the general public. This proposal became the most successful constitutional referendum in Australia history. Over 90 per cent of voters were in favour across the country, with a majority in favour in every state. As a result of this constitutional change, the federal government has been able to pass laws such as the Racial Discrimination Act, which aims to ensure that all Australians are treated equally regardless of their racial or ethnic origins. It has also allowed the federal parliament to make laws relating to Aboriginal land rights.

1999 — becoming a republic

During the 1990s, support grew for the idea that Australia should become a republic. This would have required the removal from the Constitution of references to the British monarch, and of the Governor-General as the monarch's representative. The position of head of state would be occupied by an Australian president. There were different ideas about how such a president might be appointed. Some believed that he or she should be directly elected by the Australian voters, while others believed the president should be appointed by the parliament.

In 1998 a constitutional convention was held in Canberra, attended by representatives from a variety of political and community groups. The convention was given the task of coming up with a proposal to put to voters in a referendum. After much discussion, the convention proposed a model by which the president of an Australian republic would be appointed by a vote of the federal parliament. A successful presidential nominee would need to be supported by two-thirds of those members. The proposal was opposed both by people who wanted to retain the British monarch as head of state and by those who wanted a president to be directly elected by the voters. Without broad community support, the referendum did not win majority support throughout the country or gain a majority in any state.

FIGURE 2 Oodgeroo Noonuccal (also known as Kath Walker) was a leading campaigner for Aboriginal rights in the 1960s.

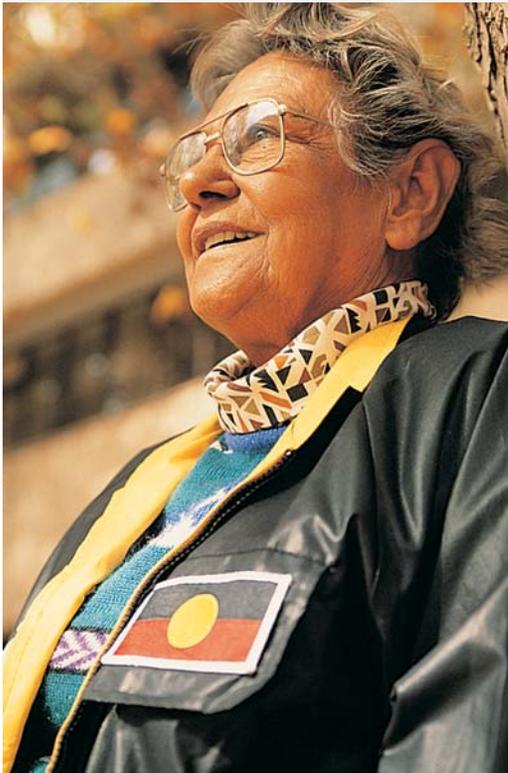
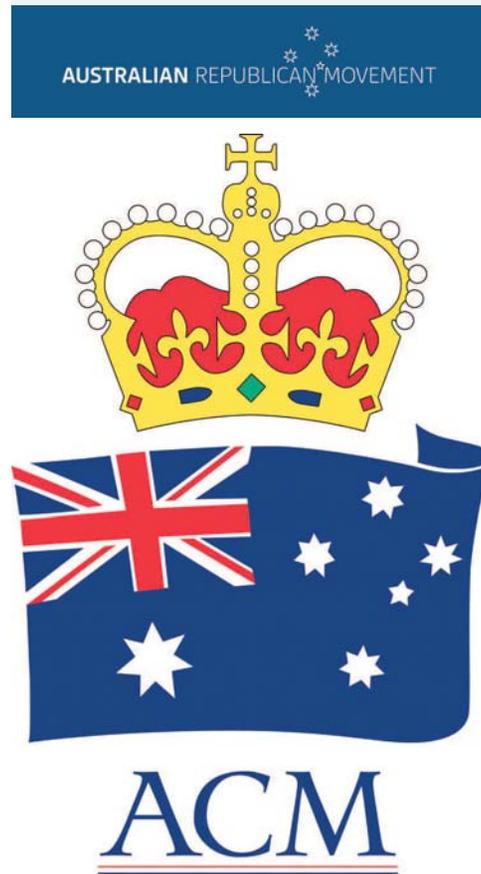


FIGURE 3 The Australian Republican Movement and Australians for Constitutional Monarchy were active in campaigning during the 1999 republic referendum.



on Resources

-  **Weblinks** [Australian Republican Movement \(web-4057\)](#)
[Australians for Constitutional Monarchy \(web-4058\)](#)

1.5 ACTIVITY

Despite the loss of the referendum in 1999, many people still believe that Australia should eventually become a republic. On the other hand, media coverage of the younger generation of the royal family, which has closely followed the marriages of Prince William to Kate Middleton in 2011 and Prince Harry to Meghan Markle in 2018, has revived interest in the Monarchy.

Using the **Australian Republican Movement** weblink and the **Australians for Constitutional Monarchy** weblink in the Resources tab, list three arguments in favour of Australia becoming a republic and three arguments against. Compare your arguments with your classmates. Your teacher may be able to organise a class debate on the issue.

Examining, analysing, interpreting

1.5 EXERCISES

Civics and citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.5 Exercise 1: Check your understanding

1. **CS2** Why did the Menzies government wish to ban the Communist Party in Australia?
2. **CS1** Why was this referendum unsuccessful, despite the unpopularity of communism among Australians?
3. **CS3** Which two issues were the subject of the 1967 referendum relating to Aboriginal rights?
4. **CS1** What process was used to develop the model voted on in the 1999 republic referendum?
5. **CS2** Which two groups campaigned against the republic referendum, leading to its defeat?

1.5 Exercise 2: Apply your understanding

1. **CS4** Using internet resources, identify three pieces of legislation that have been passed as a result of the federal parliament gaining the power to make laws for Aboriginal Australians.
2. **CS5** Using the examples of the 1951 and 1999 referendums, brainstorm three reasons why it is very difficult for a constitutional referendum to be successful in Australia.
3. **CS6** Australia's Constitution was written in the 1890s. Some people believe that many parts of it are now out of date, but that it is too hard to change. Do you agree or disagree with this opinion? Give one reason for your agreement or disagreement.
4. **CS4** In the USA, constitutional change happens when both houses of Congress pass the necessary motion, and three-quarters of state legislatures also pass the same motion. There is no public referendum. Would this be a better way to change the Australian Constitution? Give a reason why you agree or disagree with this method.
5. **CS4** Should a national constitution be as difficult to change as Australia's, or is it more important to keep our system of government as stable as possible? Give reasons for your answer.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.6 SkillBuilder: Questioning and research

online
only

How do we investigate the process that led to Australian federation in 1901?

When carrying out your own research, it is important to identify and understand the question, develop questions to help guide your research, locate appropriate sources of information, and record and present relevant information from a range of sources.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it).



1.7 Role and structure of the Commonwealth Parliament

1.7.1 The three parts of Parliament

Our Commonwealth Parliament consists of three parts:

- the lower house, known as the House of Representatives
- the upper house, known as the Senate
- the King, represented by the Governor-General.

Our Commonwealth Parliament is **bicameral**. The major role of this body is to make laws in those areas defined by the Constitution.

1.7.2 The House of Representatives

As the lower house in the federal parliament, the House of Representatives has the following features:

- It has 151 members, each elected for three years. Each member represents an electorate or ‘seat’ that covers a particular geographic area. All electorates have roughly the same number of electors, currently about 95 000 each, with a 10 per cent variation allowed from this figure. States with larger populations, such as New South Wales and Victoria, elect the largest number of members. States with smaller populations, such as Tasmania and South Australia, elect much smaller numbers.
- Meetings of the House of Representatives are chaired (or run) by the Speaker of the House. The Speaker is usually elected by all the members of the House. The Speaker has an important role in chairing the House, maintaining order in debates and ensuring all members observe the rules of the House, known as the ‘standing orders’.
- Most legislation is introduced in the House of Representatives. For it to actually become a law of the land, a majority of the members of parliament have to vote in favour of it.
- Most members of the House of Representatives (MHRs) are members of political parties. A party is a group of people who have similar opinions and values, and who will usually all vote together for laws that reflect those views and values (see subtopic 2.4).

FIGURE 1 The House of Representatives Chamber in Parliament House



1.7.3 The Senate

The Senate is the upper house of the federal parliament, and has the following features:

- It acts as a house of review. This means that it can have a second look at all legislation that has passed through the House of Representatives. Senators also have to vote on any new proposals before they can become law. They can reject or change any legislation that they do not believe is appropriate.
- Apart from a brief period from 2005 to 2008, governments have not had a majority of members in the Senate since 1981. This has meant that the Senate has often sought to change or improve government legislation.

FIGURE 2 The Senate Chamber in Parliament House



- The Senate has 76 members. Each of the six states elects twelve senators, regardless of size or population, and the Northern Territory and ACT each elect two senators. In contrast, the members of the lower house are elected on the basis of population. Because there are so many representatives from New South Wales and Victoria, they could out-vote all the other members combined. The Senate was therefore created with equal numbers from each state to act as a safeguard against this happening in the upper house.
- Meetings of the Senate are chaired by the President of the Senate. He or she has a similar role in relation to the Senate as the Speaker has in relation to the House of Representatives.

1.7.4 The Governor-General

The third element in the Commonwealth Parliament is the King, represented in Australia by the Governor-General. He or she performs the following roles and functions in the parliamentary system:

- The Governor-General gives the **royal assent** to legislation that has been passed by both houses of parliament. This is the final stage that must occur before the law comes into force. Under Section 58 of the Constitution, the Governor-General also has the power to withhold the royal assent and return a Bill to parliament with recommended changes.
- The Governor-General also has a number of special powers known as ‘reserve powers’. These include the power to summon parliament (calling for a new parliament to assemble after a federal election), open and dissolve parliament (ending parliament before a federal election takes place). These powers are usually exercised on the advice of the government of the day, although the Constitution gives the Governor-General the power to ignore that advice. In 1975, the Governor-General at the time dissolved parliament and called an election, effectively dismissing an elected government.

FIGURE 3 General David Hurley was sworn in as Australia’s 27th Governor-General on June 28, 2019. Samantha Mostyn AO will be the 28th Governor-General, beginning 1 July 2024.



1.7.5 Executive government

Under s. 61 of the Constitution, executive power of the Commonwealth government is held by the Governor-General, on behalf of the King. The Governor-General chairs a body called the Executive Council, which exists to advise him or her. In reality, executive power is exercised by the Prime Minister and Cabinet, and all ministers are automatically appointed members of the Executive Council. An Executive Council meeting can consist of the Governor-General and as few as two Cabinet ministers, and these meetings usually occur fortnightly. Such meetings are required to formally approve decisions already made by the Cabinet, so the Executive Council has no separate executive power. Much of executive government is based on ‘conventions’ that existed in the Westminster system before Australian federation, but were not specifically included in the Constitution. Examples include the following:

- The Governor-General is generally required to act on the advice of ministers, following accepted practice in the Westminster system as it operates in Britain.
- The Constitution makes no mention of the position of ‘Prime Minister’ or ‘Cabinet’. Those drawing up the Constitution assumed that the Commonwealth Parliament would follow accepted Westminster tradition and create these roles.

- The Prime Minister and Cabinet, as the centre of executive power, actually do more than put laws into action. As the leaders of the majority party in the House of Representatives, they generally decide which Bills will be put before the Parliament, so can determine which laws will be created. The Cabinet also decides how government money will be spent, usually through the development of an annual budget.

1.7 EXERCISES

Civics and citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.7 Exercise 1: Check your understanding

1. **CS1** What is a bicameral parliament?
2. **CS1** In the federal parliament, what is the name of:
 - (a) the upper house
 - (b) the lower house?
3. **CS2** What is the role of the Governor-General in passing legislation?
4. **CS2** What is the difference between the way in which members of the House of Representatives are elected and the way in which senators are elected?
5. **CS2** Outline the two main functions of the Senate.

1.7 Exercise 2: Apply your understanding

1. **CS5** Imagine that the Governor-General rejects a proposed law and sends it back to the parliament with recommended changes. What has to happen in both houses before the Bill returns to the Governor-General?
2. **CS3** Identify two possible consequences if either or both houses of parliament refuse to accept the Governor-General's recommended changes.
3. **CS2** What is the Executive Council, and what role does it have under the Constitution?
4. **CS3** Identify and explain two conventions that relate to Commonwealth executive government but are not included in the Constitution.
5. **CS4** The Senate was established to preserve the rights of the smaller states so all states have an equal number of Senators. Given that almost all Senators are now elected as representatives of political parties, does the Senate still perform its original purpose? Give reasons why you agree or disagree.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.8 State and territory parliaments

1.8.1 Eight separate parliaments

Although considerable powers were handed over to the federal parliament at the time of federation, the newly established states retained the parliamentary structures that had been established during the colonial period. They still perform an important function in our system of government.

In addition to the federal parliament, Australia has eight state and territory parliaments. There are the original six state parliaments created at federation, plus two parliaments that have been established to make laws for the two mainland territories — the Northern Territory and the Australian Capital Territory (ACT). The two territories were governed directly by the federal parliament for most of the twentieth century, with the Northern Territory gaining its own parliament in 1974 and the ACT in 1989. The federal parliament retains the power to change or overrule any laws passed in the territory parliaments. It does not have this power over the six state parliaments.

FIGURE 1 Which parliament house?



1.8.2 Features of the state and territory parliaments

State and territory parliaments have many similar features, although some have unique characteristics:

- All of the state parliaments were originally established as bicameral parliaments, with an upper and a lower house. In 1922 the Queensland Parliament abolished its upper house, so it is now a **unicameral** parliament.
- In each of the bicameral parliaments, the upper house is known as the Legislative Council. In Victoria, New South Wales and Western Australia, the lower house is called the Legislative Assembly. This is also the name given to the only house in Queensland. The lower house in South Australia and Tasmania is known as the House of Assembly.
- The territory parliaments are also unicameral, with the one house in each territory known as the Legislative Assembly.
- The leader of the government in each of the states is called the premier, while the leader of the government in the two territories is called the chief minister.
- Each of the states and territories mirrors the separation of powers that applies at the federal level: legislative, executive and judiciary. Each parliament has legislative powers, allowing it to pass laws that apply within the boundaries of the state or territory. Each has an executive arm, in the form of a group of ministers with particular responsibilities for different government functions. Each also has a judiciary to enforce laws and settle disputes. The highest court in each state and territory is known as the Supreme Court.
- Each of the states has a Governor, representing the King. He or she has the same role within each state as the Governor-General has at the federal level.

1.8.3 Role of the state and territory governments

State and territory governments provide many of the essential services we rely on in everyday life.

Criminal law

State and territory governments have the power to make laws to prohibit most types of criminal activity. They also have the power to decide the appropriate punishments for people who break the law. Laws relating to crimes such as murder, assault and theft are all made at the state level. State governments also control the road laws, including speed limits, drivers licences, car registration and drink driving laws.

Transport

State and territory governments are responsible for building and maintaining most of the roads and freeways within their own borders. Sometimes they arrange for private companies to build these roads. Such companies are usually given the right to charge tolls on the roads they have built. Public transport is also a state government responsibility. In some states, the government owns and operates the public transport system. In others, all or part of the public transport system is operated by private operators. In either case, state and territory governments make the laws that govern how the system operates.

FIGURE 2 State governments make laws to prohibit criminal activity.



FIGURE 3 Public transport is one of the responsibilities of state governments.



Police and emergency services

Each state and territory has its own police force, fire brigade, ambulance service and other emergency services. Police from one state generally cannot enter another state to arrest someone without special permission. However, the different police and emergency services from each state and territory usually cooperate with each other. We regularly see this when there is a major bushfire in one state and firefighters from other states come in to assist.

Health and hospitals

Public hospitals are built and operated by state and territory governments. These days, state governments rely on money from the federal government to help fund their health systems because hospitals are extremely expensive to run.

FIGURE 4 State governments are responsible for emergency services.



FIGURE 5 Public hospitals are built and managed by state governments.



Education

Each state and territory has its own primary and secondary education systems. The states often have different starting ages for school students, and each state has its own type of certificate for students completing Year 12. In recent years, the state and federal governments have jointly set up a national curriculum. The aim is to make sure that each education system covers the same subject matter at each year level. This means that students will do similar classwork wherever they live, even if they move from one state to another.

FIGURE 6 Each state and territory has its own primary and secondary education systems.



1.8 ACTIVITY

Use internet resources to answer the following:

- Which states and territories commence secondary school at Year 7 and which ones do so at Year 8?
- What is the minimum age at which you can get your provisional (P-plate) drivers licence in each of the states and territories?
- What is the name of the Year 12 certificate in each state and territory?
- Who is the current premier of Victoria? How long has his or her government been in power?

Questioning and evaluating

1.8 EXERCISES

Civics and citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.8 Exercise 1: Check your understanding

- CS1** What do we mean by a unicameral parliament?
- CS3** Identify two unicameral parliaments in the Australian parliamentary system.
- CS1** What is the title given to the King's representative in each of the states?
- CS1** What is the title given to the leader of the government in each of the states?
- CS5** How does the separation of powers apply in all of the states and territories?

1.8 Exercise 2: Apply your understanding

- CS2** Using an example, explain how emergency services from the different states can cooperate with each other.
- CS5** Should all states have the same rules and ages for young people gaining a drivers licence, or should it be left to individual states to make different laws as is currently the case? Give reasons for your response.
- CS4** What are the advantages of having all states following a national school curriculum, rather than each state going its own way?
- CS4** In 1995 the Northern Territory passed a law allowing terminally ill people to voluntarily end their own lives. This law was overruled by the federal parliament in 1997. In 2017, the Victorian parliament passed a similar law, but the federal parliament has not overruled it. Explain why there has been a difference in these two cases.
- CS5** Many people have argued recently that we no longer need state governments in Australia, and that all their powers could be handed over to the federal parliament. Come up with one argument in favour of retaining state governments and one argument in favour of abolishing state governments.

1.9 Water management — an issue for all levels of government

1.9.1 Responsibility for water management

As we have seen, s.51 of the Australian Constitution listed specific powers of government that should be allocated to the Commonwealth parliament. All other powers were to remain with state parliaments and are known as residual powers. The Constitution did not include water management as one of the specific powers, so this responsibility remained with the states after federation. In addition, s.100 of the Constitution limits the powers of the Commonwealth in relation to the management of water by the state governments:

The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

The Indigenous inhabitants of Victoria had traditionally gathered water from rivers and streams and, for the first 20 years of white settlement, these sources of water were sufficient for the settler population of Melbourne and surrounding areas. By the 1850s, however, the gold rush had seen the population of Melbourne grow to over 100 000, so there was a need for storage reservoirs and piped water. Melbourne's first water supply reservoir was completed at Yan Yean in 1857 and, since then, state governments have created many more storage reservoirs to service Melbourne and provincial towns and cities. Other state governments have carried out similar works in their own states. State governments have also carried out works to provide irrigation for farming, including the damming of the Goulburn River to form Lake Eildon, and the building of the Hume Dam on the Murray River, as a joint project with the government of New South Wales.

State governments attempt to regulate the amount of pollution that can be released into the atmosphere.

Water quality

State and territory governments are responsible for maintaining water supplies in their regions. They ensure that:

- clean, safe drinking water is delivered to homes
- rivers and other waterways are kept free from pollution
- farms have access to water for crops and for stock to drink
- sewage and storm water are disposed of without contaminating the environment.

FIGURE 1 State government laws keep our water safe.

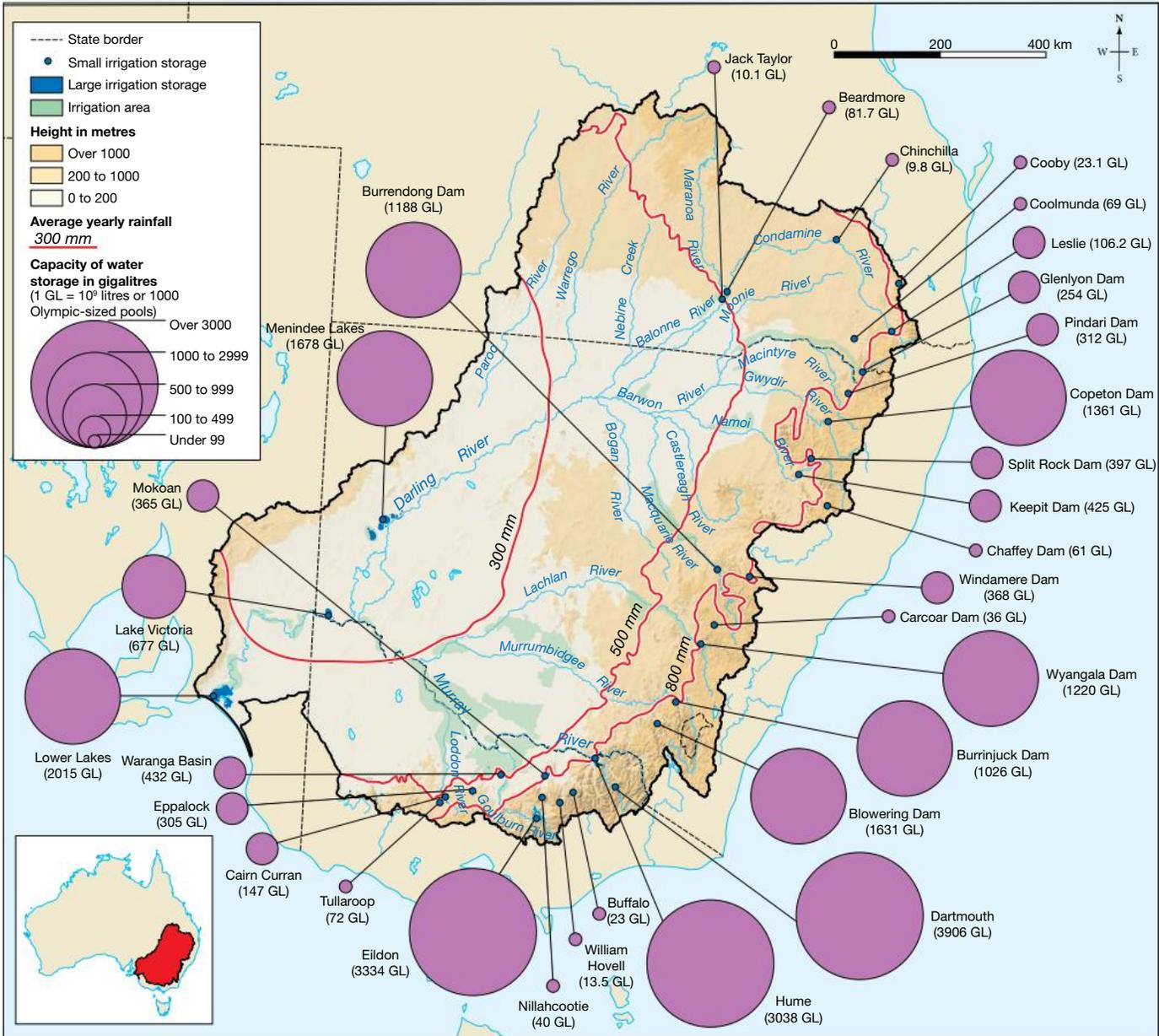


1.9.2 The Murray–Darling Basin: a shared responsibility

The largest river system in Australia is the Murray–Darling system. The area covered by this system is known as the Murray–Darling Basin. It includes areas of four states (Queensland, New South Wales, Victoria and South Australia) as well as the Australian Capital Territory. Since water management has been a state responsibility since federation, providing a consistent management plan for the entire basin that is fair to water users in all states has always been a problem.

The Murray–Darling Basin is a major farming area, so the water from its rivers has been used for irrigation since the nineteenth century. If each state has different rules for the use of water for irrigation, farmers in some states may take more than their fair share while others might get less than they need. The amount of water taken out of the system has also meant that parts of the river system have become environmentally degraded, reducing the quality of the water available. Most of the water in the basin is collected in Queensland, New South Wales and Victoria, but the system finally empties into the sea in South Australia. There have been times when so much water has been taken out of the system upstream that the mouth of the Murray has been closed with sandbars.

FIGURE 2 The Murray–Darling Basin



Source: Spatial Vision

In 2007, each of the state governments agreed to hand over some of their powers to the federal government as part of the process of setting up the Murray–Darling Basin Authority. This body has powers to ensure the water resources of the basin are managed in a sustainable manner. It has drawn up a plan that attempts to balance the amount of water used for irrigation with the amount needed to maintain sustainable flows of water throughout the system. The plan is an example of the federal and state governments attempting to work together.

The Murray–Darling Basin plan has been very controversial. Many farmers believe that too much water is being diverted from irrigation to maintain environmental river flows. Yet many environmental scientists believe the amount of water used for irrigation is still too high to maintain a healthy river system.

Over the summer of 2018–19, the presence of high levels of blue-green algae in the Darling River led to huge numbers of dead fish floating in the river. This event brought the health of the Murray–Darling river system into the public eye once again. The tension between the water needs of farmers and inhabitants of

towns in the basin, and the need to provide sufficient water flows to maintain a healthy river system, have raised questions about how well the Murray–Darling Basin plan is working. It raises an ongoing problem for both the Commonwealth Government and the governments of the affected states. Governments often have to make decisions that attempt to balance the competing interests of different groups, but this is likely to be an ongoing challenge.

FIGURE 3 The amount of water taken for irrigation has had an impact on the environment of the Murray–Darling Basin.



on Resources

 **Weblink** Murray–Darling Basin (web-4060)

1.9 EXERCISES

Civics and citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

1.9 Exercise 1: Check your understanding

1. **CS2** Outline the ways in which the Constitution allocated responsibility for water management to state governments.
2. **CS3** What are the key responsibilities of state governments in relation to water management?
3. **CS1** Identify two actions taken by the Victorian Government to meet their water management responsibilities.
4. **CS1** Outline the action that was taken in 2007 to improve management of the Murray–Darling Basin.
5. **CS1** What events brought the health of the Murray–Darling Basin back into public focus in early 2019?

1.9 Exercise 2: Apply your understanding

1. **CS4** Targets for carbon pollution reduction have varied between state and federal governments, with some state governments setting more ambitious targets than the federal government. Do you think there should be a common target across Australia, or should each state be able to set its own? Justify your opinion.
2. **CS4** In 1983 the federal government used its powers to protect World Heritage areas to prevent a dam being built by the Tasmanian government. Is it appropriate that the federal government should overrule state governments on environmental issues, or should state governments be able to make their own laws on these issues? Provide reasons for your answer.
3. **CS2** Why was it important for the federal government to become involved in the management of the Murray–Darling Basin?
4. **CS6** What do you think might happen in South Australia if farmers in Queensland and New South Wales take increased amounts of water from the Murray–Darling Basin?
5. **CS5** Governments often have to make decisions that attempt to balance the interests of groups of people in the community. In what ways is the Murray–Darling Basin plan an example of this?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

1.10 SkillBuilder: Problem solving and decision making

online only

How do we solve problems and make decisions?

Problem solving and decision making involve working collaboratively in groups, negotiating and using teamwork to solve an issue and develop a plan for action.



Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it).

1.11 Thinking Big research project: An Australian republic?

online only

SCENARIO

Many people believe that Australia should eventually become a republic. Your task is to produce a presentation that explains the issue, what has to happen for this to occur and the arguments proposed by each side.



Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.

on Resources



projectsPLUS Thinking Big research project: An Australian republic? (pro-0240)

1.12 Review

online only

1.12.1 Key knowledge summary

Use this dot point summary to review the content covered in this topic.

1.12.2 Reflection

Reflect on your learning using the activities and resources provided.

Resources



eWorkbook Reflection (doc-32145)
Crossword (doc-32146)



Interactivity The Australian Constitution, Parliament and government crossword (int-7706)

KEY TERMS

bicameral a parliament with two houses

census a regular survey used to determine the number of people living in Australia. It also has a variety of other statistical purposes.

communism a belief system that promotes the overthrow of existing society and replacing it with one in which all property and possessions are shared equally, and resources are controlled by the government

constitution a set of rules that determines the structure of government and its law-making powers

democracy a political system according to which citizens choose the way in which they are governed

dictator a person who has absolute power within a country, and who usually cannot be voted out of power by democratic elections. A government headed by a dictator is usually referred to as a dictatorship.

federation the formation of a united country from a number of separate states or colonies, with law-making power shared between the national government and the governments of each of the states

judiciary a collective name given to the judges who preside over law courts

legislation a term used to describe laws passed by parliament

referendum a process of allowing the people to vote on an important issue

repeal to remove a law so that it no longer applies

royal assent the formal approval by the monarch's representative, and the final step necessary before a law comes into force

unicameral a parliament with only one house

Westminster system the parliamentary system of Great Britain, which has been copied and adapted by many other countries including Australia. It is called that because the British Parliament meets in a building called the Palace of Westminster.

2 The legal system and you

2.1 Overview

We are all subject to the law and equal before the law. What does that mean for everyday Australians?

2.1.1 Our legal system

Picture yourself standing in court, accused of a crime you did not commit, facing a trial and then being found guilty of the crime. Australia's **rule of law** and our **legal system** should protect you from this happening. But how much do you know about Australia's legal system? Would you know where to find a lawyer? Would you know what would make your trial fair? All Australian citizens should have the opportunity to access justice no matter who they are.

John Button was wrongfully convicted of the manslaughter of his girlfriend in 1963. Thirty-nine years later, he was acquitted (found not guilty of committing the crime) after serving his sentence in prison.



on Resources



eWorkbook Customisable worksheets for this topic (ewbk-0073)



Video eLesson The courtroom (eles-2078)

LEARNING SEQUENCE

- 2.1 Overview
- 2.2 How a court works
- 2.3 The presumption of innocence
- 2.4 A fair trial
- 2.5 Access to justice and legal representation
- 2.6 **SkillBuilder:** Debating an issue
- 2.7 **Thinking Big research project:** Create your own 'Justice' video
- 2.8 **Review**



To access a pre-test and starter questions and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON format at www.jacplus.com.au.

2.2 How a court works

2.2.1 Guilty or not guilty?

Courts interpret laws and settle disputes. A person who has been charged with a criminal offence may have his or her case heard by a court. It is up to the court to decide if the accused is guilty or not guilty. Let us look at what happens when a criminal matter goes to **trial** before a court.

Courts can be tense places. The decisions made in court can have an enormous impact on people's lives. Courts and the officials who work in them deal with real-life dramas. The main courtroom officials include a **magistrate** or **judge**, **jurors**, a **prosecutor** and **counsel for the defence**. Victoria has an independent system of courts, with different courts at different levels. Courts are often referred to as higher or lower courts.

2.2.2 Lower courts

Most people charged with a criminal offence will have their cases heard in the Magistrates' Court. Lower courts such as the Magistrates' Court are more informal than the higher courts. There is no **jury**, and magistrates do not wear a wig or a robe in court. However, people still need to address the magistrate as 'Your Honour' as they do in the higher courts.

After hearing the cases presented by both sides, the magistrate decides whether a person is guilty or not guilty. If a person is found guilty, the magistrate decides the consequence. This is known as the sentence. A magistrate will refer very serious criminal offences to a higher court.

2.2.3 Higher courts

Victoria has a Supreme Court, which hears the most serious criminal cases. These very serious criminal cases include murder and treason. Below this court is the County Court. The County Court hears serious criminal matters including armed robbery, drug trafficking and serious assault.

At the beginning of a criminal trial in a higher court, the accused is asked, 'How do you plead?' A jury of 12 people may be selected to hear the trial if the accused responds with 'Not guilty'. The jury's role is to listen to the evidence and decide whether the accused is guilty or not guilty. If the verdict is not guilty, the accused is free to leave the court. If the verdict is guilty, then the judge decides the sentence.

FIGURE 1 Victoria's County Court



FIGURE 2 Inside a serious criminal trial



- A** The judge's associate is a trained lawyer who manages much of the paperwork.
- B** Anyone whose name is on the electoral roll can be called as a juror. In a criminal case, the jury consists of 12 people. The jury must decide beyond reasonable doubt whether a person is guilty. All the jurors have to agree.
- C** The prosecutor has to convince the jury that the accused person is guilty. This is done by asking questions of witnesses to draw out relevant information.
- D** The judge is addressed as 'Your Honour'. He or she listens to arguments presented by the prosecutor and the counsel for the defence, and is not allowed to ask a witness questions (except to clarify a point). The judge has to make sure jury members understand the proceedings and evidence presented. If a jury announces a guilty verdict, the judge decides the sentence.
- E** The counsel for the defence represents the accused. If the accused pleads guilty, the counsel for the defence presents arguments to try to lessen the punishment. If the client pleads not guilty, defence counsel must convince the judge or jury that the client is innocent.
- F** The tipstaff helps the judge keep order in the court.
- G** Witness box, from which people give evidence
- H** Members of the public, who listen to and observe the court proceedings
- I** A prison officer from the prison where the accused has been held
- J** The accused
- K** Members of the media, who observe proceedings so they can report what happens

2.2 ACTIVITIES

1. Ask your teacher to organise a class excursion to a local court. While you are there, draw a floor plan of the court and label where all the officials are located in the room. Note their role in the court. Write down some of the facts you hear for each case.
Describing and explaining
2. Find a news article that reports on a criminal case in a Victorian court. Summarise the key facts of the case, taking note of who the judge or magistrate was, what the charge was, any decision made and any other court officials mentioned.
Describing and explaining
3. In groups of three or four, develop a 30-second TV advertisement for a law firm that defends people charged with serious crimes such as murder.
Reasoning, creating, proposing

2.2 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.2 Exercise 1: Check your understanding

1. **CS1** List the main courtroom officials in a serious criminal trial.
2. **CS1** Explain the role of each of the following courtroom officials.
 - Magistrate
 - Judge
 - Juror
 - Prosecutor
 - Counsel for the defence
3. **CS1** How are magistrates and judges addressed in court?
4. **CS1** How many jurors are there for a criminal case?
5. **CS2** What is the jury's responsibility in a criminal trial?

2.2 Exercise 2: Apply your understanding

1. **CS3** The system of courts is referred to as a hierarchy (like a ladder). Construct a diagram showing the hierarchy of courts for Victoria. Put the highest court at the top and the lowest court at the bottom of your diagram.
2. **CS5** In Victoria, a person can be found guilty by a jury only if 11 of the 12 jurors (a majority verdict) or all 12 jurors (a unanimous verdict) conclude that the accused is guilty. Why might this be hard to achieve?
3. **CS4** A judge is not allowed to ask a witness questions, except to clarify a point. Explain why you think this is the case in our legal system.
4. **CS5** Why do you think courts are necessary in our legal system?
5. **CS2** Explain why you think our legal system has higher courts and lower courts.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.3 The presumption of innocence

2.3.1 Innocent until proven guilty

If you were in trouble at school for something you hadn't done, you would hope that your teacher or principal would believe your claim that you had done nothing wrong. You would expect that you deemed innocent unless it was proved that you had done the wrong thing. In the same way, most Australians expect that when they go to court, they will be presumed to be innocent until proven guilty. But is this something that actually happens?

The **presumption of innocence** is a belief that we have inherited from English law. It means that all accused people who appear before a court in Victoria are presumed to be innocent until the prosecution proves that they are guilty. Not only are they presumed to be innocent, but they can only be found guilty if the court is reasonably certain that the accused person committed the crime. This means that the magistrate, judge or jury must believe that the accused is guilty **beyond reasonable doubt**. The prosecution has the **burden of proof** in a criminal trial.

2.3.2 Presumption of innocence around the world

The presumption of innocence is contained in article 11 of the Universal Declaration of Human Rights, and in article 14 of the International Covenant on Civil and Political Rights (ICCPR). This means that it is seen as very important across the world. Many nations — including the United States of America, France, Italy and New Zealand — recognise this principle. In Victoria, the presumption of innocence is protected by the Charter of Rights and Responsibilities.

2.3.3 Presumption of innocence and bail

Observing the presumption of innocence means that if a person is charged with a criminal offence, they may be granted **bail** by a magistrate or judge. Bail is the promise that an accused person makes to appear in court at a later date. It allows the accused to go home to wait for the trial, rather than stay in custody until he or she must go to court. Sometimes bail will have conditions attached, including the payment of money, surrendering a passport, remaining at the same address or reporting to police. Bail usually applies only to serious cases.

There are cases where the court may suspect that an accused person who is charged with a serious crime might not turn up to court, or might be at risk of causing danger to the public. In this case, bail is refused and the accused is detained (held in custody) until the trial.

FIGURE 1 Unlike in this image, the presumption of innocence suggests that the accused should not be handcuffed when appearing in court unless he or she presents a risk to other people.



FIGURE 2 Arguments for the presumption of innocence

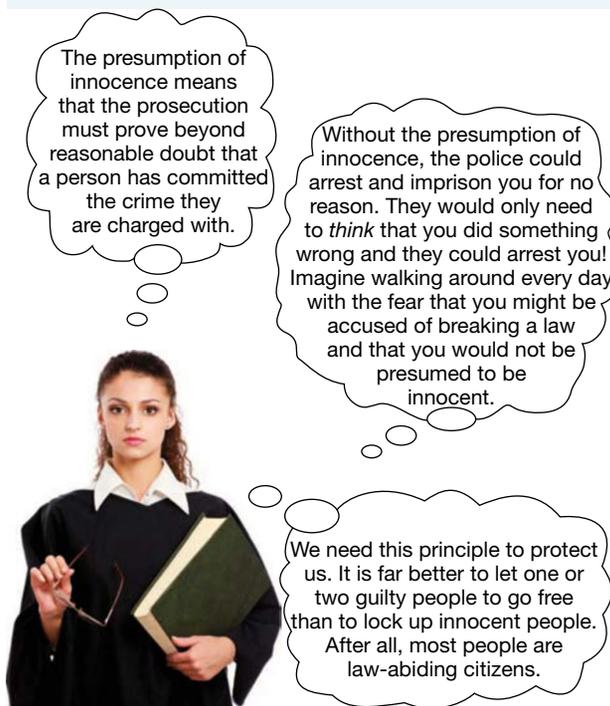
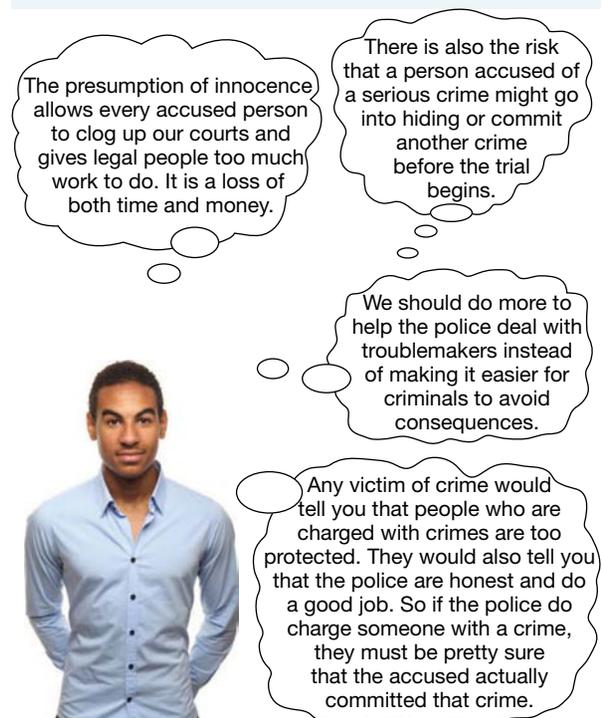


FIGURE 3 Arguments against the presumption of innocence



CASE STUDY

Presumption of innocence — on your bike

Queensland introduced new laws in 2013 to target the illegal activities of gangs, including criminal motorcycle (bikie) gangs. The laws are commonly referred to as 'bikie laws'. The government prepared a list of declared criminal organisations and created new offences for them. These included bans on members of a criminal gang gathering in groups of three or more, visiting locations like clubhouses or a gang events, and recruiting for their organisations. The laws have been criticised for going against the principle of the presumption of innocence. ▶

Steven Smith, Scott Conley, Joshua Carew, Paul Lansdowne and Dan Whale were arrested and detained in custody in December 2013, following a meeting at the Yandina Hotel. They were alleged by police to have links to the Rebels motorcycle club. Joshua's wife, Tracy Carew, said her husband had been locked up for delivering a pizza to the other men. 'These boys aren't guilty of this crime, they haven't been proven guilty. They haven't been put in front of a jury and deemed guilty yet,' she said. Mrs Carew told the media that the men were placed in solitary confinement awaiting their court hearings. Joshua Carew, and some of the other men, were released from custody under bail conditions in mid-January 2014.

FIGURE 4 Joshua Carew and some other men were arrested due to their alleged association with the Rebels motorcycle club in Queensland. They were held in custody for an extended period without trial.



DISCUSS

Discuss the idea that everyone is presumed to be innocent, regardless of the seriousness of the crime of which they are accused.

Do you think that a person charged with mass murder, for example, should have the right to presumption of innocence, or should he or she lose access to this right? Be prepared to justify your opinion. **[Ethical Capability]**

2.3 ACTIVITY

The media is expected to avoid news coverage that undermines the presumption of innocence. However, there are many cases where the media has ignored this principle. Charges made against Martin Bryant in 1996 are one example. Find out more about what the media did before the Bryant case went to court.

Questioning and evaluating

2.3 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.3 Exercise 1: Check your understanding

- CS1** List some countries that believe in the presumption of innocence.
- CS1** Define the term 'beyond reasonable doubt'.
- CS2** What is bail and when can it be granted?
- CS2** Under what circumstance would bail be refused?
- CS2** What is burden of proof and who has it in a criminal trial?

2.3 Exercise 2: Apply your understanding

- CS3** Examine **FIGURE 1**. In what way does this image undermine the principle of the presumption of innocence?
- CS4** Read the case study in this subtopic, 'Presumption of innocence — on your bike'. Joshua Carew was held in solitary confinement for approximately six weeks before a bail hearing in the Supreme Court. Briefly outline what this suggests about the attitude of the Queensland Government towards the presumption of innocence principle.
- CS5** What might happen if an accused person went to court and was put on trial without the presumption that they were innocent?
- CS3** Discuss the advantages and disadvantages of the principle of presumption of innocence.
- CS2** Explain what you think is the relationship between presumption of innocence and burden of proof.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.4 A fair trial

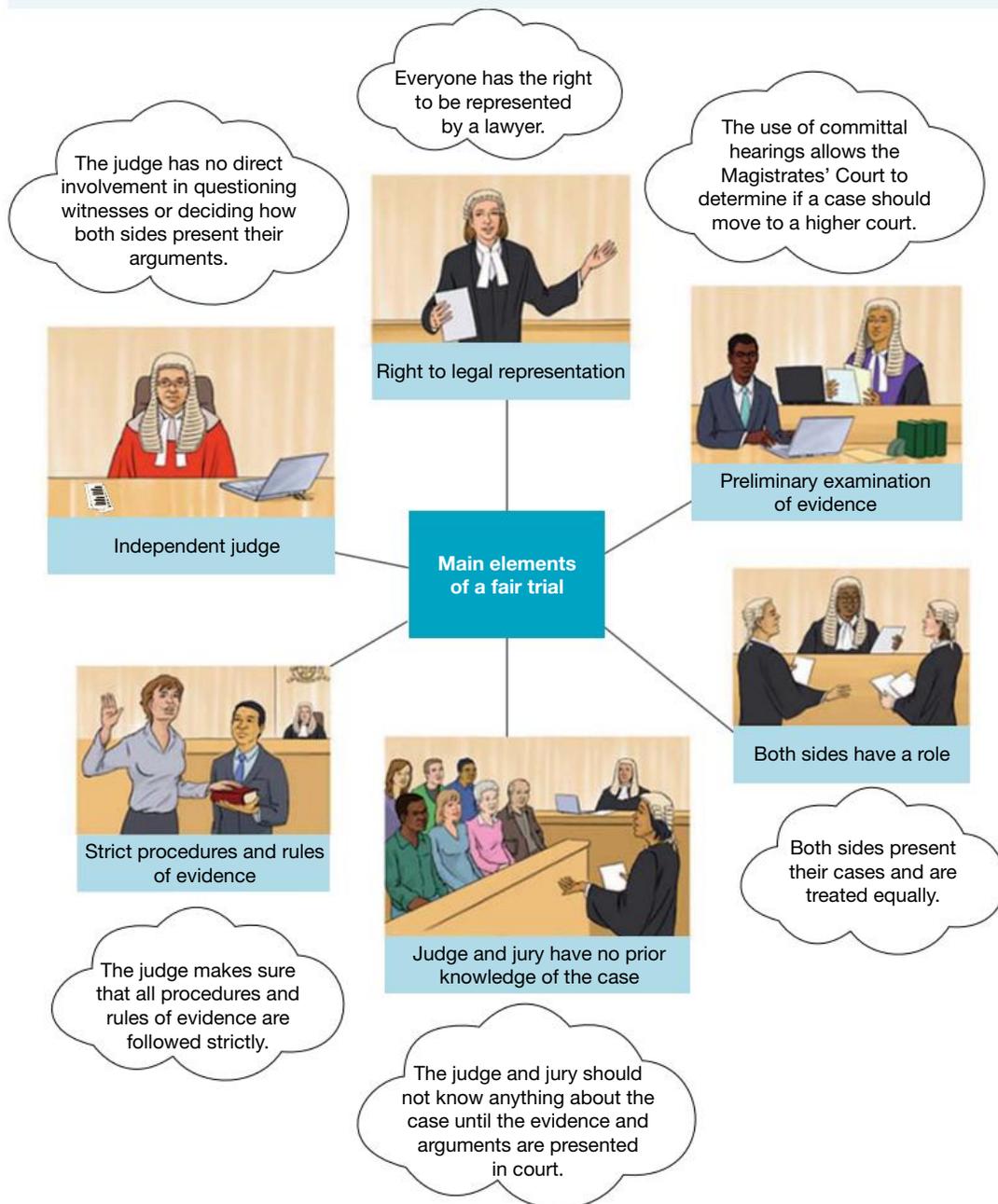
2.4.1 Equal treatment for all

In Victoria, we believe that our legal processes protect the right of every accused person to receive a fair trial — a trial held before a competent, independent and unbiased court recognised by the law. If you were accused of a crime, you would expect that you would be provided with the opportunity to contest any charges made against you. You would presume that your side of the story would be listened to. You would think that the person listening to both sides would not favour either of those sides.

2.4.2 Main elements of a fair trial

The main elements of a fair trial are summarised in **FIGURE 1**. Let us now look at each element in more detail.

FIGURE 1 Main elements of a fair trial



Preliminary examination of evidence

When a person is charged with a criminal offence, he or she will be told to attend a Magistrates' court. The Magistrates' court hear minor offences and some serious cases. They also examine very serious cases to decide whether the accused person should be put on trial in a higher court. This is called a **committal hearing**. If the magistrate decides that there is enough evidence and the case is serious enough, the case will be heard in the County Court, or in the Supreme Court.

Committal hearings guarantee a fair trial because they allow an accused person to know the case against him or her. They also provide the opportunity for the accused person to gather evidence and to test the evidence of the prosecution.

Right to legal representation

In a fair trial, everyone has the right to **legal representation**. In certain cases, legal aid can be provided for people who cannot afford the cost of hiring a lawyer (see subtopic 2.5).

Both sides have a role

The right to a fair trial means that everyone is entitled to be treated equally by the court. Both sides have the right to present their case. The two opposing sides will gather evidence and present their case to an independent judge or magistrate. The side with the strongest argument is likely to win the trial.

Independent judge

The judge is very much like the umpire in a game of football. His or her job is to make sure that both sides follow the rules. Judges are independent, which means that they have no direct involvement in questioning witnesses or deciding how either side will present its arguments. The judge makes sure that all the rules of evidence and procedure are followed and that both sides are treated equally.

Judge and jury have no prior knowledge of the case

Neither judge nor jury should know anything about the case until the evidence and arguments are presented in court. Jurors must listen very carefully to the evidence given in a trial and make a decision based only on that evidence and the law. They are not allowed to discuss the case with anyone else, even after the trial has finished.

Strict procedures and rules of evidence

A fair trial will follow strict procedures. These procedures are designed to ensure that each side has an equal opportunity to present its own case as well as challenge the evidence introduced by the other side. A fair trial will also observe strict rules for the type of evidence that can be looked at in court. The procedure for a trial in a higher court with a jury is shown in **FIGURE 3**.

Witnesses can be asked to give evidence at a criminal trial if they are the victim of the crime, if they have direct information about the crime or if they are an expert providing specialist opinion. Expert witnesses might give evidence on topics such as whether a written document matches the handwriting of the accused, or whether the accused person's actions might have been influenced by things such as mental illness or prescription drugs. Each witness must promise to tell the truth.

FIGURE 2 Any citizen who is listed on the electoral roll can be randomly summoned for jury service.



FIGURE 3 Procedure for a trial in a higher court with a jury

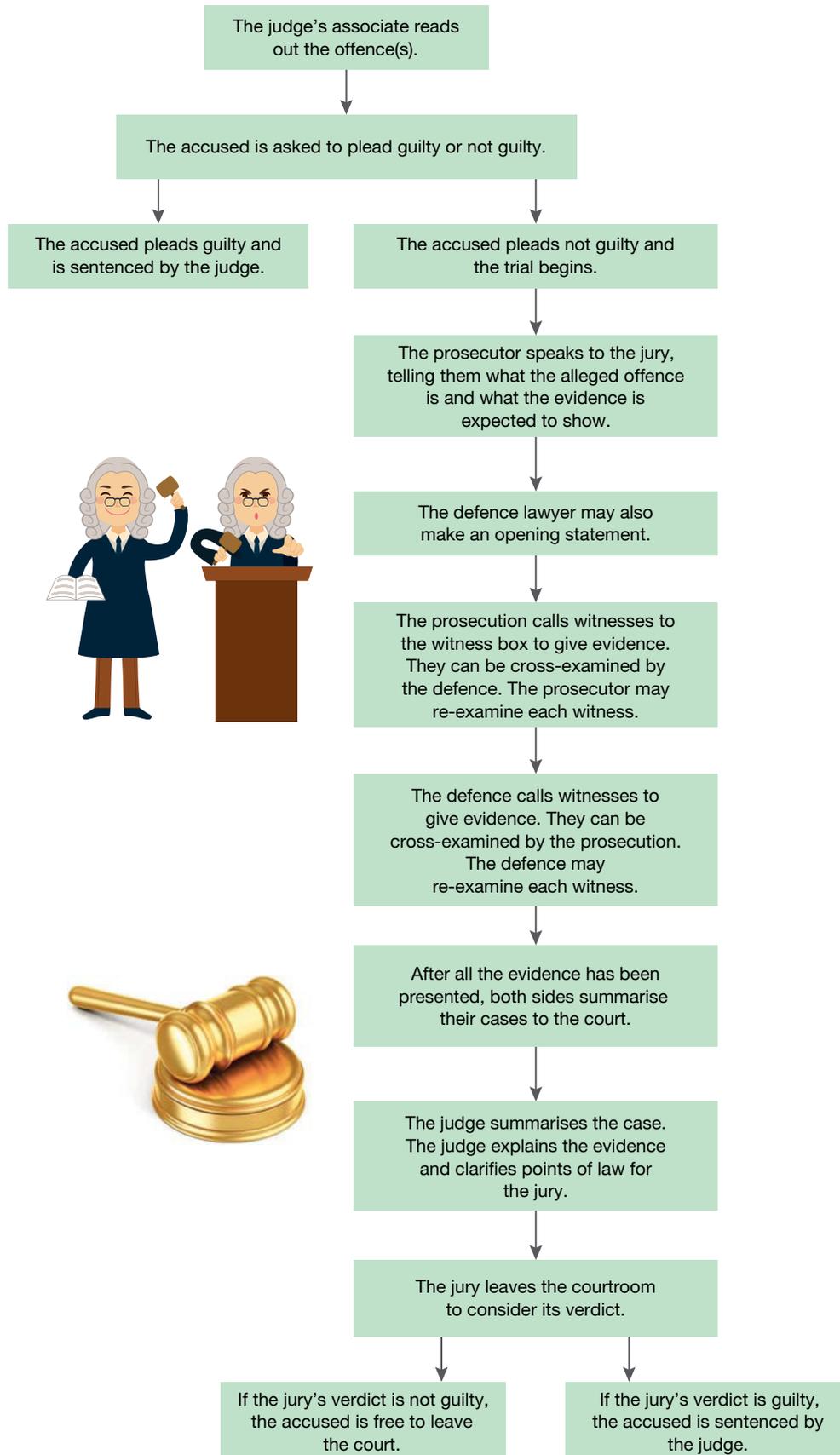
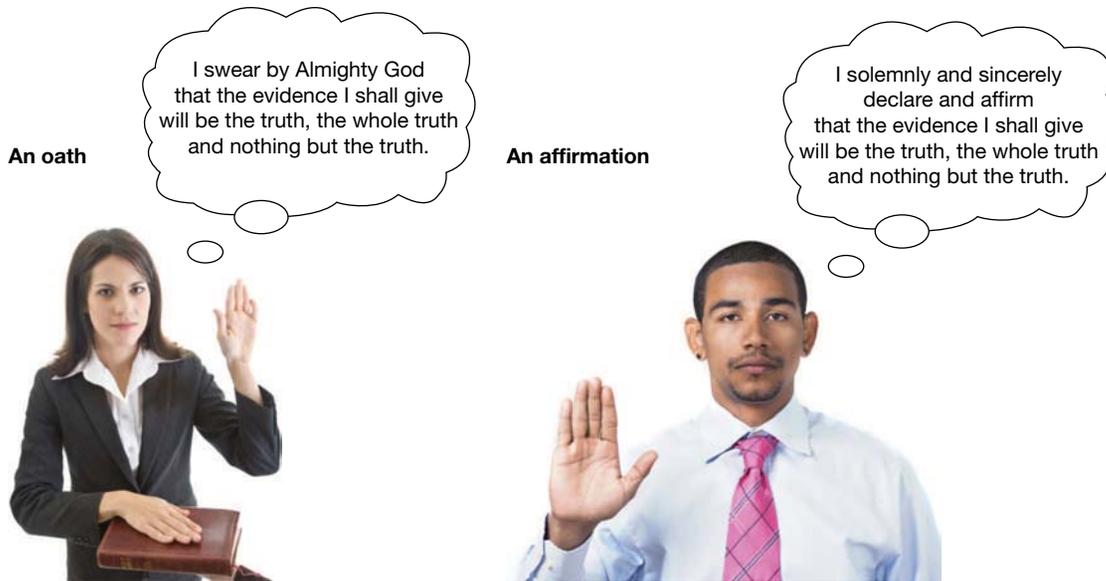


FIGURE 4 Before witnesses in court can give their testimony, they have to take either an oath or an affirmation promising to tell the truth.



on Resources

- **Interactivities** The courtroom (int-1206)
Criminal trials (int-5313)

2.4 ACTIVITIES

1. Role play a mock trial of a person who has been charged with robbing a bank. (Refer to the process described in **FIGURE 3** to help you.) Divide up the courtroom roles — a list of roles necessary is shown below. Allow people sufficient time to prepare their case. An example has been provided for you in the case study below. Set the classroom up like a courtroom and see if the accused receives a fair trial.

Roles in a mock trial

- Judge
- Judge's associate
- Tipstaff
- Jurors (12)
- Prosecutor
- Counsel for the defence
- Accused
- Witnesses
- Members of the public
- Members of the media
- Police officer

Sample case for a mock trial

Andrew Accused has been charged by the police with armed robbery. The police allege that on the morning of Friday, 18 February, Andrew entered the Bank Easy branch in Ballarat. He approached the teller, Thuong Teller, and said to her, 'This is a stick-up. Fill this bag with money or you will get shot!' At the time, Thuong was serving Colin Customer. Bao Bankworker, another teller, and Maria Manager, the branch manager, were also in the bank at the time. Andrew was arrested by Purujit Policeman as he tripped in the doorway. Andrew claims that he was not carrying a gun and that he was only joking around with Thuong.

2. Using internet resources, find the website of Magistrates' Court of Victoria and research the type of cases that it hears. Does the Magistrates' Court have committal hearings?

Communicating, reflecting

Questioning and evaluating

2.4 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.4 Exercise 1: Check your understanding

1. **CS1** What is a committal hearing?
2. **CS1** What is legal representation?
3. **CS2** Briefly outline the following elements of a fair trial:
 - (a) preliminary examination of evidence
 - (b) right to legal representation
 - (c) both sides have a role
 - (d) independent judge
 - (e) judge and jury have no prior knowledge of the case
 - (f) strict procedures and rules of evidence.
4. **CS2** Explain the role of a juror and a witness in a fair trial.
5. **CS2** When can a judge question a witness?

2.4 Exercise 2: Apply your understanding

1. **CS2** How does a person come to be selected to serve on a jury?
2. **CS2** Draw your own diagram showing the steps involved in a trial with a jury. Use an appropriate illustration for each step to show that you understand it.
3. **CS1** List the types of cases that the County Court and Supreme Court in Victoria hear.
4. **CS2** Select two elements that contribute to a fair trial. Explain how each element might contribute to a fair trial.
5. **CS5** Identify what you consider to be the most important element contributing to a fair trial. Justify your response.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.5 Access to justice and legal representation

2.5.1 Difficulties in gaining access to the legal system

All Australians must have the opportunity to access **justice**. We all have the right to legal representation but, for various reasons, not all Australians can gain access to the law.

There are various reasons why people may not be able to access the legal system. Some people may have little to no understanding of the law. People with limited English may find it difficult to communicate their problem. Some people may feel intimidated by lawyers or may be unable to pay for legal representation.

Our legal system has devised ways of providing access to justice and legal representation for everyone.

2.5.2 Legal aid

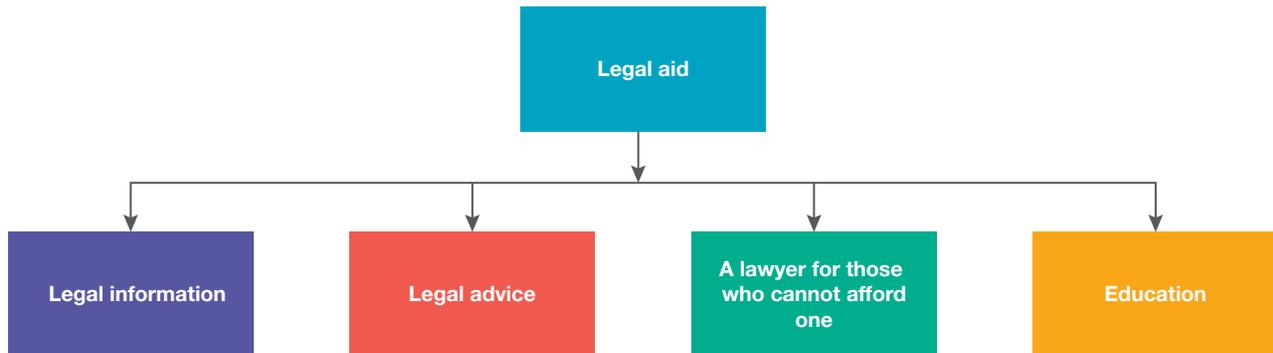
In Australia, we believe that **legal aid** is important in providing access to justice. Without legal aid, some people would not have legal representation. They would lose their right to be treated equally by the law and therefore to receive a fair trial.

FIGURE 1 Everyone has the right to legal representation under our legal system, but not everyone can afford it.



Legal aid is provided for people who cannot afford to hire a lawyer. It is offered by several organisations including legal aid commissions, community legal centres, and Aboriginal and Torres Strait Islander legal services.

FIGURE 2 What legal aid provides



Legal aid commissions

Each state and territory has its own legal aid commission. Legal aid commissions are funded by the state and federal governments. Victoria Legal Aid provides legal assistance, legal information and advice, lawyers to represent people attending court, and grants of money to help people to obtain legal representation in Victoria. Its services are free, unless the legal assistance required is ongoing. In this case, a small financial contribution is required.

Community legal centres

Community legal centres provide free legal advice and assistance as well as related services to the public. They focus on the disadvantaged and people with special needs. The centres may receive funds from the state and federal governments and from donations, but some centres receive no or very little money and are largely or entirely staffed by volunteers. These volunteers can be lawyers or non-lawyers.

Aboriginal and Torres Strait Islander legal services

Each state and territory has an Aboriginal and Torres Strait Islander legal service, funded by the federal government. They provide legal assistance to Aboriginal and Torres Strait Islander people as well as community education in law and law reform. In Victoria, the Victorian Aboriginal Legal Service relies on federal grants and donations from the public. It was established to provide free legal advice, information, and representation to Aboriginal and Torres Strait Islander people in Victoria.

FIGURE 3 The legal aid commissions are funded by the government and provide legal assistance, legal information and advice.



FIGURE 4 Community legal centres are funded by state and federal governments and by donations from the public. These centres provide legal advice and assistance and focus on helping the disadvantaged and people with special needs.



2.5.3 Legal awareness

The law touches the lives of everyone, so people need to be aware of their legal rights and responsibilities. Awareness of the law can be improved through education, information and the media. Schools teach civics and citizenship so that students have some awareness of the law. Information can be found on the internet. The website of the Attorney-General's department provides information on access to justice. Advertising is used to promote understanding of new laws so that people are aware of them.

DISCUSS

Imagine that you have been charged with a crime that you did not commit but you cannot afford legal advice. How will you access justice?

Discuss what justice means to you. Using examples of how our legal system has devised ways of providing access to justice, explain how different people in our society value justice.

[Intercultural Capability]

2.5 ACTIVITY

Work in groups of three or four. Identify one factor that can improve access to justice and legal representation (for example, legal aid). Create a storyboard that explains this factor and outlines how it can improve access to justice and legal representation. Produce a video presentation that will engage viewers. Show the video to your class.

Reasoning, creating, proposing

2.5 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

2.5 Exercise 1: Check your understanding

1. **CS1** What is meant by the term 'justice'?
2. **CS1** What is legal aid?
3. **CS2** Describe the legal assistance offered by the following:
 - (a) legal aid commissions
 - (b) community legal centres
 - (c) Aboriginal and Torres Strait Islander legal services.
4. **CS4** How can legal awareness improve access to justice and legal representation?
5. **CS2** Explain what is meant by the term 'legal representation'.

2.5 Exercise 2: Apply your understanding

1. **CS5** Recommend where the following people could get legal advice. Explain why you chose each option.
 - (a) John is an elderly pensioner who has been charged with growing cannabis for commercial use.
 - (b) Tahni is an Aboriginal and Torres Strait Islander who has been charged with assault.
 - (c) Yousif has recently arrived in Australia from Africa and has been charged with driving without a licence.
2. **CS3** List the consequences of not providing options for everyone to access the law.
3. **CS5** Explain why you think our legal system provides the means for allowing everyone to receive access to justice and legal representation.
4. **CS6** Megan is interested in finding out more about how Australians can receive access to justice and legal representation. Provide Megan with informative advice.
5. **CS5** Identify what you believe is the most appropriate means for providing access to justice and legal representation for everyone. Explain your response.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

2.6 SkillBuilder: Debating an issue

online only

What is a debate?

A debate is a discussion about an issue. The issue is presented as a statement — for example, ‘Using a jury is the best way to make sure a trial is fair’. Participants in the debate take it in turns to put forward arguments for and against the statement.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it)



2.7 Thinking Big research project: Create your own ‘Justice’ video

online only

SCENARIO

Australia’s legal system is based on the rule of law and the principle of justice. The rule of law is the idea that all members of society are subject to the law and are equal before the law. However, justice is not such an easy term to define. Using your research skills and creativity, produce an engaging video that depicts one important aspect of justice.

Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.



on Resources



projectsPLUS Thinking Big research project: Create your own ‘Justice’ video (pro-0241)

2.8 Review

online only

2.8.1 Key knowledge summary

Use this dot-point summary to review the content covered in this topic.

2.8.2 Reflection

Reflect on your learning using the activities and resources provided.

Resources



eWorkbook Reflection (doc-32147)

Crossword (doc-32148)



Interactivity The legal system and you crossword (int-5314)

KEY TERMS

bail the promise that an accused person makes to appear in court at a later date

beyond reasonable doubt the standard of proof required in a criminal trial where the prosecution must prove that the accused is guilty to such a high degree that a reasonable person would have little doubt that the accused committed the crime

burden of proof the legal principle describing who has to prove a case in court. In a criminal trial, this burden is on the prosecution.

committal hearing in very serious cases, the procedure held in a lower court to determine if there is enough evidence for the case to move to a higher court

counsel for the defence a lawyer who represents the accused person

judge a court official who hears cases in the higher courts, such as the District or County Court, or the Supreme Court

juror a person selected to hear and assess the evidence in a court case

jury a group of ordinary people randomly selected to hear and assess the evidence in a court case

justice the use of laws to treat people fairly and in a way that is morally right

legal aid the provision of legal assistance to those involved in a dispute or criminal matter who are unable to pay for legal representation

legal representation services performed by a qualified legal practitioner, such as a lawyer, who deals with legal matters on behalf of the person who has hired them

legal system a system for interpreting and enforcing the laws of a country

magistrate a court official who hears cases in a magistrates court

presumption of innocence the principle that all accused people who appear before a court are presumed to be innocent until the prosecution proves that they are guilty

prosecutor the party bringing a criminal action against the accused

rule of law the legal principle that all citizens are subject to the law, and equal before the law, as it is upheld by independent courts

trial the court process to determine whether someone committed a criminal act

3 Australian citizenship, diversity and identity

3.1 Overview

In our modern, multicultural country is there any way to describe a 'typical' Australian?

3.1.1 A culturally diverse nation

When you travel around the world you will notice that the style of traditional clothing changes between countries. People can express their national identity through the clothing that they wear. For example, the national dress for women in India is called a sari, and in Japan people wear a kimono. There are iconic pieces of Australian clothing such as the Anzac slouch hat, the Akubra hat or even the humble pair of thongs, yet there is no distinct Australian national dress and nor is there an Australian national food. These cultural items may appear unimportant at first, yet they represent our national identity and our shared values. As Australia is a country rich in cultural diversity, it is no surprise that finding one item to represent all of us is so difficult.

FIGURE 1 Japanese women wearing traditional Kimono



on Resources

-  **eWorkbook** Customisable worksheets for this topic
-  **Video eLesson** Our national identity (eles-2079)

LEARNING SEQUENCE

- 3.1 Overview
- 3.2 Key features of Australian society
- 3.3 Australian values
- 3.4 The search for an Australian identity
- 3.5 **SkillBuilder:** Developing argument paragraphs
- 3.6 **Thinking Big research project:** Investigating religions in Australia booklet
- 3.7 **Review**



To access a pre-test and starter questions and receive immediate, **corrective feedback** and **sample responses** to every question, select your learnON format at www.jacplus.com.au.

3.2 Key features of Australian society

3.2.1 'From all the lands on Earth we come'

Modern Australian society reflects the combination of a diverse range of cultures. It recognises our country's rich history as well as the influence of new traditions and customs.

Our communities are tolerant and welcoming. Cultural differences are understood and used to bring people together rather than drive them apart. The features of Australian society that enable this sense of unity will be discussed in this chapter.

Imagine your classroom is a mini version of Australian society. At least six of your classmates are likely to have been born overseas and ten people in your class will have at least one parent who was born outside Australia. This is an example of

multiculturalism. A society in which a range of cultural and religious backgrounds exists is said to be culturally diverse or multicultural. Australia is an excellent example of a multicultural society with people from almost 200 nations represented in our country.

Look around your classroom. Only those people with Indigenous and Torres Strait Islander heritage can truly call themselves Australians. All other people have, at some stage of their family's history, migrated to Australia from another country. From the first European settlers to more recent arrivals, there have been several different waves of **immigration** to Australia. **TABLE 1** provides a brief summary of Australia's immigration history.

With so many different cultures and traditions present, multicultural societies like Australia are often very friendly and understanding. However, there have been times in Australian history when these differences have led to conflict and division, including

- the treatment of Indigenous Australians by European colonisers (1778 onwards)
- the White Australia Policy (1901–1973)
- the race riots in Cronulla, New South Wales (in 2005).

These are all examples of **cultural intolerance**. It is important for us to learn from these events and ensure that cultural differences are understood, celebrated and embraced.

FIGURE 1 European immigrants arriving in Australia in 1958



FIGURE 2 Vietnamese immigrants rescued from the sea in 1989



TABLE 1 Australia's immigration history

Period of immigration	Main countries/regions of origin	Types of migrants
European settlement (1778–1868)	Britain (England, Ireland, Scotland and Wales) and some people from other parts of the British Empire	Convicts, officials and free settlers
Gold rush (1851–1901)	Britain, Germany, France, Italy, eastern Europe, China and United States of America	Prospectors (those seeking gold) and merchants
Post-World War II (1945–1970)	Eastern Europe, Britain, Germany, France and Italy	Political refugees and skilled migrants
Modern immigration (1970–present)	China, Vietnam, South-East Asia, eastern Europe, Russia and the former Soviet Union, Southern and Central Africa, India, Afghanistan and the Middle East	Political and economic refugees and skilled migrants

3.2.2 Religion and Australian society

Throughout history, religion and governments have been closely linked. In ancient Egypt, people saw the pharaoh as both a god and a ruler. For centuries, the kings of Europe claimed they had been chosen by God to rule their lands — a concept known as ‘divine right’. Yet as society developed, people began to see problems when governments had strong ties to a particular religion. One of these problems is that other religions were often ignored or persecuted and their followers felt excluded from society.

A secular nation is one that separates religion and government. This means that religion is not allowed to influence the laws of a country. All citizens are considered equal, regardless of what religion they follow or whether they follow a religion at all. Secular governments can benefit religion in society because they encourage religious freedom. Without the government telling its people what religion they should follow; people are allowed to choose their own religious beliefs. Australia is a secular nation, with secularism even written into our Constitution:

the Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion (section 116, Australian Constitution).

By using these words, the writers of the Australian Constitution allowed for all religions and cultures to safely and actively participate in Australian society. This laid the foundation for the religious freedom that we now experience.

3.2.3 Freedom of religion

Communities in which different religions coexist are said to be ‘multi-faith’. Look for different religious symbols and buildings to see if you live in a multi-faith suburb. You may see churches, mosques, synagogues or temples. You will find that there is more religious diversity now than was present in your parents’ generation. This diversity has been encouraged by Australia’s secular government and our multicultural society. Without an official Australian religion, people have been free to express their own religious traditions and customs. This freedom also includes atheists — people who do not believe in any god or religion. **TABLE 2** shows the major religions observed by Australians in 2006 and 2016.

FIGURE 3 The holy city of Jerusalem is an example of a multi-faith society. Here, the Dome of the Rock (one of the holiest mosques in Islam) can be seen behind the Western Wall (one of the holiest sites in Judaism).



TABLE 2 Religious affiliation in Australia, 2006 and 2016

Religion	2006	2016
Buddhism	418 800	563 070
Christianity	12 685 900	12 201 600
Hinduism	148 100	440 300
Islam	340 400	604 200
Judaism	88 800	91 000
Other religions	109 000	95 700
No religion	3 706 500	7 040 700

Source: Data derived from ABS 1301.0 — *Yearbook Chapters, 2009–10* and 2071.0 — *Reflecting a Nation: Stories from the 2016 Census*.

DISCUSS

‘Australia works well as a multicultural, multi-faith society.’ Do you agree with this statement? Identify a counterargument that might be used to express a different point of view. Discuss the challenges and benefits of living in a multicultural and multi-faith society.

[Intercultural Capability]

3.2 ACTIVITIES

1. Research your family history (parents and/or grandparents are excellent sources of information). Write a brief summary of their stories. **Communicating, reflecting**
2. Walk around your neighbourhood and record the types of religious symbols and buildings you see. (You may like to do this part of the activity with a friend or family member.) Compare your list to the religions listed in **TABLE 2**. Which religions from the table were represented in your neighbourhood and which were not? **Communicating, reflecting**

3.2 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

3.2 Exercise 1: Check your understanding

1. **CS1** Define the term ‘multiculturalism’ and provide one example.
2. **CS2** What is ‘cultural intolerance’? Identify one event in Australia’s history in which cultural intolerance has led to conflict.
3. **CS1** Complete the following sentence.
Immigration refers to the movement of _____ from one _____ to another, usually for political, cultural or _____ reasons.
4. **CS2** Describe the two photographs shown in **FIGURES 1** and **2**.
5. **CS1** What concept did some European kings use to claim the throne?
6. **CS2** What is the main benefit of a secular nation?

3.2 Exercise 2: Apply your understanding

1. **CS3** Use the information in **TABLE 1** to explain two ways in which Australian immigration has changed over time.
2. **CS3** Use the data in **TABLE 2** to answer to answer the following questions:
(a) Which religions have experienced positive growth between 2006–16?

(b) The number of Australians who do not identify with any religion has dramatically increased since 2006. Suggest why you think this has happened.

- 3. CS5** One of the photographs in **FIGURES 1** and **2** shows voluntary migration (people who chose to leave their own country) and the other shows forced migration (people who were forced to leave their own country). Match the photograph with the type of migration and explain your choice.
- 4. CS6** Explain the positive influences that religion can have on society.
- 5. CS6** Do you believe the government should have any influence on religious observance in Australia? Justify your response.

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

3.3 Australian values

3.3.1 Morality tales

Were you ever told the story of the tortoise and the hare? The two animals raced each other by using different tactics. The hare sped away and then took a rest, confident that he would win. Yet the tortoise, slowly plodding along, passed the resting hare and won the race. Stories like this, and others you were probably told when you were younger, have morals — hidden messages explaining what was right and wrong. These stories describe what values are seen to be important and explain how people should live their lives. Go back and read these stories now that you are older, and those values will become apparent.

3.3.2 What are values?

Values are like a set of instructions — if you follow a particular value, it will lead to a particular outcome. So, if you were to demonstrate the value of compassion, you would try to feel the emotions someone else is feeling. If you were to demonstrate the value of honesty, you would be truthful and avoid telling lies. Usually, these outcomes involve treating people in a fair and respectful manner.

3.3.3 How do values influence society?

People may place different amounts of importance on individual values. One person might think that honesty is the most important value, while someone else may think it is creativity. Differences in values can sometimes drive people apart. We see this frequently in society and on a variety of scales. Consider two politicians debating each other in parliament. They are doing so because they have different values. On the other hand, shared values can unite people. It is likely that you chose your friends because you share things in common. This may be a football team or a favourite band, but it can also be a value. In the same way that shared values can bring friends together, they can also unite entire countries.

3.3.4 What are Australian values?

All people who apply for an Australian **visa** are required to sign the Australian Values Statement (see **FIGURE 1**). By signing this document, visa applicants commit to following the shared values of the Australian community. These values include:

- respect for individual freedom (including religious freedom)
- commitment to the rule of law, democracy, the equality of men and women and pursuit of the public good
- tolerance, fair play and compassion for those in need.

These values are linked by a common theme — **diversity**. By respecting individual freedom, we allow different groups to express their particular cultural backgrounds. By expressing the value of tolerance, we demonstrate our understanding of cultural differences. In this way, Australian values protect the multicultural composition of our society and encourage cohesion in our communities.

FIGURE 1 All new visa applicants are required to sign the Australian Values Statement.

Australian Values Statement

You must sign this statement if you are aged 18 years or over.

I confirm that I have read, or had explained to me, information provided by the Australian Government on Australian society and values.

I understand:

- Australian society values respect for the freedom and dignity of the individual, freedom of religion, commitment to the rule of law, Parliamentary democracy, equality of men and women and a spirit of egalitarianism that embraces mutual respect, tolerance, fair play and compassion for those in need and pursuit of the public good
- Australian society values equality of opportunity for individuals, regardless of their race, religion or ethnic background
- the English language, as the national language, is an important unifying element of Australian society.

I undertake to respect these values of Australian society during my stay in Australia and to obey the laws of Australia.

I understand that, if I should seek to become an Australian citizen:

- Australian citizenship is a shared identity, a common bond which unites all Australians while respecting their diversity
- Australian citizenship involves reciprocal rights and responsibilities. The responsibilities of Australian Citizenship include obeying Australian laws, including those relating to voting at elections and serving on a jury.

If I meet the legal qualifications for becoming an Australian citizen and my application is approved I understand that I would have to pledge my loyalty to Australia and its people.

Signature of Applicant

3.3.5 How do we express Australian values?

Australian values can be expressed in many ways. Public rallies are common in cities across Australia (see **FIGURE 2**). These large-scale gatherings raise public awareness and provide people with an opportunity to show support for different causes. Some of our public holidays also represent Australian values. As well as commemorating the lives of fallen servicemen and women, Anzac Day (25 April) celebrates values such as sacrifice and perseverance. Australia Day (26 January) marks the arrival of the First Fleet on Australian shores and, for this reason, this date does not sit well with many Indigenous and non-Indigenous Australian people. Yet Australia Day has evolved to represent a celebration of diversity, with some migrants choosing this date to complete their citizenship ceremonies (see **FIGURE 3**).

FIGURE 2 Examples of public protests in Australia



FIGURE 3 A citizenship ceremony. Australia Day is a popular day for migrants to formally become Australian citizens.



Every day you demonstrate Australian values at school. You demonstrate democracy when you elect representatives for your student council. You demonstrate compassion for others when you stand up for someone being bullied. Following a set of shared values is crucial for any society. Values can unite communities and show people how they should live their lives.

on Resources

 **Interactivity** The road (int-5431)

3.3 ACTIVITY

List and explain the three values which are most important to you. Share your list with the person sitting next to you. Describe any similarities or differences between your answers.

Describing and explaining

3.3 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

3.3 Exercise 1: Check your understanding

1. **CS1** What are values?
2. **CS1** Who is required to sign the Australian Values Statement?
3. **CS1** Identify three values that can be found on the Australian Values Statement.
4. **CS1** List three ways that Australian values can be expressed.
5. **CS1** Which public holidays represent Australian values and what values are they?

3.3 Exercise 2: Apply your understanding

1. **CS6** Choose any three values from the Australian Values Statement and describe what these values mean. Try to use examples from your everyday life in your answers.
2. **CS5** Which value would you remove from the Australian Values Statement and why?
3. **CS3** What is the common theme linking the values in the Australian Values Statement?
4. **CS5** What values would you add to the Australian Values Statement and why?
5. **CS5** Do you think Australia needs a values statement?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

3.4 The search for an Australian identity

3.4.1 Our differences define us

You wear a school uniform to help identify you as being part of your school. Without this uniform, there would be no way to tell which school you belong to. But what if your school was known for not having a uniform, instead allowing its students to wear their casual clothes to school? This freedom of choice and diversity of dress would then become a way in which your school could be identified. Australian society is exactly like this kind of school. Our identity is characterised by its diversity, and our differences bring us together.

3.4.2 What is national identity?

National identity is much more than a national cuisine, costume or anthem. It is a way for people to identify with others and feel a sense of community. When a country is made up of people from only one cultural group, it is easier to see examples of their national identity. Such is the case with many of the smaller eastern European nations such as Slovakia, Serbia and Croatia. However, when countries have a more multicultural population, like Australia, it can be harder to define a singular national identity.

FIGURE 1 Serbian men demonstrating traditional dress and dance



3.4.3 To integrate or to congregate?

Upon arrival in Australia, new migrants may face a range of difficulties. They need to find somewhere to live and somewhere to work, and often need to learn English as well. Migrants are also faced with a cultural challenge — they must find a balance between their existing national identities and their new Australian identity. With close to 200 nationalities already represented in Australian society, new migrants can usually find existing communities of people sharing the same background. But should they **congregate** in these communities and follow their existing traditions and customs, or should they **integrate** into multicultural communities? This question is fiercely debated by both politicians and members of the general public. Without displays of migrant culture, we would not have the diverse society we see today. However, if new migrants only associate with their own communities, they will not gain exposure to Australian culture and values. Therefore, a balance between these two choices is needed to ensure the protection of traditional identities and the development of new ones.

FIGURE 2 Melbourne's Chinatown reflects the diversity of Australian society.



DISCUSS

Instead of being concerned with identifying one single Australian cultural identity when we live in such a multicultural society, would it be simpler to accept that an Australian cultural identity doesn't actually exist? Discuss as a class.

[Intercultural Capability]

3.4.4 Indigenous identity

At the 1994 Commonwealth Games, Indigenous athlete Cathy Freeman controversially draped herself in both the Australian and Aboriginal flags upon winning the 200-metre sprint. Freeman’s celebration caused much debate because the Aboriginal flag was not considered an official flag of Australia. Freeman chose her victory as an opportunity to demonstrate and celebrate her Indigenous identity. For her, being recognised as an Aboriginal person as well as an Australian was an important symbol of reconciliation and pride.

FIGURE 3 A traditional Indigenous Australian smoking ceremony



FIGURE 4 Cathy Freeman’s controversial celebration at the 1994 Commonwealth Games



At the beginning of school assemblies around Australia, we read the ‘Welcome to Country’ — an acknowledgement of the Indigenous Australian land owners. At state and federal government events, Indigenous leaders are in attendance and appropriate customs, such as smoking ceremonies, are conducted. These acts recognise Indigenous culture and foster Indigenous Australian identity. However, it is important for us to remember why we do these things. If we do not, these actions lose their meaning and become only tokens of Indigenous culture and identity. The impact of **tokenistic** cultural performances is serious. If the meaning behind these and other customs is lost, then so too is a part of Indigenous identity.

3.4 ACTIVITY

In groups of two or three, create a Student Action Pledge — a list of values and subsequent actions that you believe will contribute to a fair and cohesive school environment.

Reasoning, creating, proposing

3.4 EXERCISES

Civics and Citizenship skills key: **CS1** Remembering and understanding **CS2** Describing and explaining **CS3** Examining, analysing, interpreting **CS4** Questioning and evaluating **CS5** Reasoning, creating, proposing **CS6** Communicating, reflecting

3.4 Exercise 1: Check your understanding

1. **CS2** How is national identity important to a country?
2. **CS2** Explain the difference between the terms ‘congregate’ and ‘integrate’ in relation to migration.
3. **CS3** Why did Cathy Freeman’s celebration at the Commonwealth Games cause such controversy?
4. **CS2** Identify three examples of places in Victoria that reflect the diversity of Australian society.
5. **CS2** What is a ‘Welcome to Country’ and what does it signify?

3.4 Exercise 2: Apply your understanding

1. **CS2** Describe your idea of a typical Australian.
2. **CS3** Write a brief history of the Australian Aboriginal flag in one short paragraph. Include information such as who designed it, what it represents and any other aspects you consider interesting.
3. **GS5** If you were to migrate to a new country, would you integrate into that country's culture or would you keep practising your own customs and traditions?
4. **GS2** Explain how migration can encourage tolerant and diverse communities.
5. **GS5** What do you think would happen to our cultural identity if the government reduced international migration to Australia?

Try these questions in learnON for instant, corrective feedback. Go to www.jacplus.com.au.

3.5 SkillBuilder: Developing argument paragraphs

online only

What is an argument paragraph?

Many times in your academic career at school and beyond, you will be asked to write essays. An effective essay has several characteristics. It clearly explains the background of an issue, contains evidence and examples of the issue and, perhaps most importantly, it discusses the positives and negatives of an issue. This latter characteristic is best demonstrated through argument paragraphs.

Select your learnON format to access:

- an explanation of the skill (Tell me)
- a step-by-step process to develop the skill, with an example (Show me)
- an activity to allow you to practise the skill (Let me do it)



3.6 Thinking Big research project: Investigating religions in Australia booklet

online only

SCENARIO

Australia is a multi-faith society in which people are free to practise their chosen religion. In the 2016 Australian census, 70 per cent of Australians reported following some form of religion. These religions (in all their various forms) include Christianity, Islam, Buddhism and Judaism.

Your task is to create a booklet about the religions followed by the people of Australia. Your booklet should be creative, informative and include statistical data showing the growth of religions in Australia.

Select your learnON format to access:

- the full project scenario
- details of the project task
- resources to guide your project work
- an assessment rubric.



on Resources



projectsPLUS Thinking Big research project: Investigating religions in Australia booklet (pro-0242)

3.7 Review

online only

3.7.1 Key knowledge summary

Use this dot-point summary to review the content covered in this topic.

3.7.2 Reflection

Reflect on your learning using the activities and resources provided.

Resources



eWorkbook Reflection (doc-32149)
Crossword (doc-32150)



Interactivity Australian citizenship, diversity and identity (int-5315)

KEY TERMS

congregate to come together in a smaller crowd or group within a larger community

cultural intolerance when individual differences are not accepted by others

diversity differences, usually cultural and religious, between individuals or groups of people

immigration the movement of people from one country to another, usually for political, cultural or economic reasons

integrate to merge with a larger community

multiculturalism describes a society in which the cultures and traditions of many different groups coexist and are encouraged

tokenistic describes an act that is completed only as a gesture rather than being sincerely meant

values principles or standards of behaviour

visa a document that allows someone to live and work in a country for a set period of time

GLOSSARY

- bail** the promise that an accused person makes to appear in court at a later date
- beyond reasonable doubt** the standard of proof required in a criminal trial where the prosecution must prove that the accused is guilty to such a high degree that a reasonable person would have little doubt that the accused committed the crime
- bicameral** a parliament with two houses
- burden of proof** the legal principle describing who has to prove a case in court. In a criminal trial, this burden is on the prosecution.
- census** a regular survey used to determine the number of people living in Australia. It also has a variety of other statistical purposes.
- committal hearing** in very serious cases, the procedure held in a lower court to determine if there is enough evidence for the case to move to a higher court
- communism** a belief system that promotes the overthrow of existing society and replacing it with one in which all property and possessions are shared equally, and resources are controlled by the government
- congregate** to come together in a smaller crowd or group within a larger community
- constitution** a set of rules that determines the structure of government and its law-making powers
- counsel for the defence** a lawyer who represents the accused person
- cultural intolerance** when individual differences are not accepted by others
- democracy** a political system according to which citizens choose the way in which they are governed
- dictator** a person who has absolute power within a country, and who usually cannot be voted out of power by democratic elections. A government headed by a dictator is usually referred to as a dictatorship.
- diversity** differences, usually cultural and religious, between individuals or groups of people
- federation** the formation of a united country from a number of separate states or colonies, with law-making power shared between the national government and the governments of each of the states
- immigration** the movement of people from one country to another, usually for political, cultural or economic reasons
- integrate** to merge with a larger community
- judge** a court official who hears cases in the higher courts, such as the District or County Court, or the Supreme Court
- judiciary** a collective name given to the judges who preside over law courts
- juror** a person selected to hear and assess the evidence in a court case
- jury** a group of ordinary people randomly selected to hear and assess the evidence in a court case
- justice** the use of laws to treat people fairly and in a way that is morally right
- legal aid** the provision of legal assistance to those involved in a dispute or criminal matter who are unable to pay for legal representation
- legal representation** services performed by a qualified legal practitioner, such as a lawyer, who deals with legal matters on behalf of the person who has hired them
- legal system** a system for interpreting and enforcing the laws of a country
- legislation** a term used to describe laws passed by parliament
- magistrate** a court official who hears cases in a magistrates court
- multiculturalism** describes a society in which the cultures and traditions of many different groups coexist and are encouraged
- presumption of innocence** the principle that all accused people who appear before a court are presumed to be innocent until the prosecution proves that they are guilty
- prosecutor** the party bringing a criminal action against the accused
- referendum** a process of allowing the people to vote on an important issue
- repeal** to remove a law so that it no longer applies

royal assent the formal approval by the monarch's representative, and the final step necessary before a law comes into force

rule of law the legal principle that all citizens are subject to the law, and equal before the law, as it is upheld by independent courts

tokenistic describes an act that is completed only as a gesture rather than being sincerely meant

trial the court process to determine whether someone committed a criminal act

unicameral a parliament with only one house

values principles or standards of behaviour

visa a document that allows someone to live and work in a country for a set period of time

Westminster system the parliamentary system of Great Britain, which has been copied and adapted by many other countries including Australia. It is called that because the British Parliament meets in a building called the Palace of Westminster.

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