

CHAPTER 13

GOVERNMENT

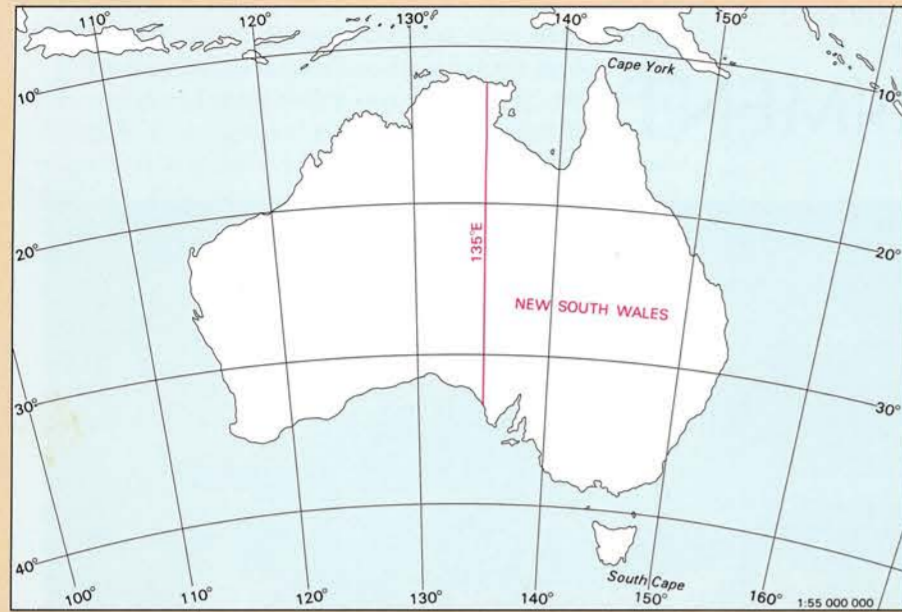


Parliament House, Canberra, under construction. Photograph 1985 by Leo Meier. WELDON TRANNIES

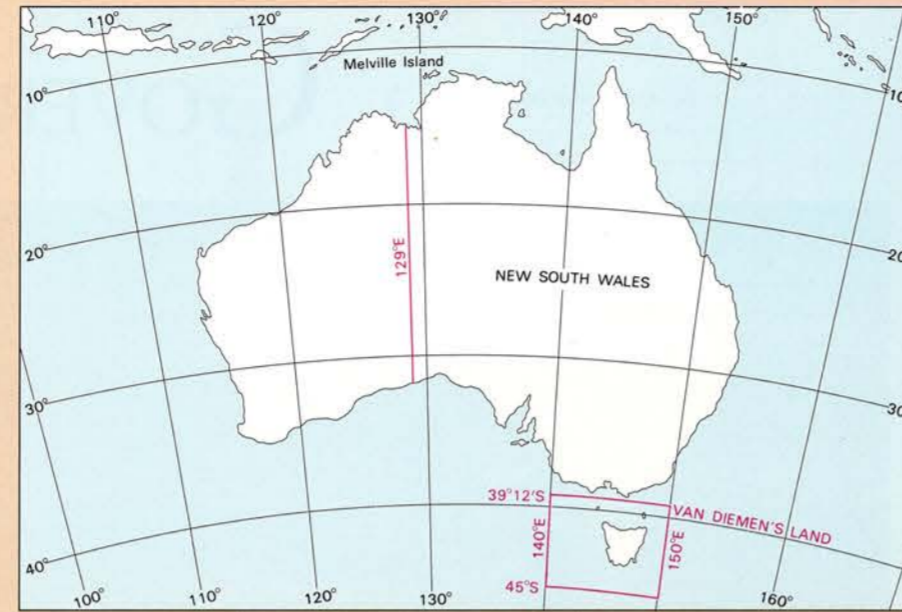
GOVERNMENT IN AUSTRALIA is a product of European and North American influences. In the first half of the nineteenth century colonial boundaries were drawn up in consultation with the Colonial Office in Britain. With the coming of self-government in the 1850s the boundaries of all states except South Australia and what later became the Northern Territory were firmly established. The evolution of colonial borders and maritime boundaries is outlined in this chapter, as are the unsuccessful efforts to create new states. With a House of Representatives and a Senate, based in part on the Westminster system but also borrowing from the United States, Australia has seen a plethora of elections. Referendums have been almost as common, many of them attempting to modify a conservative and literally interpreted constitution; few have succeeded. The landscape of Australian political life is shown in the last page, which charts the changing fortunes of political parties in state and federal elections since 1900.

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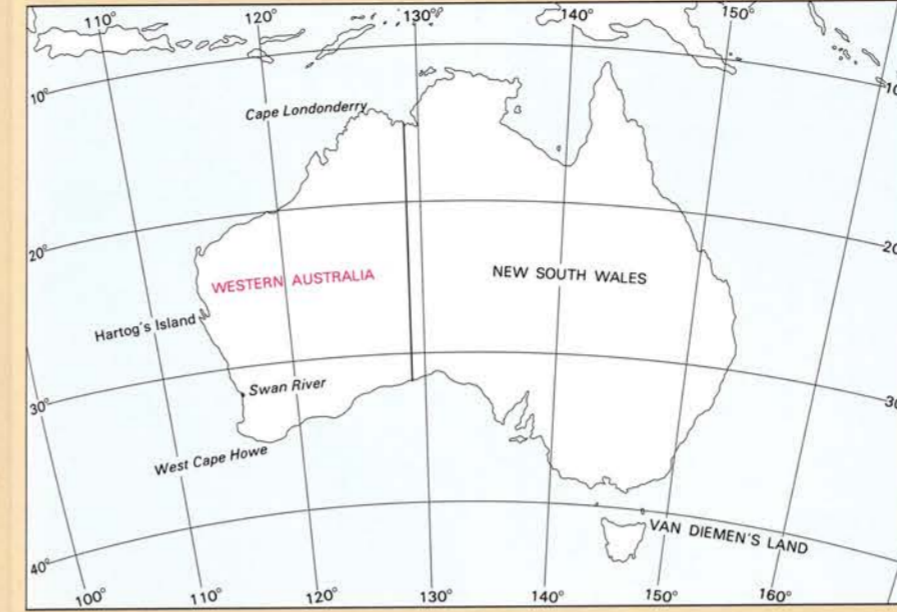
The evolution of state boundaries



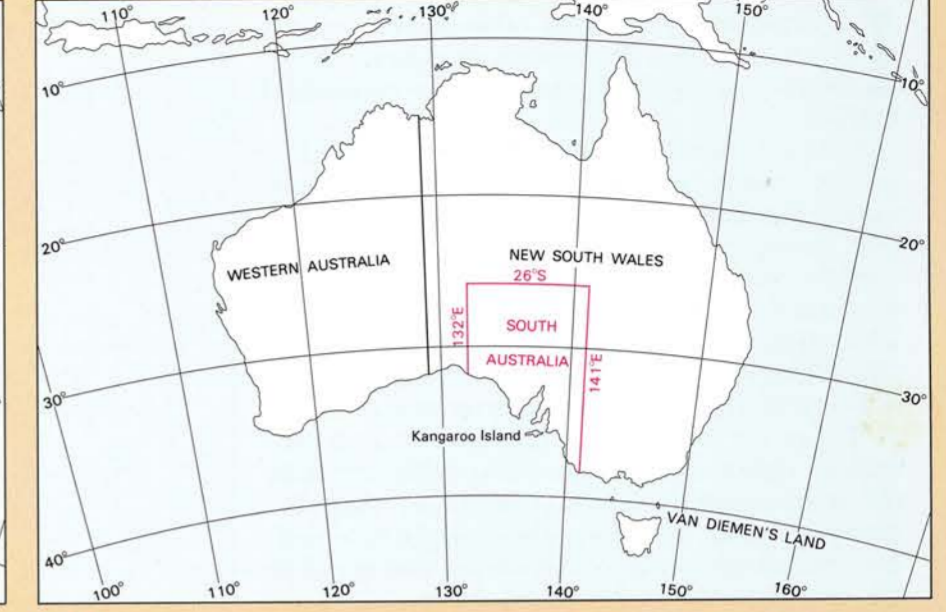
1788 New South Wales was defined in Governor Phillip's commissions from the Crown dated 12 October 1786 and 2 April 1787. The northern and southern limits were set at Cape York in latitude 10°37' south and South Cape in latitude 43°39' south. To the east, the colony also included adjacent islands in the Pacific Ocean between these latitudes. The western limit was set at the meridian 135° east.



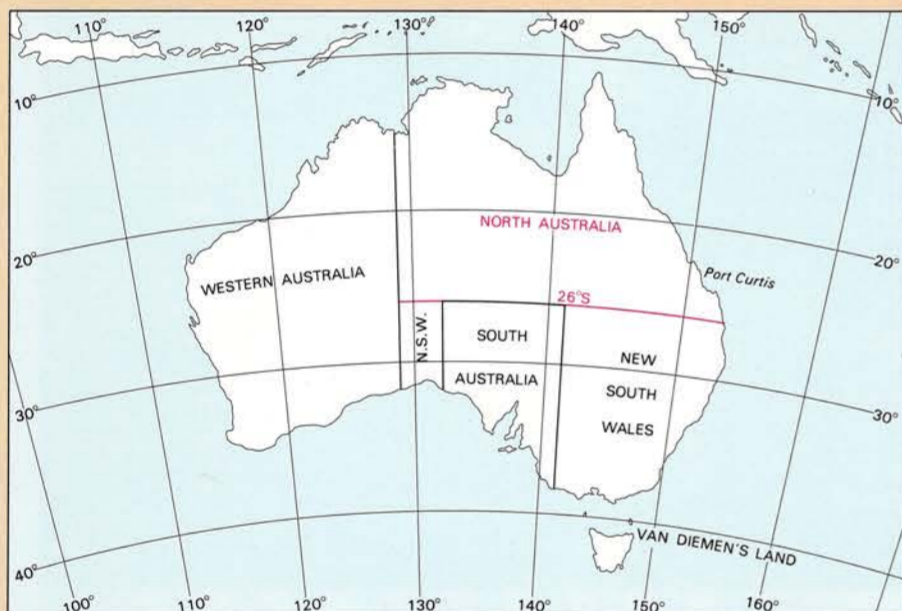
1825 Van Diemen's Land, defined on 16 July by a frame of meridians and parallels (apart from Macquarie Island which was specifically named), came into existence on 3 December. The western boundary of New South Wales was moved to the meridian 129° east to include the new settlement on Melville Island.



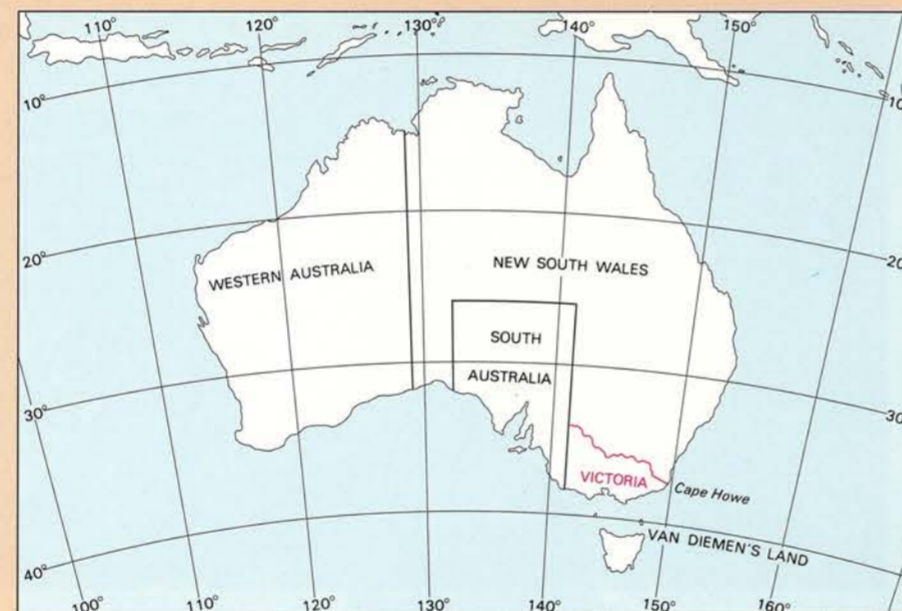
1831 The settlement on Swan River was established by James Stirling in June 1829 and Western Australia was defined in letters patent on 4 March 1831. The limits on the south, west and north were set at West Cape Howe, Hartog's Island and Cape Londonderry respectively. The eastern limit coincided with the meridian 129° east. 'Adjacent islands' were also included.



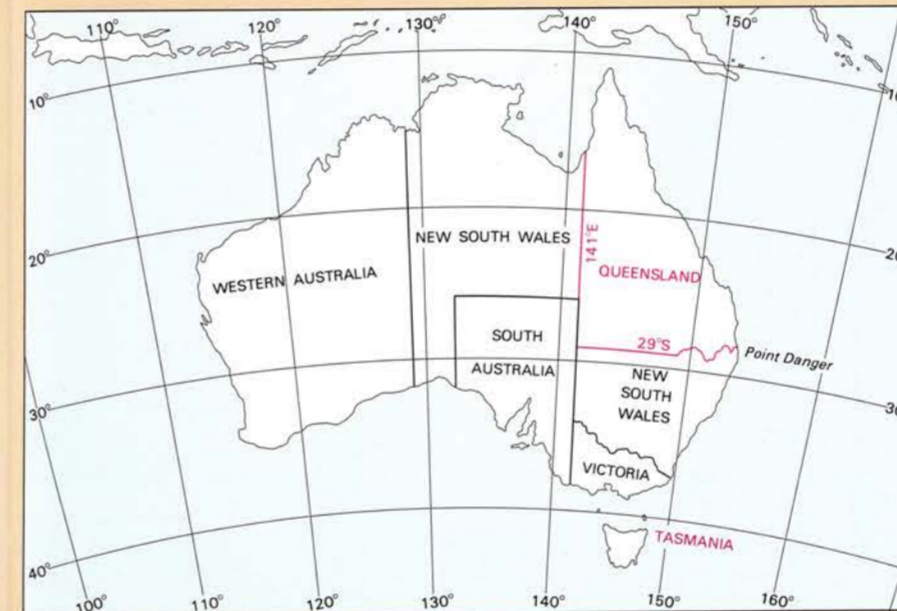
1836 The Province of South Australia was first defined on 19 February 1836. The rectangular colony was bounded by meridians 132° and 141° east, parallel 26° south and the coast. Kangaroo Island and other islands adjacent to the coast were included, together with all 'bays and gulfs'. The colony was proclaimed on 28 December 1836.



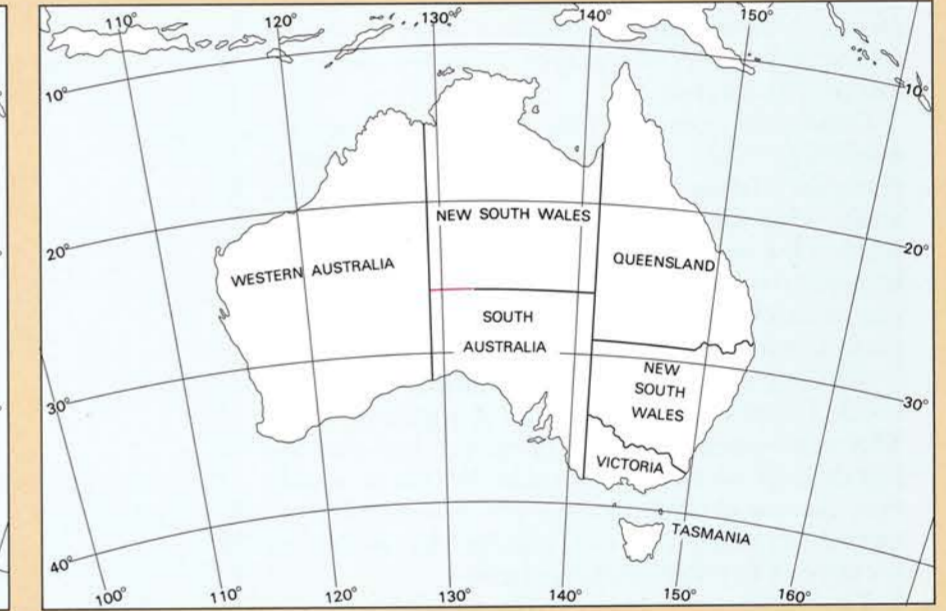
1847 The colony of North Australia was defined in letters patent dated 17 February 1846. It comprised that part of New South Wales north of parallel 26° south. The new colony was proclaimed at Port Curtis on 30 January 1847. The settlement at Port Curtis lasted only six months and the colony was officially reincorporated into New South Wales on 16 January 1849.



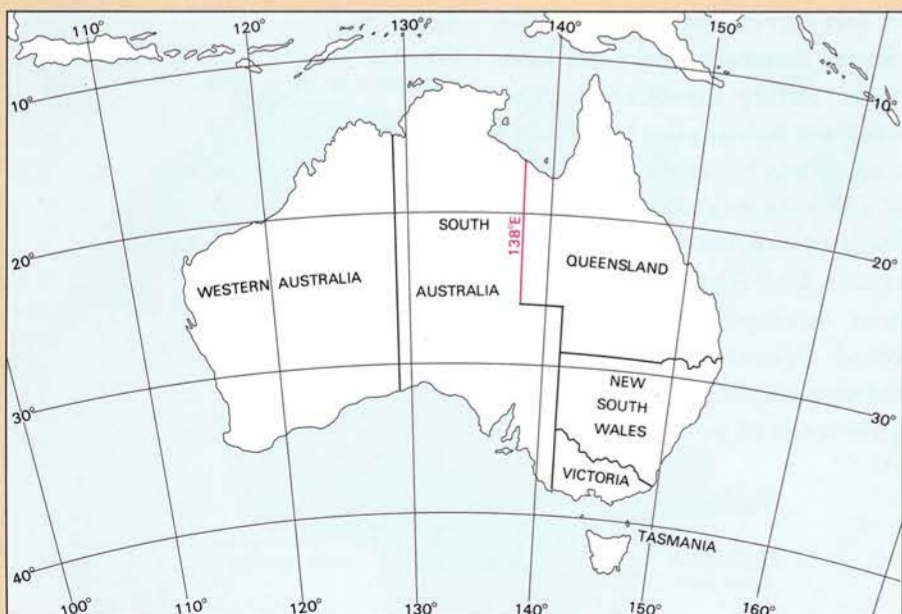
1851 The colony of Victoria was defined in an act 'for the better government of the Australian colonies' dated 5 August 1850. It comprised that part of New South Wales south of a line linking Cape Howe to the nearest source of the Murray River and by that river to the South Australian boundary. The act became effective on 1 July 1851.



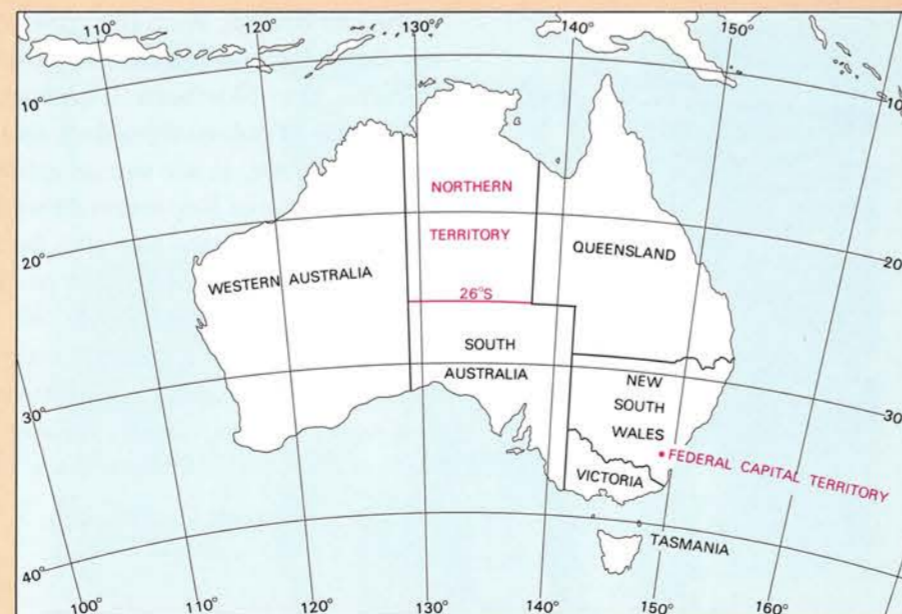
1859 Queensland was the last colony to be created in Australia. Letters patent dated 6 June 1859 defined the southern boundary as lying between Point Danger and South Australia, following watersheds, rivers and the parallel 29° south. The western boundary coincided with meridian 141° east and adjacent islands in the Pacific Ocean were included. On 1 January 1856, Van Diemen's Land was renamed Tasmania.



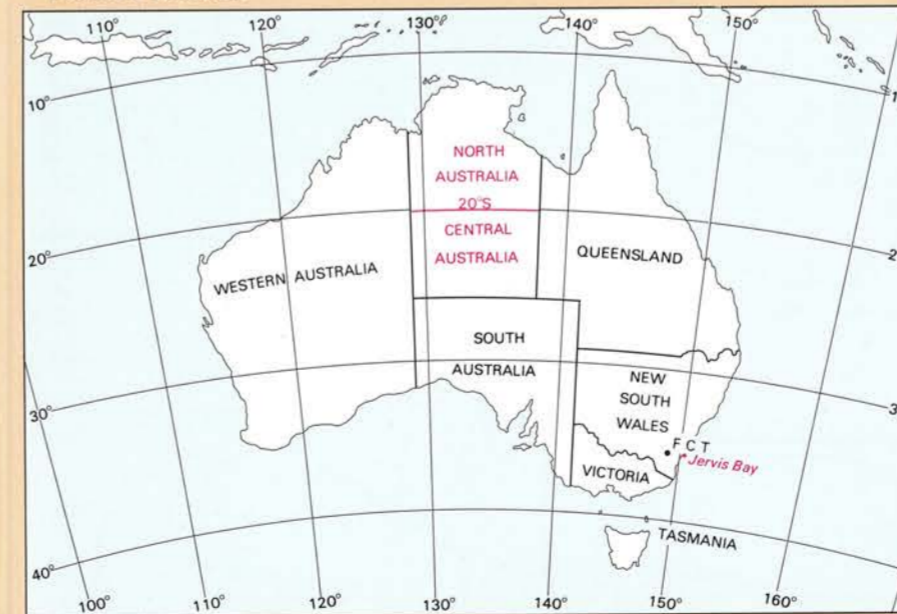
1861 By an act proclaimed on 10 October the curious panhandle of the western, detached portion of New South Wales was eliminated. South Australia gained the area bounded by meridians 129° and 132° east, parallel 26° south and the coast.



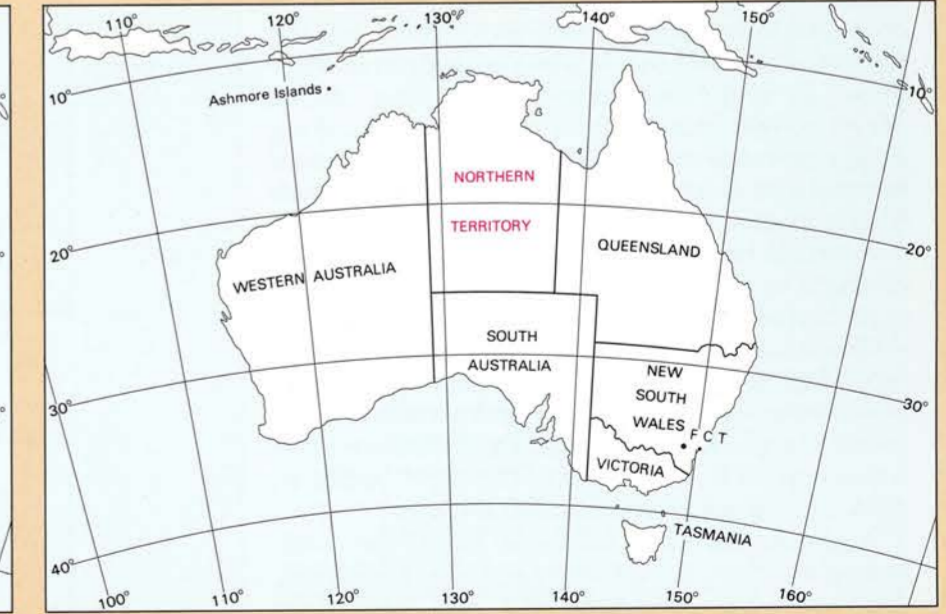
1862-1863 By letters patent dated 13 March 1862, Queensland's western boundary north of parallel 26° south was transferred to meridian 138° east. This change became effective on 21 June 1862. The remaining area of New South Wales north of parallel 26° south was added to South Australia in letters patent dated 6 July 1863 and the transfer was made on 9 September 1863.



1911 On 7 December 1907, the Commonwealth and South Australia agreed that the portion of South Australia lying north of parallel 26° south was to be surrendered to and accepted by the Commonwealth. The legislation required was passed by both parliaments and became effective on 1 January 1911. On the same day, the Federal Capital Territory was vested in the Commonwealth. In 1938 it was renamed the Australian Capital Territory.



1926 The Northern Territory Act of 1926 provided for the division of the Northern Territory into North Australia and Central Australia. The division was made along parallel 20° south and the Government Residents assumed office on 1 March 1927. On 4 September 1915, Jervis Bay had been transferred from New South Wales to the Commonwealth.



1931 The division of the Northern Territory was ended by the Northern Territory Administration Act of 1931, providing for an administrator in Darwin and a deputy administrator in Alice Springs. Ashmore and Cartier islands, acquired from Britain on 10 May 1934, were administered by Western Australia until July 1938 when they were attached to the Northern Territory.

Australia's maritime boundaries

IN COMMON WITH most other coastal nations, Australia claims three maritime zones: the territorial sea, the fishing zone and the continental margin.

National claims to territorial seas, intended to protect coasts against enemy aggression, have existed for centuries. Aliens have the right of innocent passage through territorial waters, but must comply with national regulations dealing with immigration, health, customs, defence and fishing. The claim to territorial waters extends to the airspace above, and to the seabed. There is no right of innocent flight in the air above territorial waters.

Within the fishing zone, the coastal nation controls all rights to catch fish. Some countries make the more comprehensive claim of an exclusive economic zone. This gives the coastal nation control over all economic activities in the waters and on the seabed of the exclusive economic zone, apart from the carriage of cargo. Thus mining and generation of power from tides or waves are also subject to national control. The coastal nation has no control over the air above its fishing zone or its exclusive economic zone.

Claims to the continental margin give the coastal nation exclusive rights to mining on or under the seabed and to the collection of sedentary species of fish such as crayfish.

Claims to territorial seas and fishing zones are normally made according to specific widths. Australia claims territorial seas 3 nautical miles wide, while the fishing zone is 200 nautical miles wide. One nautical mile is equal to 1 minute of latitude. Australia claims its entire continental margin, which in some places, including the northwest coast, is wider than 200 nautical miles.

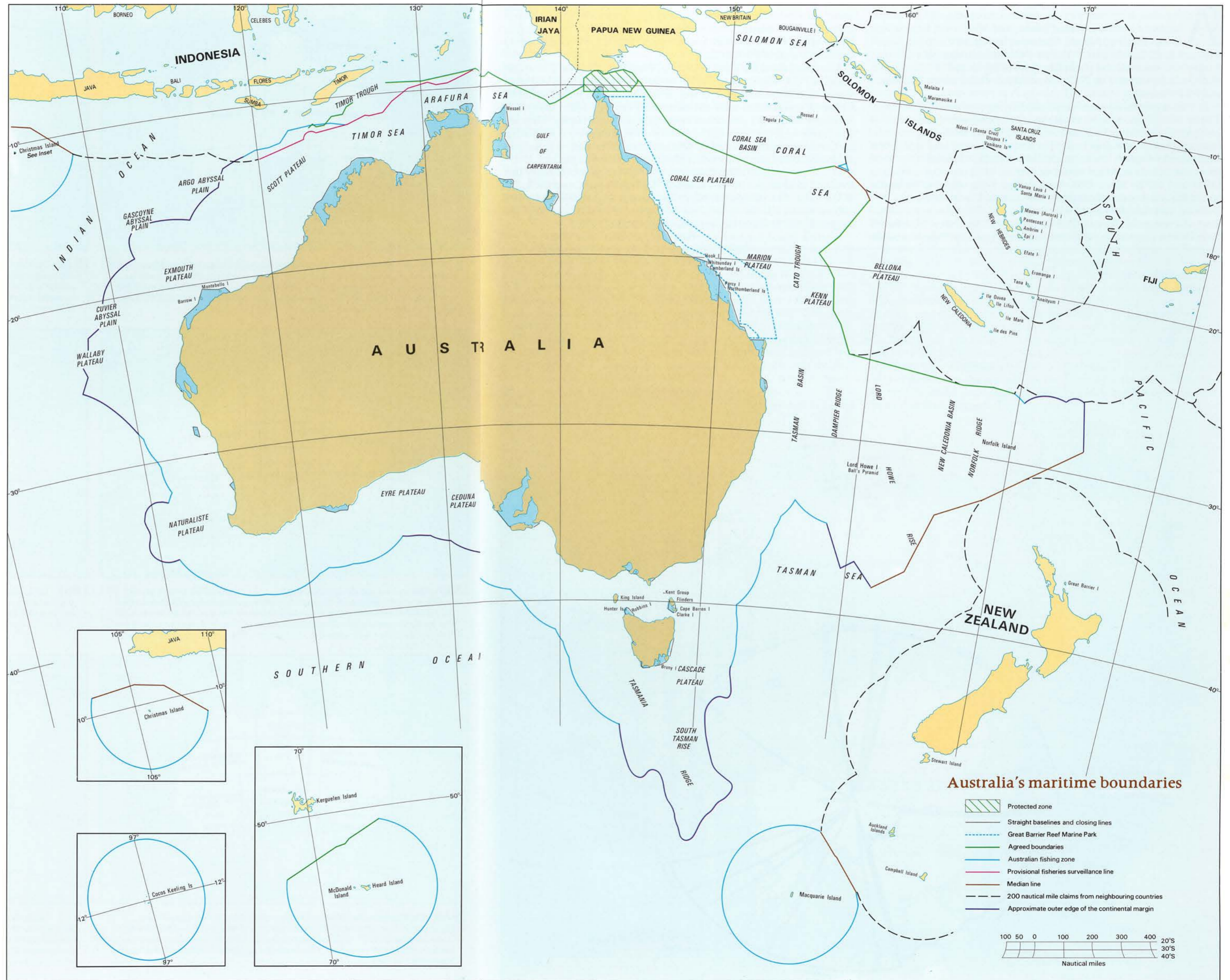
Without making any formal claims, states are entitled to possess a contiguous or adjoining zone. This zone extends beyond territorial seas that are less than 24 nautical miles wide. Within it, a state may exercise controls necessary to prevent infringement of its customs, fiscal, immigration and sanitary laws or to punish infringements.

The width of territorial waters and fishing zones is measured from the baseline. Australia's baseline was carefully described according to existing international rules in the *Commonwealth of Australia Gazette* on 9 February 1983. For long sections, the baseline coincides with the line of the lowest tide. However, where permissible, straight lines have been substituted for the low-water mark and the territorial seas and fishing zone are measured from those. In some circumstances such lines can be drawn across the mouths of bays and rivers, along deeply indented coasts, such as the Kimberley coast in northwest Australia, or along coasts fringed with islands, such as that behind the Great Barrier Reef.

Australia has not defined the exact outer limit of its claim to the continental margin. The rules are complicated, relating either to distances or to the thickness of seabed sediments measured from the foot of the continental slope. On the map, the estimated boundary for the edge of Australia's continental margin is based on the fixed distance of 60 nautical miles from the foot of the slope. Sediment thickness has not been taken into account.

Australia has joint maritime boundaries with Indonesia, Papua New Guinea and New Caledonia, and these are shown on the map. As a party to the Antarctic Treaty, Australia has not made any maritime claims from its Antarctic territories.

The map shows the maximum extent of Australia's claims; the continental shelf; the claimed fishing zone; special areas such as the Barrier Reef; enclosed areas such as bays, and areas in dispute.



Australia's external territories

AUSTRALIA ADMINISTERS six external territories. They are the Antarctic territory, Heard Island, the McDonald Islands, the Cocos (Keeling) Islands, Christmas Island, the Coral Sea Islands territory and Norfolk Island. Before 1968 Australia and New Zealand jointly administered the phosphate-producing island of Nauru and, until its independence in 1975, the commonwealth controlled Papua and New Guinea.

In 1933 Australia assumed responsibility for a section of Antarctica. The territory was defined as all the islands and territories south of latitude 60°S between longitudes 45°E and 160°E, excluding an undefined area known as Adélie Land. The limits of Adélie Land, which was controlled by France, were not determined until 1938 when they were set as the islands and land south of latitude 60°S between meridians 136°E and 142°E. Since 1954 Australia has been active in Antarctic research from its scientific stations at Mawson, Davis and Casey.

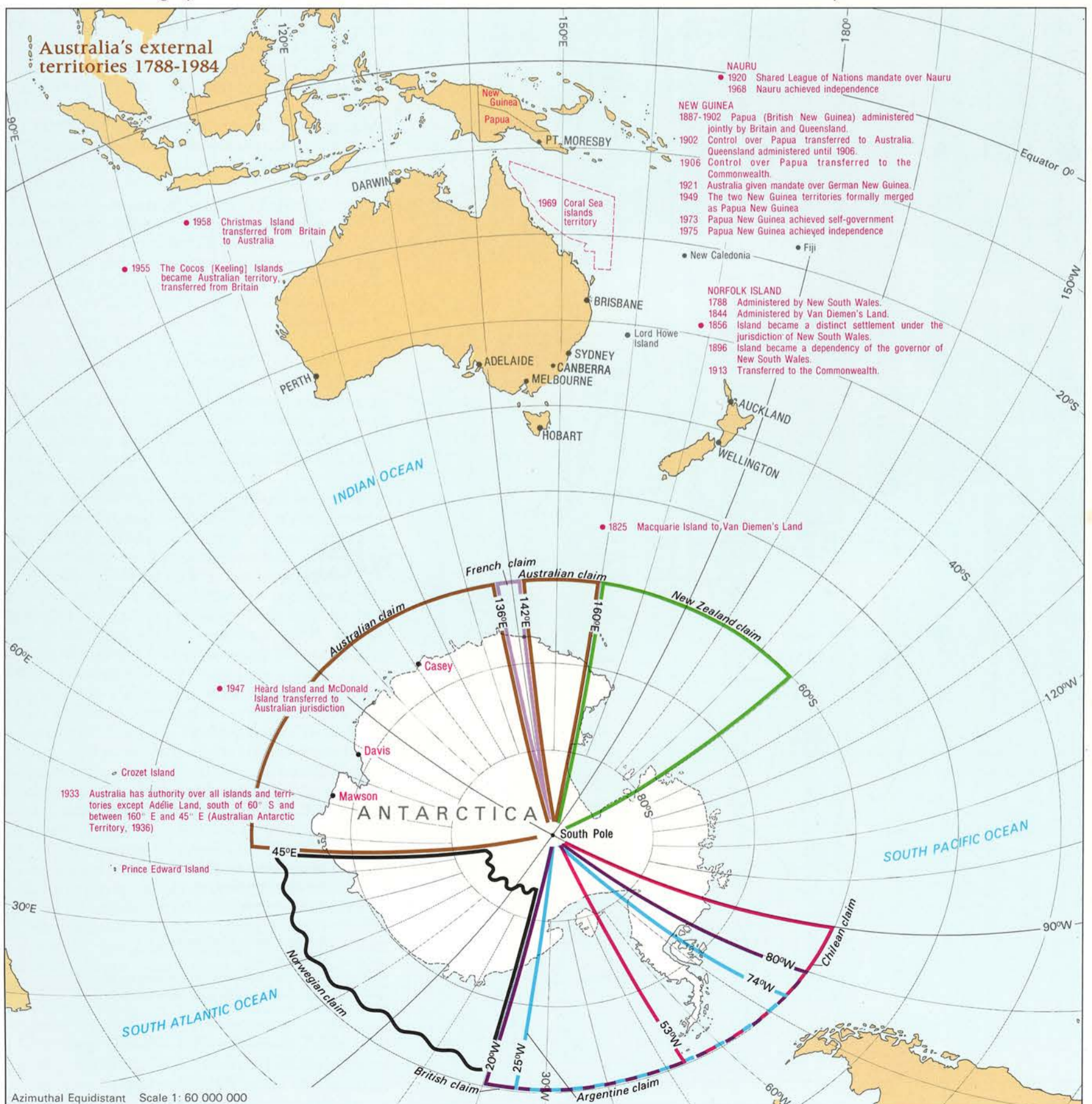
Heard and the McDonald islands lie about 4100 kilometres southwest of Fremantle, Western Australia. In 1947 they were transferred from British sovereignty to Australia and a scientific station was estab-

lished on Heard Island. This island is approximately 43 kilometres long and 20 kilometres wide, and is dominated by two quiescent but active volcanoes. The three small, rocky McDonald islands are 43 kilometres west of Heard Island.

Australia gained the Cocos (Keeling) Islands in 1955 and Christmas Island in 1958. The Cocos Islands consist of 27 coral islands and were named in 1609 by William Keeling of the Dutch East India Co. They remained uninhabited until the nineteenth century when they were developed as a copra plantation by the Clunies Ross family. They are now home to about 580 islanders who in 1984 integrated with Australia. Christmas Island, named by William Dampier in 1688, was not permanently settled until 1899 when phosphate mining began.

In 1969, in order to solve the question of sovereignty over many tiny coral and sand islands in the Coral Sea, Australia proclaimed the limits of the Coral Sea islands territory. The islands are scattered over one million square kilometres of ocean between the Great Barrier Reef and longitude 157°10'E and between latitudes 12° and 24°S.

Norfolk Island has been a territory of Australia since 1788.



New state movements

THERE HAVE BEEN ATTEMPTS to carve new states or colonies out of existing ones, in every state except Tasmania; however, none have succeeded. All shared a common motivation: a belief that the authorities in the capital cities were unsympathetic to regional needs which could only be met by decentralising government.

When the Murray River became the boundary between Victoria and New South Wales in 1851, the Riverina was politically separated from Melbourne, with which it had established important trade, commercial and financial links. Leading citizens of the region immediately demanded either union with Victoria or the creation of a new colony. They continued to campaign vigorously until the 1880s when the New South Wales government completed a railway network that linked the Riverina with Sydney. Separatist feelings re-emerged during the 1920s and 1930s. It was believed that governments in Sydney pursued policies markedly biased in favour of the cities, particularly the Labor government led by Jack Lang. The dismissal of the Lang government in 1932, and more sympathetic policies of subsequent governments, saw the movement falter and then fade.

Demands for a new state in the New England region gathered strength from 1915 under the leadership of Earle Christmas Grafton Page. They reached a peak during the 1920s and began to decline after 1932. Demands for the creation of a new state re-emerged in the late 1940s and its supporters were powerful enough to force a referendum on the issue in the state's northern electorates on 29 April 1967. A majority of votes against self-government effectively ended the movement.

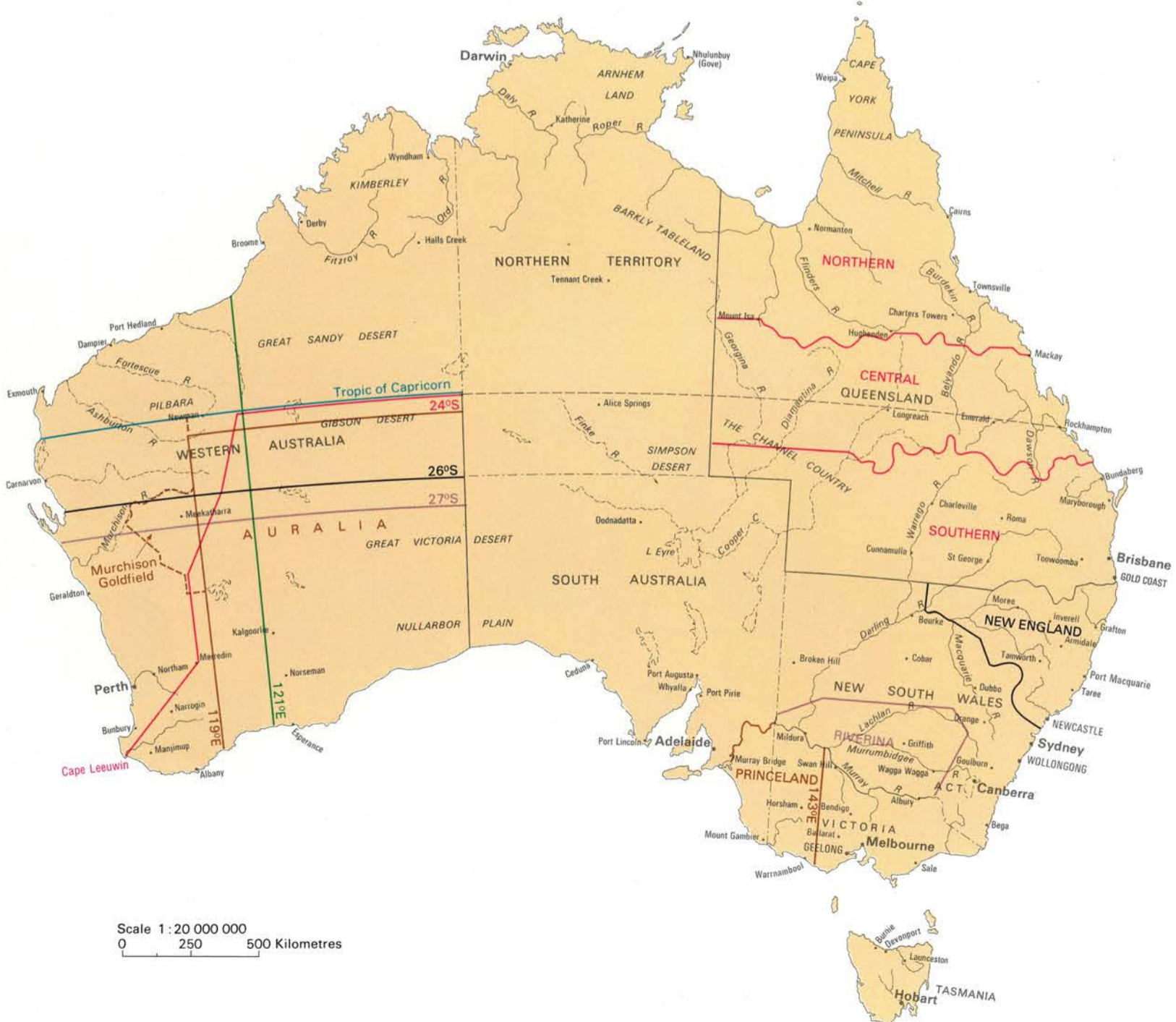
Queensland has had a long history of new state movements. Even before separation from New South Wales in 1859, three colonies had been proposed for the area that became Queensland. During the first forty years after Queensland's separation, there were fitful demands for the northern and central areas to be made new states. These demands were encouraged by the special demands of regional

economies based on sugar, mining or pastoral activities, and the personal ambitions of powerful individuals in Rockhampton, Mackay and Cairns. Agitation for a separate northern state has continued in recent times.

In 1861, a number of residents in western Victoria formed the West Victoria Separation League. They established contact with groups in Mount Gambier, South Australia, who felt they were being unjustly treated by the authorities in Adelaide. The groups agreed that the two borderlands of Victoria and South Australia should be joined in a new colony called Princeland with an estimated area of 107 000 square kilometres. Its promoters could only obtain 1 500 signatures on a petition requesting the new colony. In December 1862, the British colonial secretary refused the petition and the Princeland movement lapsed.

In 1883, the governor of Western Australia and the British government agreed that at some time in the future, the colony would be divided into two separate colonies. The governor proposed the Tropic of Capricorn as a suitable boundary. Other proposals included parallels 26° and 27°S and the meridian 121°E. None of the proposals were implemented, the population being too small to sustain a second colony.

In the 1890s, this changed with the discovery of gold in Western Australia. A new state movement developed on the goldfields. Initially, it was in response to inadequate parliamentary representation. Later, it was to ensure that the goldfields were part of the proposed federation of Australian colonies. Three main proposals for the new state, called Auralia, were put forward. The first was bounded by the meridian 119°E and the Tropic of Capricorn, with a northwesterly diversion to include the Murchison goldfield. The second was bounded by latitude 24°S and meridian 119°E. A third, based on objections raised by the citizens of Albany was defined by a boundary that began at Cape Leeuwin and followed a northeasterly course to the Tropic of Capricorn. However, Western Australia decided to join the federation and the movement to create Auralia collapsed.



Referendums

IN THE FEDERATION poll of 1899, the five eastern colonies accepted the federal constitution drafted by their representatives during a decade of negotiation, argument and compromise. The draft constitution carried four significant amendments, introduced partly to meet demands made by New South Wales and Western Australia. The national capital was to be sited in New South Wales at least 160 kilometres from Sydney. Western Australia was to retain its duties on imports for five years, but during that period and thereafter the commonwealth was empowered to grant financial assistance to any state. Deadlocks between the houses of parliament were to be resolved by a simple majority of both houses sitting jointly. And no alterations to the territory of a state could be made without a majority of electors voting for it.

The draft constitution was passed by overwhelming majorities in Victoria, South Australia and Tasmania. It was passed by smaller majorities in non-metropolitan electorates in New South Wales and Queensland but was lost in Brisbane. Western Australia voted in favour in September 1900.

Any proposal to modify the constitution accepted in 1899-1900 must pass through two stages. Proposed alterations must be passed by absolute majorities in the House of Representatives and the Senate. The proposal must then be submitted to the electorate. To be carried, the amendment must be passed by a majority of voters in a majority of states, and by a majority of all who voted. Before 1977, voters in Australia's Territories, including the Australian Capital Territory and the Northern Territory, could not vote in referendums.

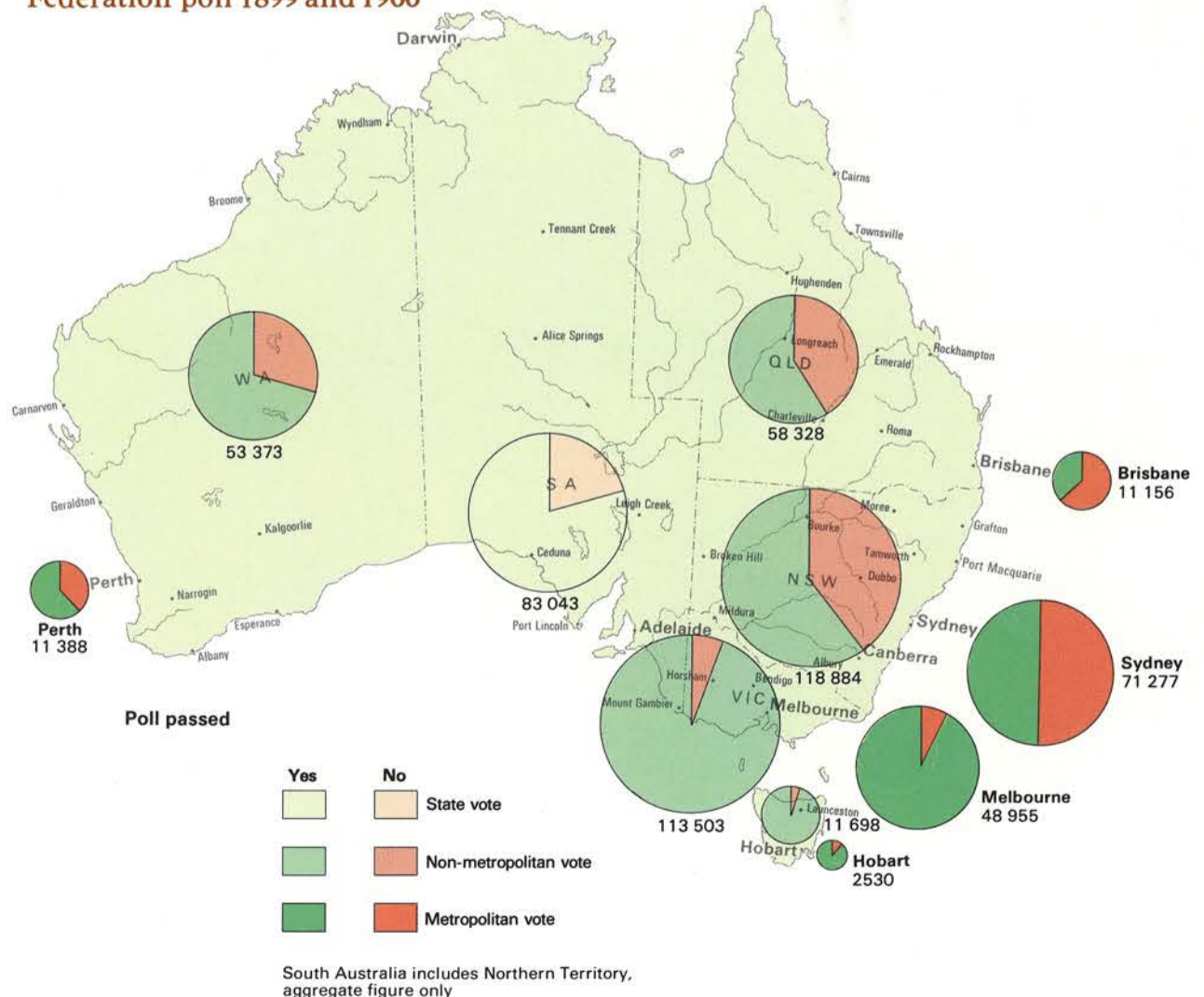
Since the first referendum, held on 12 December 1906, forty proposals have passed the first stage but only eight have passed the second stage to become law. Twenty-two of the referendums were held on a day when an election was being held for one or both of the federal houses. Only five have been considered separately. The other 35 were held in referendums of between two and six proposals.

The results of two referendums have been mapped on the opposite page. Both show variations in voting responses between states and between the metropolitan and non-metropolitan areas within states.

On 19 November 1945 the High Court found for Victoria in an action against the commonwealth and declared that the Federal Pharmaceutical Benefits Act 1944-45 was *ultra vires* and void. This judgment cast doubts on a number of other social service payments by the commonwealth and it was decided to ask the electorate to allow the commonwealth to make laws for the provision of maternity allowances, widows' pensions, child endowment, unemployment, sickness and hospital benefits, medical and dental services, benefits to students and family allowances. This 1946 referendum, often referred to as the social services referendum, was carried in all states, and the national vote in favour was 54 per cent. The referendum was carried mainly on the metropolitan vote. The non-metropolitan electorates of Queensland, South Australia, and New South Wales voted against the proposal while those in Victoria and Tasmania voted narrowly in favour. Only in Western Australia was the proposal carried comfortably.

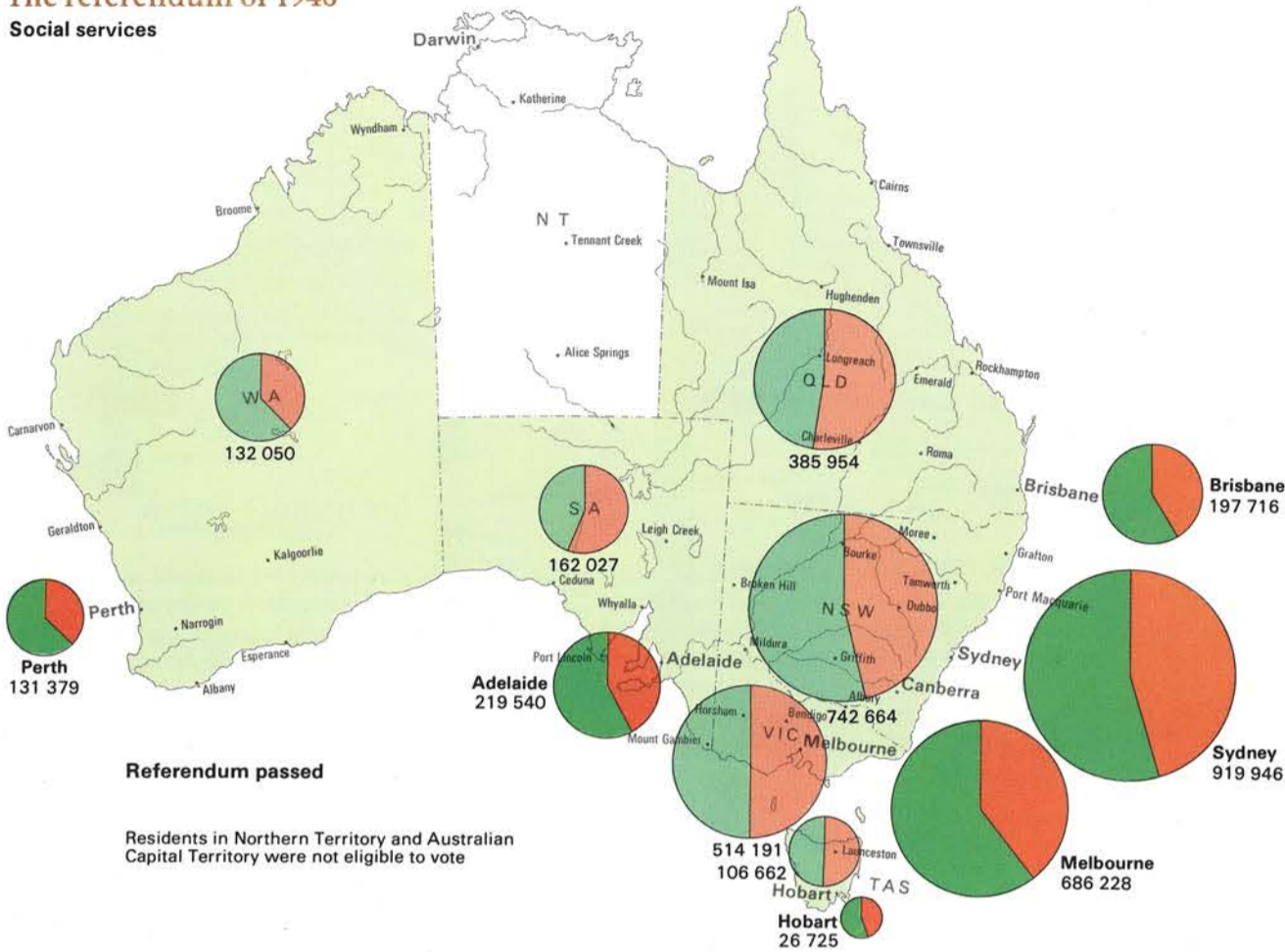
When the High Court ruled that the Communist Party Dissolution Act 1950 was beyond the existing powers of the commonwealth, it was decided by the fifth Menzies ministry to propose an addition to the constitution which would allow the commonwealth to make laws in respect of communists and communism when this was necessary for national security. This government had been re-elected with a reduced majority only five months before the referendum was held on 22 September 1951. In general, the non-metropolitan electorates voted for the proposal except in Tasmania where the vote was evenly split. The fate of the proposal was decided by the metropolitan electorates in Sydney and Melbourne, where a small majority voted against the proposal, and in Adelaide, where a larger majority voted against the proposal. The proposal was lost overall with majorities recorded only in Queensland, Western Australia and Tasmania.

Federation poll 1899 and 1900



The referendum of 1946

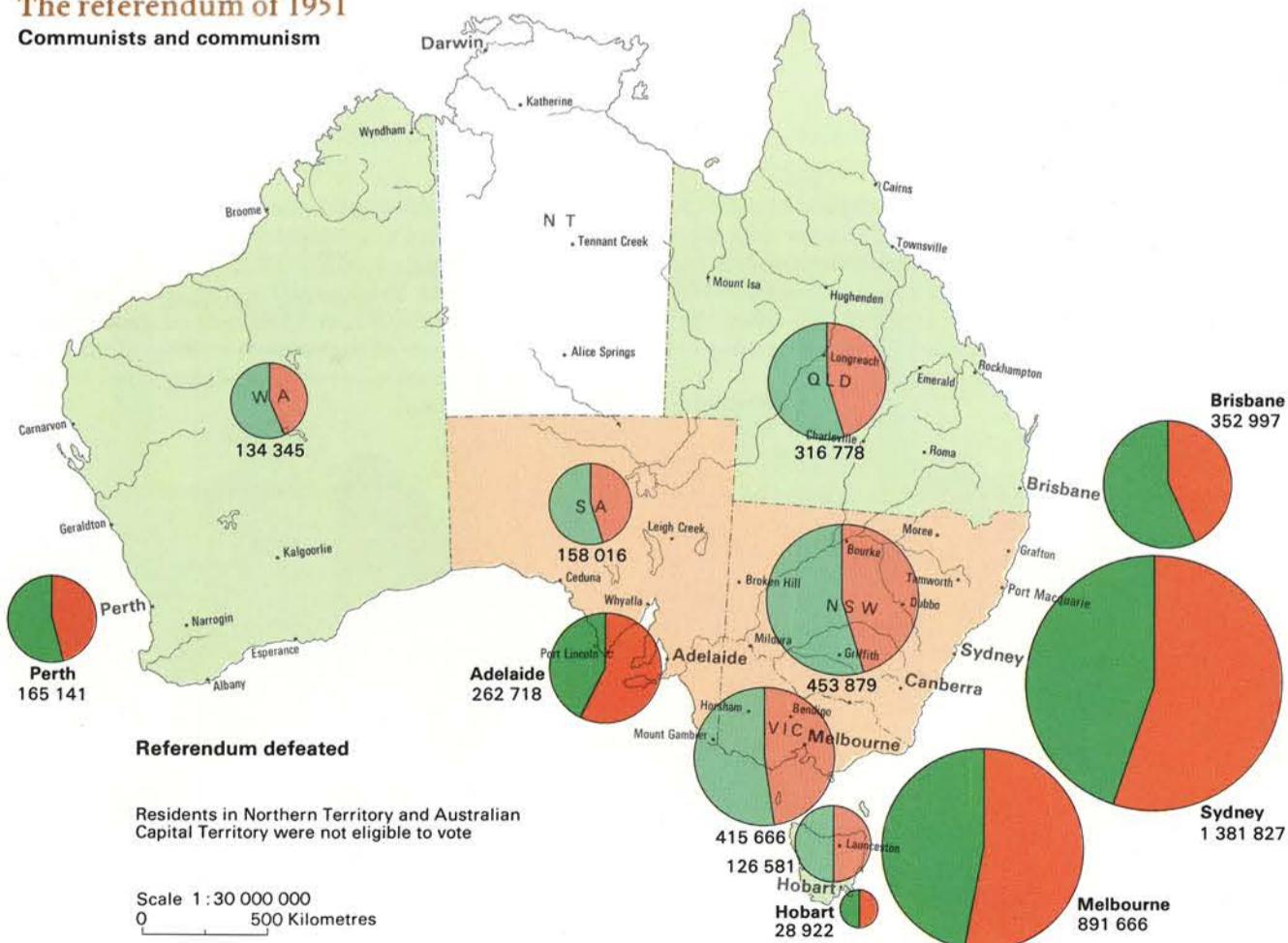
Social services



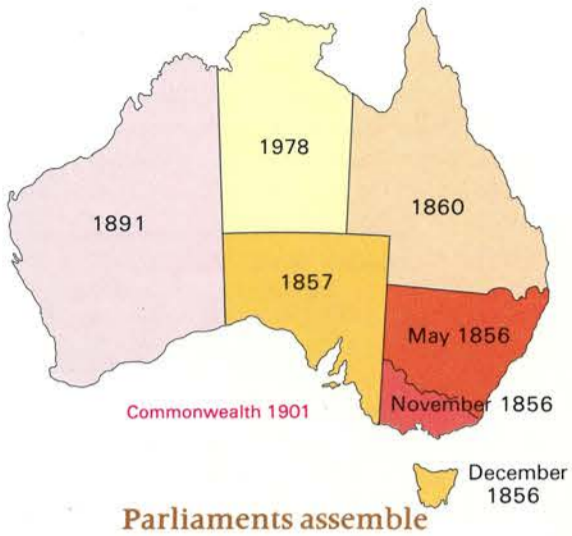
One of the campaign advertisements placed by the Liberal party in the 1951 referendum when prime minister Menzies tried to get the Australian public to alter the constitution to enable him to ban the Communist party. Menzies introduced a Communist Party Dissolution Bill in April 1950 but the High Court decided in March 1951 that the act was invalid. In this advertisement the Liberals attempt to appeal to nationalistic sentiments, trade unionists and Christians. The referendum was defeated. L. Webb, Communism and Democracy, Melbourne, 1954.

The referendum of 1951

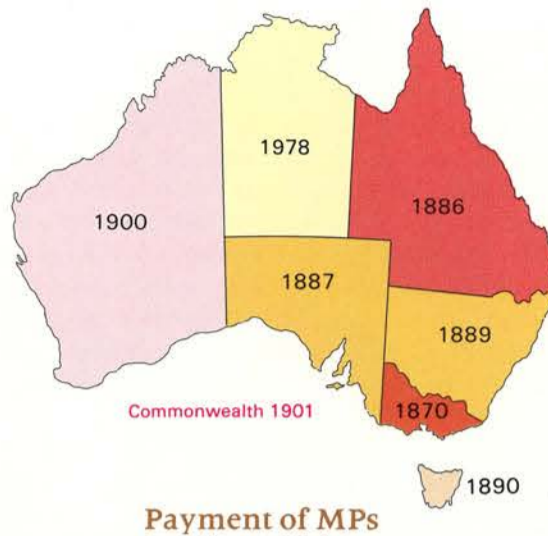
Communists and communism



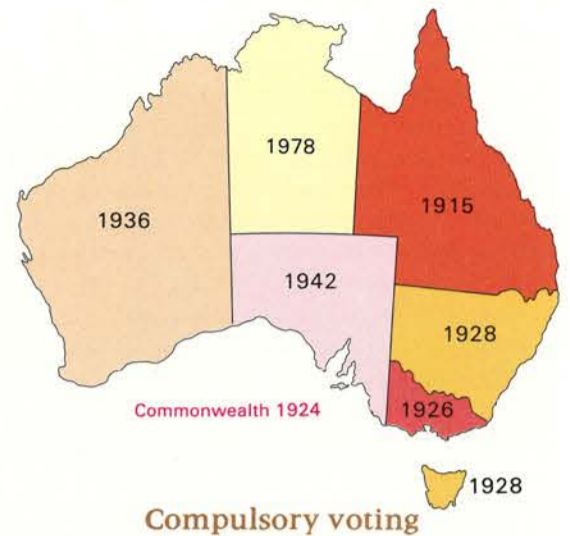
Franchise



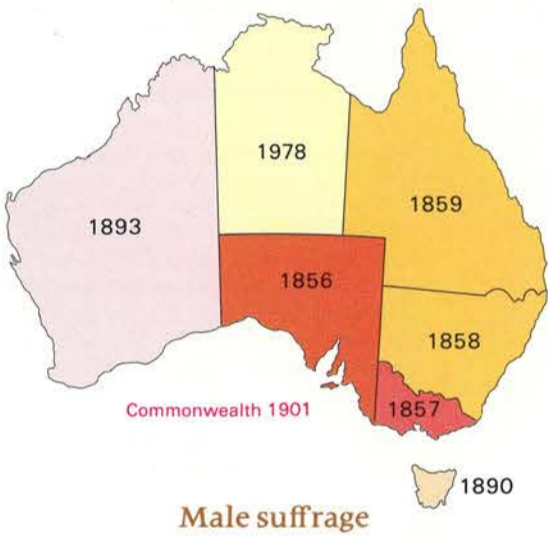
Australia's parliaments followed the British model. Elected by the colonists, they could legislate on all matters of local concern. After separation, Queensland was given its own parliament in 1860. Western Australia's parliament was established later because the colony received convicts until 1868.



Although the British government did not approve, the Australian colonies paid their members of parliament. Victoria pioneered this reform, which led to the employment of full-time politicians and enabled people without private incomes, such as the working class and trade union members, to be elected.



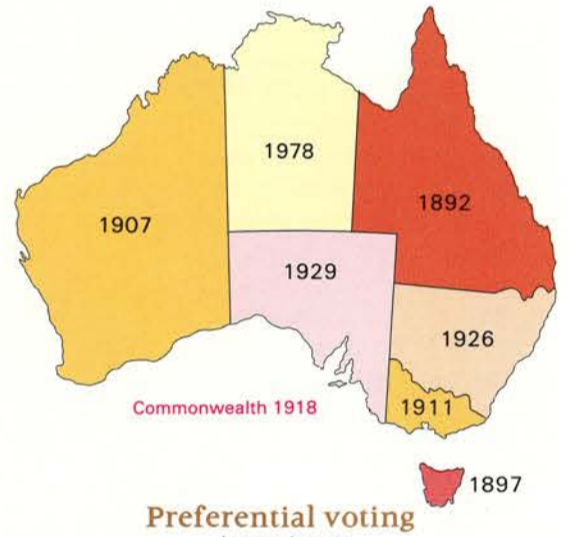
Compulsory voting was introduced because only a small proportion of the eligible population actually voted in elections. Politicians thought that all citizens should be compelled to do their duty. The question of compulsory voting is still a controversial issue.



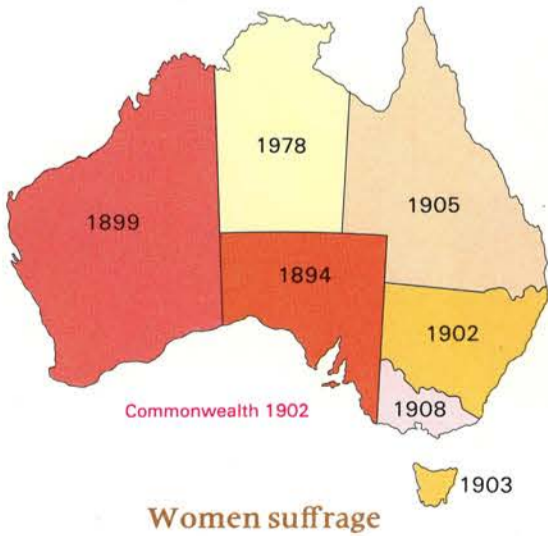
When parliaments were first proposed, it was thought that only male property owners should have the vote. However, there was strong feeling in the colonies that all adult males had this right, which they did not have in Britain, and this reform was introduced.



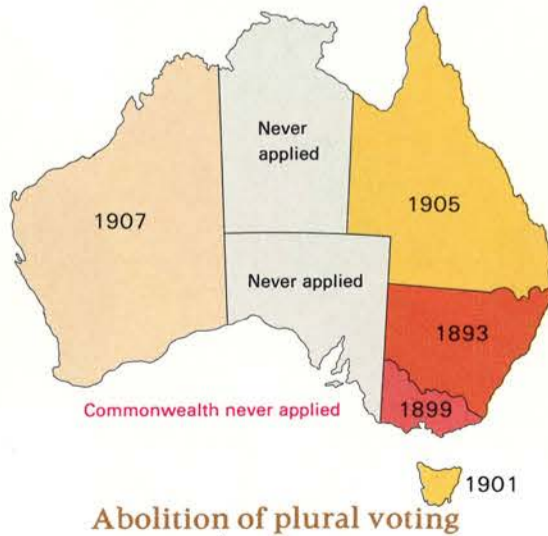
Australia pioneered the secret ballot to elect members of parliament; the object was to prevent the intimidation of voters. In the 1850s the secret ballot was novel, even revolutionary, and was christened the 'Australian ballot'. It was later adopted in Britain and America.



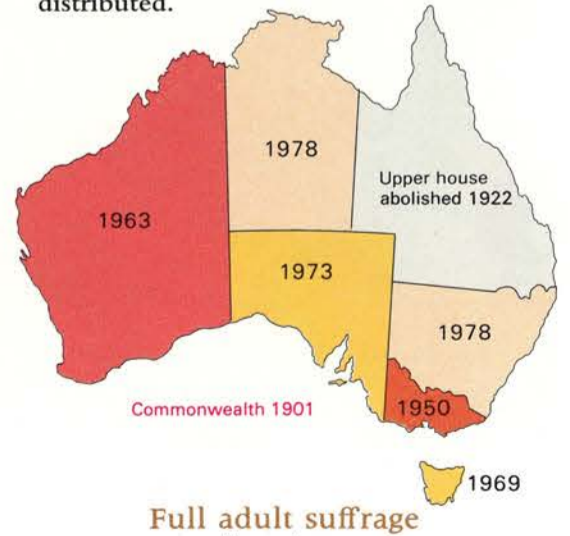
With the first-past-the-post system and more than two candidates in an election, a successful candidate needed less than half the votes. Preferential voting ensured that the successful candidate gained more than 50 per cent of the vote when the preferences of the least successful candidates had been distributed.



Against considerable opposition and forty years after the earliest parliaments had been established, women were given the right to vote. Only in South Australia, however, were they also allowed to stand for parliament. The other colonies followed suit much later.



Until the late nineteenth century, electors were allowed to vote in both the electorates where they lived and the electorates where they owned property, except in South Australia.

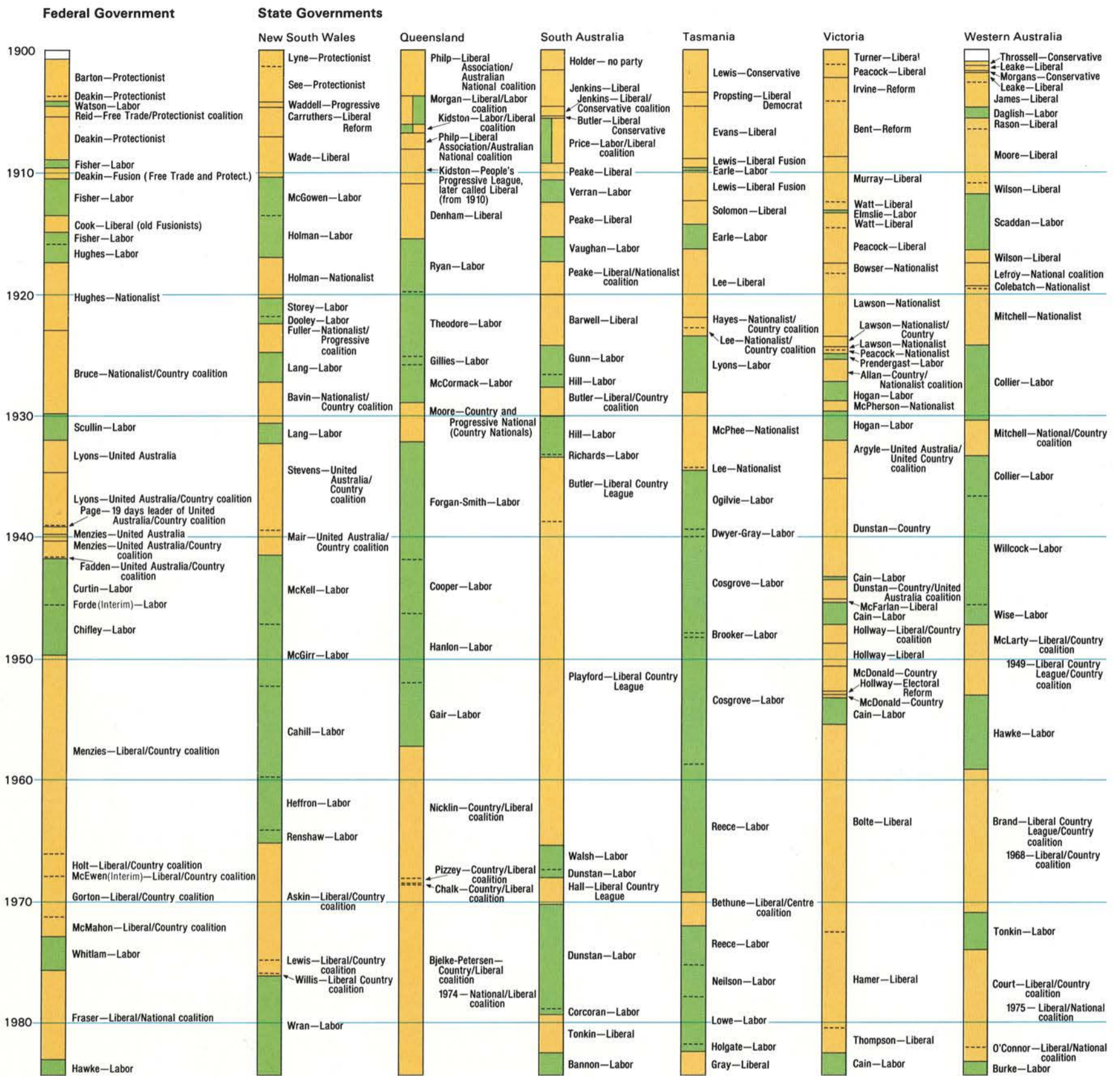


The upper houses were created to act as a brake on hasty legislation passed by the lower houses. Their members were either elected by property owners or appointed by the governors. Only gradually were the appointment and property qualifications removed.



Northern Territory: 1863-1911 South Australian legislation applied, from 1911-1979 federal legislation applied. In 1978 Northern Territory was given self government.

Governments since 1900



On the eleventh of November 1975 the Prime Minister, E.G. Whitlam, who had a majority in the House of Representatives, was dismissed by the governor-general, Sir John Kerr. The strategy of bringing about the Labor government's dismissal while deferring passage of budget bills in the Senate was developed by Malcolm Fraser, leader of the Liberal Party. Kerr appointed Fraser to head a caretaker government. Labor campaigned under the slogan 'Shame, Fraser, shame', and the Liberals countered with 'Turn on the lights'. At the election of 13 December the Liberal-Country Party coalition won 54 per cent of the vote and 91 of the 127 seats in the House of Representatives.

SOCIAL SCIENCES RESOURCES CENTRE, MACQUARIE UNIVERSITY

Shame Fraser. Rally to the Domain Monday 24th, 12-2pm.

Shame Fraser Support Australia.

Shame Fraser, leader of the Liberal Party, was dismissed by the governor-general, Sir John Kerr, on 11 November 1975. Fraser was appointed to head a caretaker government. Labor campaigned under the slogan 'Shame, Fraser, shame', and the Liberals countered with 'Turn on the lights'. At the election of 13 December the Liberal-Country Party coalition won 54 per cent of the vote and 91 of the 127 seats in the House of Representatives.

Legend: Labor (Green), Non-labor (Orange)

Northern Territory

1978

1980

Everingham—Liberal/Country coalition

