

Comparative Constitution Writing Processes of Four Federal Democracies

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Forging Federations

How are new nations written into existence? This is a comparative look at the constitutional transitions of four major federal systems: the United States, Switzerland, Germany, and Australia.

Catalysts for Change

Every federal transition is born from necessity. The previous political orders in these nations had failed or become insufficient, pushing them toward a new, unified, and more powerful central government.



United States (1787)

The Articles of Confederation proved too weak, leaving the new nation unable to manage debt, trade, or internal unrest.



Switzerland (1848)

A brief civil war (the Sonderbund War) exposed the deep fractures in the loose confederacy, forcing a post-conflict political overhaul.



Germany (1949)

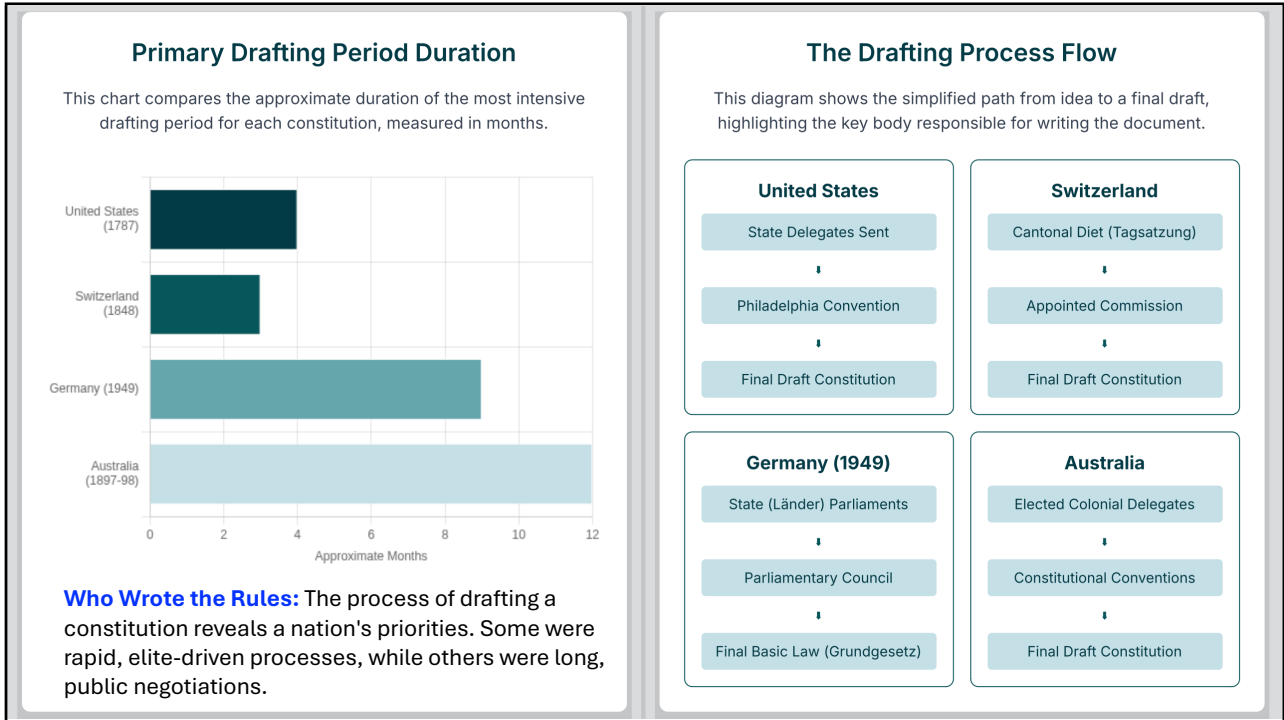
In the wake of WWII and totalitarian rule, the Western Allies prompted the West German states to create a stable, democratic, federal republic.



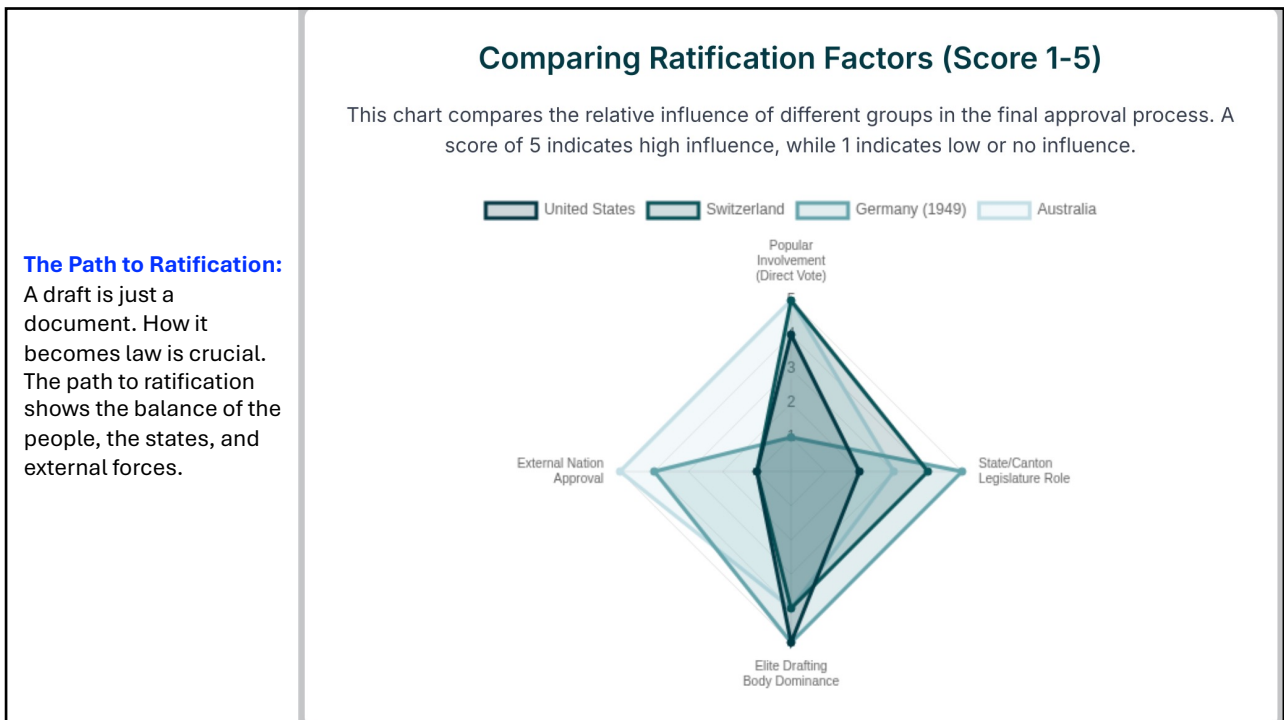
Australia (1901)

Six separate colonies sought unification to build a national economy, manage a common defence, and form a single immigration policy.

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Comparative Summary				
While all four nations created stable, enduring federal systems, their starting points and processes were profoundly different, shaped by the unique historical context of their time.				
FEATURE	UNITED STATES	SWITZERLAND	GERMANY (1949)	AUSTRALIA
Constitution Year	1787 (Ratified 1788)	1848	1949 (Basic Law)	1900 (Enacted 1901)
Previous Order	Weak Confederation	Loose Confederacy	Allied Military Occupation	Six Separate Colonies
Drafting Body	Constitutional Convention	Appointed Commission	Parliamentary Council	Constitutional Conventions
Ratification Method	State Conventions (Popular)	Double Majority Referendum	State Parliaments & Allies	Colonial Referendums & UK A

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The Drafting of a Nation

In the sweltering Philadelphia summer of 1787, 55 delegates gathered to replace a failing confederation. What emerged was a masterpiece of compromise and structured power.

116 Days of Debate

4,543 Words

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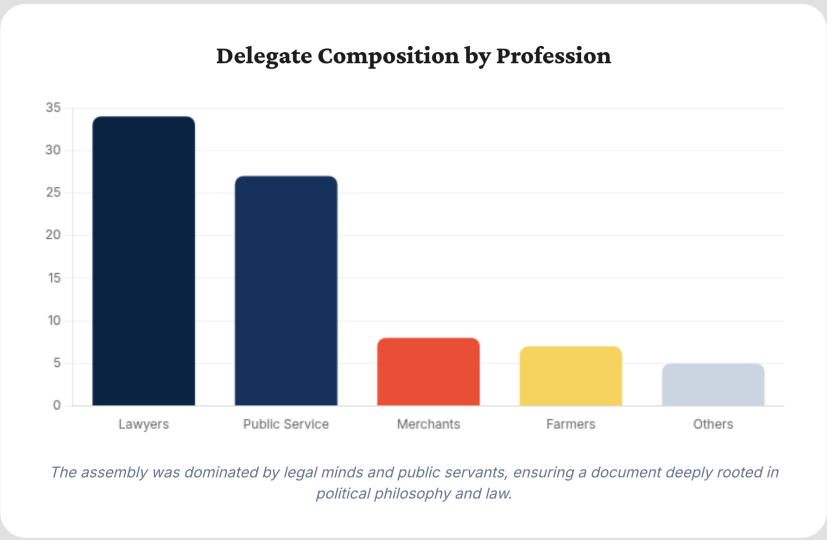
The Convention in Numbers

While 74 delegates were appointed, only 55 attended. The process was defined by a strict "Rule of Secrecy" to allow for honest, often heated, deliberation without public pressure.

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FINAL SIGNATORIES

Three delegates refused to sign because the document lacked a Bill of Rights.

Delegate Composition by Profession



Profession	Count
Lawyers	34
Public Service	27
Merchants	8
Farmers	7
Others	5

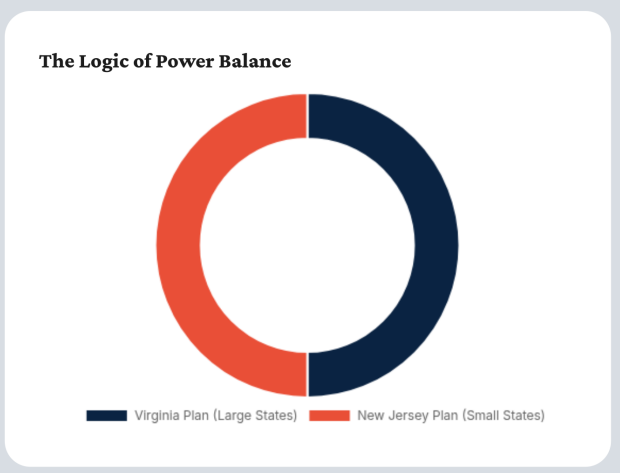
The assembly was dominated by legal minds and public servants, ensuring a document deeply rooted in political philosophy and law.

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The Great Compromise (1787)

The most significant deadlock was between large states (Virginia Plan) and small states (New Jersey Plan). The solution created our modern bicameral legislature.

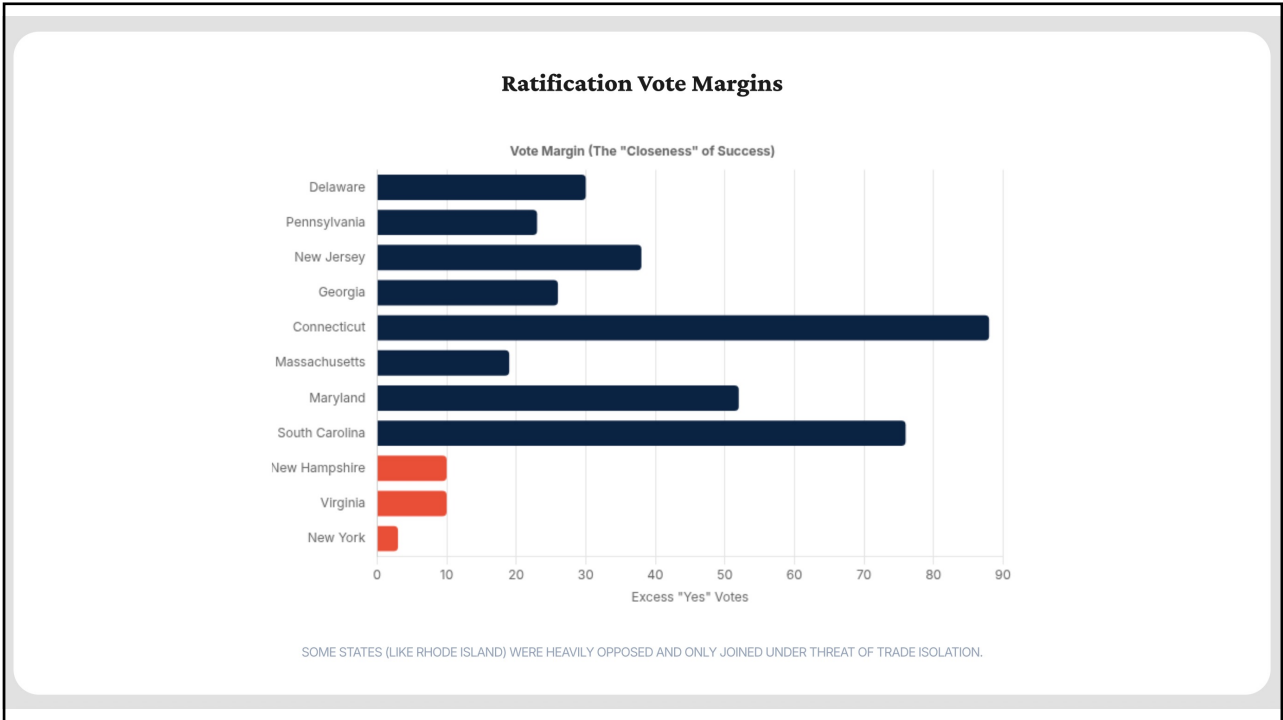
The Logic of Power Balance



Plan	Color
Virginia Plan (Large States)	Dark Blue
New Jersey Plan (Small States)	Red

- L The House (Proportional)**
Favored by Large States. Representation based on population size, ensuring the majority's will is reflected.
- S The Senate (Equal)**
Favored by Small States. Every state gets exactly 2 votes, preventing larger states from dominating the union.

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How a Law Becomes "Supreme"

The Article V amendment process is intentionally rigorous. Over 11,000 amendments have been proposed since 1789, but only 27 have succeeded.

- 1 Proposal**
2/3 vote in both House and Senate (The only method used so far).
- 2 Alt Proposal**
Constitutional Convention called by 2/3 of State Legislatures.
- 3 Ratification**
Approval by 3/4 of State Legislatures (38 States).
- 4 Finality**
The amendment is added. The President has **no role** in this process.

"A Living Document"
The last amendment (27th) was proposed in 1789 but wasn't ratified until 1992—taking 202 years.

0.24%

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PROVISIONAL TO PERMANENT

Engineering a Defiant Democracy

Created in 1948 under the shadow of World War II, Germany's "Basic Law" was designed as a temporary fix. Instead, it became one of the most stable and influential legal frameworks in the world.

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DRAFTING LOCATION

Herrenchiemsee

Where experts outlined the core principles over 2 weeks in 1948.

EFFECTIVE DATE

May 23, 1949

Marking the official birth of the Federal Republic of Germany.

ORIGINAL GOAL

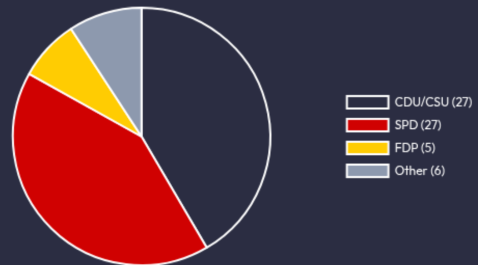
Provisional

Avoided the word "Constitution" to keep the door open for reunification.

The Parliamentary Council

Unlike many constitutions written by a central committee, the Basic Law was drafted by 65 delegates representing the German states (Länder). Their mission was to build a "fortified democracy" (*wehrhafte Demokratie*) that could never again be overthrown from within.

61 Men 4 "Mothers of the Basic Law"



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The Eternity Clause (Art. 79)

Germany employs a unique "Rigidity Gradient." Some parts of the Constitution can be changed easily, while others are unalterable—forever.

Untouchable Core

Article 1 (Human Dignity) and Article 20 (Democracy, Social State, Federalism) are protected by the Eternity Clause. They **cannot** be abolished, even by a unanimous vote.

Flexible Components

Administrative procedures and specific policy details can be amended via a 2/3 majority in both the Bundestag and Bundesrat.

Amendment Thresholds

Category	Threshold
Normal Laws	50%
Constitutional Change	66.6%
Eternity Clause	100%

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The Path to Amendment

- 1 Initiation**

Proposed by the Federal Government, the Bundestag, or the Bundesrat.

Double 2/3 Requirement

The change must be approved by 66.6% of the Bundestag (People's house) and 66.6% of the Bundesrat (States' house).
- 3 Textual Consistency**

The amendment must explicitly state which article is being changed. No "implied" amendments are allowed.

Frequency of Change

The Grundgesetz has been amended over 60 times since 1949, far more than the U.S. Constitution, reflecting its practical, adaptive nature.

60+

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A Living Contract

Unlike static founding charters, the Swiss Constitution is a dynamic framework, frequently updated by its citizens through a unique system of direct democracy.

Current Version: 1999

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The 51-Day Tour de Force

Following the 1847 *Sonderbund* civil war, the Swiss victors didn't impose a dictatorship. Instead, they rapidly drafted a constitution that balanced federal power with cantonal sovereignty—a compromise known as "concordance."

DRAFTING TIME

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Days

In early 1848, a committee of the Diet drafted the first Federal Constitution in less than two months.

Key Innovation: The Bicameral System

Modeled partly on the U.S. Constitution, the 1848 draft created a two-chamber parliament to solve the conflict between large and small cantons.

- 1 **National Council**
Represents the People (Proportional to population)
- 2 **Council of States**
Represents the Cantons (2 per full canton)

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The "Double Majority" Hurdle

Changing the Constitution is difficult by design. A partial revision (amendment) requires approval from **both** the national population and the majority of cantons. This protects rural minorities from being overruled by urban centers.

Requirement 1: The People

Must exceed 50% of the national vote

Yes Vote No Vote

Popular Vote > 50%

Requirement 2: The Cantons

Must win in at least 12 of 23 Cantonal votes*

Cantons Approved Cantons Rejected

Cantonal Vote > 12

*Full cantons count as 1, half-cantons as 0.5. Total 23 votes (from 26 cantons).

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How a Citizen Writes the Constitution

- #### 1 The Initiative

Any group of citizens collects **100,000 signatures** within 18 months proposing a specific text or general idea.
- #### 2 Consultation

Parliament discusses the draft. They may propose a counter-proposal. The "**Vernehmlassung**" ensures all parties give feedback.
- #### 3 The Vote

The proposal goes to a mandatory referendum. It must pass the **Double Majority** rule to become Article X of the Constitution.

🚩 Multilingual Drafting

Articles are drafted in German, French, and Italian simultaneously. There is no "original" translation; all three are equally authoritative legal texts.

📄 Plain Language

Because citizens vote on the text, it is written to be understood by laypeople, avoiding overly complex legal jargon where possible.

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ESTABLISHED 1901

Writing the Commonwealth

Australia's constitution was drafted not by revolution, but by a series of democratic conventions and popular votes among six separate colonies.

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1891

The First Draft

Samuel Griffith led the drafting of the initial text aboard the steamship *Lucinda*.

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Elected Delegates

The 1897-98 Convention saw delegates elected directly by the people for the first time.

1901

Proclamation

Queen Victoria signed the Constitution Act into law after it passed the UK Parliament.

The "Washminster" Hybrid

Australian founders combined the best of two worlds. They took the British (Westminster) concept of responsible government and fused it with the American (Washington) model of a written constitution and federal senate.

Westminster

Responsible Govt, Queen/GG, Cabinet

Washington

Federalism, Written Law, Powerful Senate

Category	Score (0-100)
Written Const.	100
Senate Power	80
Queen/Crown	80
Responsible Govt	80
States Rights	80

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The Double Majority Rule

Section 128 makes the Australian Constitution notoriously difficult to change. An amendment is only successful if it meets two strict criteria.

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The People

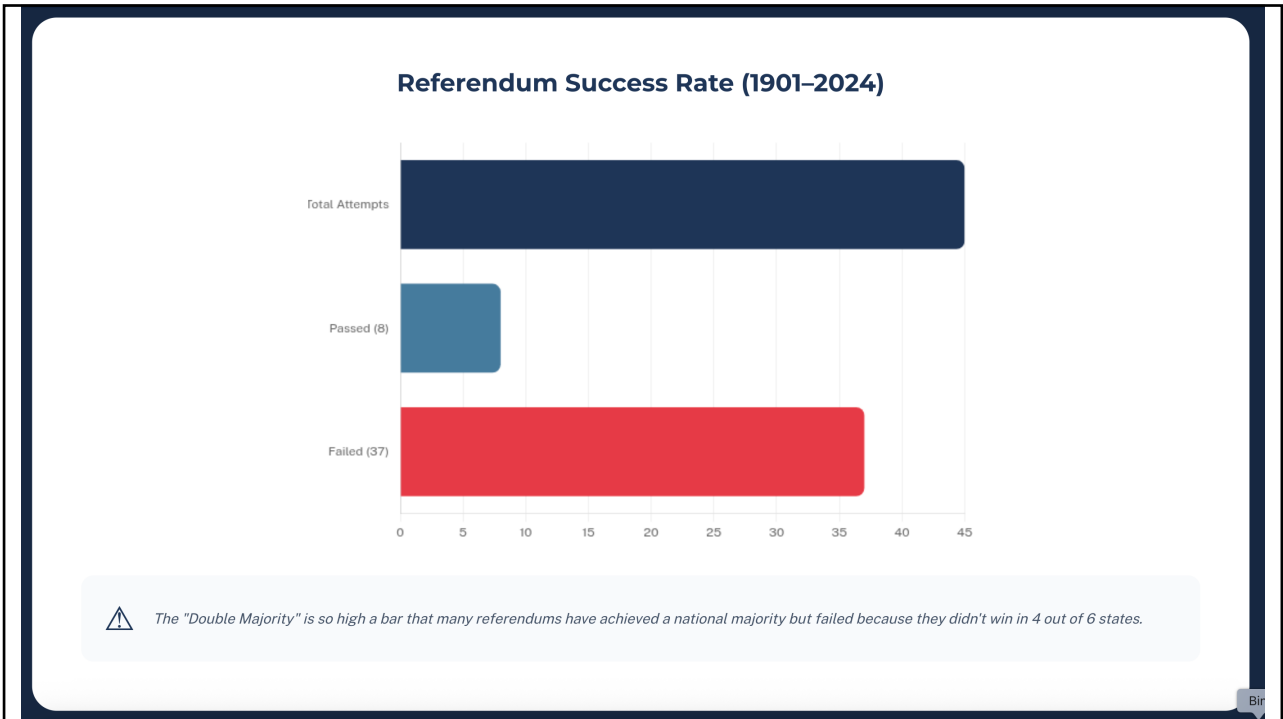
A national majority of all voters (50% + 1) across the whole country must vote 'YES'.

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The States

A majority of voters in a majority of states (at least 4 out of 6 states) must vote 'YES'.

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The Modern Reform Process

- 1 Parliamentary Passage**
A Bill proposing the change must pass both Houses of Parliament with an absolute majority.
- 2 The Writ**
The Governor-General issues a writ to the Australian Electoral Commission to hold a referendum within 2 to 6 months.
- 3 The Public Vote**
Every eligible citizen must vote. The "Yes" and "No" campaigns distribute official pamphlets to every household.
- 4 Royal Assent**
If the Double Majority is met, the Governor-General signs the amendment into the Constitution.