

**1891**

first Constitutional Convention to draft a federal constitution

1893

first 'people's convention' at Corowa

1897

delegates elected to a representative Constitutional Convention

1898-1900

referendums on the Constitution held in all colonies

1901

1 January - inauguration of the Commonwealth of Australia

29-30 March - first federal election

9 May - opening of Commonwealth Parliament in Melbourne

1902

Commonwealth Franchise and Commonwealth Electoral Acts

1903

first federal election in accordance with Commonwealth law

For further information about the Australian Electoral Commission's Federation exhibition and fact sheets contact:
Education Section (02) 6271 4440.

AEC 2001

VOTING IN THE FEDERAL ELECTION 1903

Overview

The second federal election, held on 16 December 1903, was the first to take place according to uniform voting rights and electoral procedures in all States. These new rules were set down in the Commonwealth Franchise Act and the Commonwealth Electoral Act.

Commonwealth Franchise Act 1902

The 1902 Commonwealth Franchise Act expressed the predominant views of the time about who had the right to be represented in the Parliament of Australia. It required voters to be British subjects¹ aged 21 years or over. It did not discriminate on the basis of marital status or property ownership. It declared that women were entitled to vote. But while it extended voting rights to some, it refused those rights to others.

'Disqualification of coloured races

No aboriginal native of Australia, Asia, Africa or the Islands of the Pacific except New Zealand shall be entitled to have his name placed on an Electoral Roll unless so entitled under section forty-one of the Constitution.'

Clause 4, Commonwealth Franchise Act, 1902.

At the 1903 federal election, in accordance with the new law, many women were able to vote, and stand for parliament, for the first time. People who did not own property were eligible to vote for both Houses of Parliament. But Indigenous Australians and 'natives' of Asia, Africa and the Pacific Islands (with the exception of New Zealand) were not allowed to vote because of their race.

In theory, on the basis of section 41 of the Constitution, this rule did not apply to people in the excluded categories if they were entitled to vote in State elections.

'41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.'

¹ Australian citizenship was not established until 1948. Prior to this people in the Australian colonies were British subjects if they were born in any part of the British Empire or had been naturalised.

But the intention to exclude people from the federal vote on the basis of race was forcefully pursued. The narrowest interpretation of the law ensured that there were as few exceptions to the rule of exclusion as possible. For instance, people who had the right to vote in their State but had not enrolled in a State electorate before 1902 were disqualified from voting federally.

In 1924, an Indian British subject who had been given the right to vote in Victoria after 1902, took the Commonwealth to court when he was refused the right to vote in federal elections. As a result Commonwealth legislation in 1925 enfranchised Indians in Australia. People who had been naturalised but excluded from voting on the basis of race also became eligible.

This legislation had no impact on Indigenous people. As a result of the 1902 Franchise Act and its narrow interpretation, many Indigenous people came to believe that they did not have the right to vote in any circumstances and even if they were legally entitled to vote, did not apply to enrol. The minority arguments in favour of Indigenous voting rights put by original members of the Commonwealth Parliament did not gain strength until after the Second World War.

In 1949, Commonwealth electoral legislation was amended to give the federal vote to Indigenous people who had either served in the Defence Forces or who had State voting rights. In 1962 the right to vote in federal elections was granted to all Indigenous Australians. But it was not until 1984 that it was compulsory for them to both enrol and vote.

Commonwealth Electoral Act 1902

The Commonwealth Electoral Act established the machinery and regulations for federal elections. Commonwealth Divisional Returning Officers were appointed to manage the electoral process within newly defined federal divisions or electorates. Before the 1903 election, new federal electoral rolls had to be created and then checked by electors to ensure that their names were on the list. There was great scope for confusion. For instance, at Kurri Kurri, in the Division of Hunter, only a telegram to the State Electoral Office, on the morning of the election, saved about 1000 people from being unable to vote.²

The regulations under the Act included details of postal voting and hours in which polling booths were open. They did not specify when elections should be held. The 1903 election was held on a Wednesday. Polling booths were open from 8am to 7pm and postal votes were granted to any person more than five miles from a polling place on the day of voting. Federal elections were not held on Saturdays until 1911.

On the basis of the Act, the method of election in 1903 was what is sometimes termed, 'first past the post'. To be elected a candidate had to achieve the highest number of votes in the first count.³ Voters indicated their choice by marking the box next to the candidate's name with a cross. It was not compulsory to vote. It became compulsory for eligible voters to enrol in 1911 and compulsory for them to vote in 1924.

² *Maitland Daily Mercury*, 16 December 1903, p5.

³ The highest count was not necessarily a majority of votes. A majority means more than 50% of the vote.