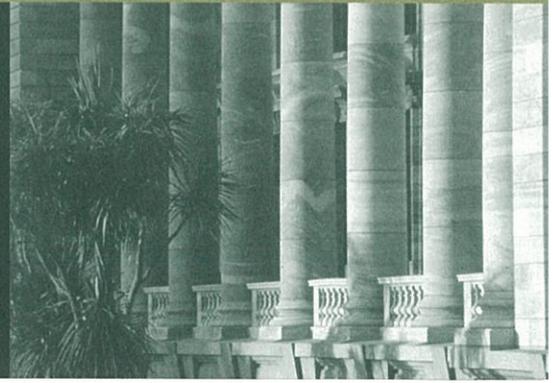




# Parliament Brief



## WHAT IS PARLIAMENT?

This *Parliament Brief* explains the difference between the distinct functions of the institutions of Parliament, Government, and the House of Representatives. It also explains the 'separation of powers' – the relationship between Parliament, executive government, and the judiciary (courts) within New Zealand's constitutional framework.

- Parliament makes the laws.
- The Government administers the laws.
- The judiciary (the courts) interprets the laws.

### CONSTITUTIONAL MONARCHY

New Zealand's system of government is described as a constitutional monarchy. It means that, while our Head of State is a hereditary monarch (the Sovereign), the powers and functions of the Sovereign are exercised within constitutional constraints.

Although New Zealand has no single document that is a constitution, the elements of our constitutional arrangements are contained in several Acts of Parliament, such as the Legislature Act 1908, the Constitutional Act 1986, the New Zealand Bill of Rights Act 1990, and the Electoral Act 1993. These laws include provisions on how we vote, the term of Parliament, the formation of the Government, and individual rights.

The function of these Acts is to constrain the actions of the Sovereign and place political power in the hands of representatives elected by the people and accountable to the people. They are based on centuries of hard-won struggles that have gradually transferred power to the people, both in New Zealand and Britain, from where our system is derived. Our parliamentary system is known as the Westminster model after the British system based at Westminster in London.

### PARLIAMENT

Parliament is the supreme legislative power. It has two constituent parts:

- the Sovereign (represented in New Zealand by the Governor-General)
- the House of Representatives.

The Sovereign's functions in relation to Parliament are to give the Royal assent to bills, call Parliament to meet, dissolve Parliament, and call an election. These functions are carried out on the advice of Ministers of the Crown (the Government). The Sovereign plays no other active role in parliamentary work.



*The Governor-General giving the Speech from the Throne at the State Opening of Parliament.*

In fact, the Sovereign is traditionally barred from entering the House of Representatives. This dates back to events in 17th-century England when, at a time of conflict between the King and Parliament, King Charles I himself entered the debating chamber to arrest members who had offended him. The supremacy of Parliament over the Sovereign was established in England by the Bill of Rights 1688. This remains part of New Zealand's law today (see *Parliament Brief*, 'Parliamentary Privilege' and the Imperial Laws Application Act 1988).

Until 1950 New Zealand's Parliament was bicameral with an upper house known as the Legislative Council. Now it is unicameral. This means it has only one chamber (the House of Representatives) and there is no upper house, such as a senate.

The four main functions of Parliament are:

- to provide representation for the people
- to pass the legislation (law) by which the country is governed
- to scrutinise the activities of the Government
- to approve the supply of public funds to the Government.

## HOUSE OF REPRESENTATIVES

Every time there is a general election or a by-election, voters elect members to the House of Representatives. The functions of the House are set out below.



*The Debating Chamber, Parliament House.*

### **Provides a Government from among its members**

The Government is made up of members of the House of Representatives appointed by the Governor-General as Ministers of the Crown. The House must have 'confidence' in the Government for it to continue in office. This is known as 'responsible government'. The Government (also known as the Executive) is then responsible for day-to-day administration of the country.

Since the introduction of the mixed member proportional (MMP) voting system, it is unlikely that any one party will have a majority of seats in the House. In these circumstances, different parties are likely to negotiate with each other to obtain the support necessary to form a Government.

The Government's composition can take any of the following forms:

- single party majority – one party has more than 50 percent of the seats in the House
- majority coalition – two or more parties with a combined total of more than 50 percent of the seats join together to form a Government
- single party minority – one party with 50 percent or fewer of the seats forms a Government, with an agreement with another party/parties on confidence votes
- minority coalition – two or more parties with a combined total of 50 percent or fewer of the seats join together to form a Government, with an agreement with another party/parties on confidence votes.

A defeat for the Government on a vote in the House is rare. But in itself a defeat does not mean that the House has lost confidence in the Government. It simply means there is insufficient support in the House for that proposal. If, however, a particular vote is identified as a confidence issue, a lost vote could lead to another party forming a Government or the need for an election.

Matters relating to 'supply' of public funds would generally be regarded as matters of confidence because without funds for public expenditure the Government cannot function (see the section on 'Consents to taxation and public expenditure' below).

### **Acts as a legislature**

One of the most important visible functions of the House is to pass the legislation (laws) by which the country is governed. It does this by examining and amending bills (proposed laws) introduced by its members. In recognition of the Government having the confidence of the House, and therefore the right to govern (see above), House procedures provide more time for processing Government bills than for non-Government bills. However, procedures are in place to ensure individual members other than Ministers can introduce bills. Such bills occasionally pass into law (see *Parliament Brief*, 'The Legislative Process').

### **Provides representation**

New Zealand's system is representative. It provides for the people to be represented in Parliament's decision-making processes because it is quite impractical for everyone to participate in person. Parliamentary debate is one means by which members of Parliament formally carry out this representative function. Another is to present petitions to the House from members of the public asking the House to act on a matter of public policy or law, or to put right a

local or private concern (petitions are made once legal remedies have been exhausted).

#### **Observing the House in session**

Members of the public are welcome to observe Parliament at work. You can visit the House of Representatives in session, watch the House from your computer or on television, and tune in to radio broadcasts.

Each member has the dual role of representing the people's views to the House and the Government and of representing the actions of the House and the Government to the people. This is the connection between each individual voter and the actions that affect the way the country is governed. If individual voters do not like what they hear, they can exercise their votes at the next election to change their representation to better reflect their interests and expectations.

#### **Seating in the Chamber**

In the Chamber of the House of Representatives seats are allocated on a 'block basis' depending on the number of seats each party holds. Members of Parliament sit in blocks allocated to their political party. The parties decide where each member will sit within their block. The most senior members usually sit in the front (the front benches) while junior members sit towards the back (the back benches).

Government parties sit on the Speaker's right. Opposition parties sit on the Speaker's left. The Prime Minister and the Leader of the Opposition traditionally sit opposite each other across the Table of the House.

#### **Consents to taxation and public expenditure**

There is a well-established democratic principle that there should be no taxation without representation. It is therefore illegal for the Government to impose a tax without parliamentary authority given in the form of legislation agreed by Parliament. This is affirmed in the Bill of Rights 1688.

The Government regularly requires the House's approval for supply of public funds to run the country. Its annual Budget is subject to House approval and the Government obtains interim finance by the occasional passage of an Imprest Supply Bill (see *Parliament Brief*, 'Government Accountability to the House'). These must be debated in the House and each debate represents an opportunity for the House to renew its confidence (or otherwise) in the Government.

Failure to obtain supply would almost certainly lead to either a change of Government or a general election because this would be an indication that the House had lost confidence in the Government. Without supply the Government would be unable to pay its creditors, including its employees. Denial of supply is an ever-present danger for any Government, especially one that depends on other parties to obtain it. If the power to approve supply were eroded, the House could be rendered ineffective as a control on the Government.

#### **Scrutinises the Government's activities**

The House has several processes by which it holds the Government to account. Perhaps the most visible of these is question time. Members question Ministers on their management of the country's affairs. This can be a very powerful means of extracting information that might bring into question the performance of individual Ministers or the Government as a whole.

Another significant means of scrutinising the Government is the ability of select committees to initiate their own inquiries. If necessary, witnesses can be compelled to attend and the production of documents can be required. There are several other mechanisms built into House procedures. In fact, anything the House does lends itself to scrutiny of the Government (see *Parliament Brief*, 'Government Accountability to the House').

#### **DISTRIBUTION OF FUNCTIONS**

To maintain a democracy, power cannot be concentrated entirely in one place. Before the development of parliamentary democracy, such concentrations of power existed. They still exist today in some parts of the world. The 'separation of powers' ensures that no single arm of government can exercise undue power in relation to the others. Here are some examples of why separations need to be maintained.

- Without a judiciary independent of executive government, citizens could not have confidence in obtaining justice in the face of an overzealous bureaucracy.
- If the courts could intervene in the legislative process, action could be taken to prevent elected representatives passing laws.
- If the House of Representatives debated a particular court case, it could undermine a fair trial by unreasonably influencing a judge or jury.
- If the Government could change statute law by executive decree, that law would neither receive public scrutiny nor benefit from the rigours of parliamentary debate and detailed examination.

New Zealand's Westminster model fuses the Executive and the legislature to some extent in that Ministers (the Government) must first be elected members of the House of Representatives. This has the benefit of ensuring they are routinely held directly accountable to the House. When they are acting in their executive roles they are quite separate from Parliament.

In summary, functions in relation to the law are distributed as follows to ensure no single arm is able to abuse its power.

Parliament is recognised as sovereign (the highest authority) in the law-making process because it is accountable to the people. However, it is not the sole lawmaker. The courts need to establish what is known as the 'common law' or 'judge-made law' to fill gaps where existing law is not clear. The courts are responsible for interpreting the laws made by Parliament.

When passing laws Parliament also delegates some secondary law-making powers to the Government. This is known as delegated legislation (see *Parliament Brief*, 'The Legislative Process'). Parliament's law-making role therefore involves a need for careful scrutiny of the Government's legislative proposals. Parliament is unlikely to agree to sweeping provisions that empower the Government to make law that is so significant in its application that it ought to be made in Parliament itself. To do so would place disproportionate power in the hands of executive government.

## FURTHER READING

McGee, David, *Parliamentary Practice in New Zealand*, 3rd edition, Dunmore Publishing, Wellington, 2005 [www.parliament.nz](http://www.parliament.nz)

Martin, John E, *The House: New Zealand's House of Representatives 1854–2004*, Dunmore Press, Palmerston North, 2004

## HISTORICAL BACKGROUND

The Westminster system of parliamentary representation can be traced back to 13th-century England. In 1295 King Edward I summoned the Model Parliament, generally regarded as the first representative assembly, to Westminster.

The Bill of Rights 1688 established Parliament's role in law-making, taxation, and supply. It confirmed absolute freedom of speech in Parliament, and provided for free elections and for Parliaments to be held frequently.

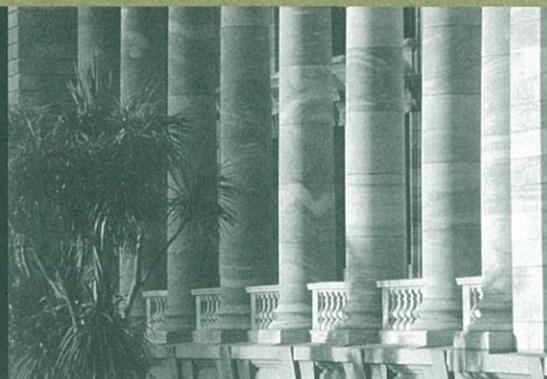
The first legal step towards representative government in New Zealand required a British Act of Parliament, the Constitution Act 1852. New Zealand's first House of Representatives met in 1854. However, it was not wholly representative because not everyone could vote. Nor was there responsible government, as the Government then did not need to have the confidence of the House. Executive government stayed with appointed officials at first but the first responsible government was established soon afterwards in 1856.

Until 1950 the New Zealand Parliament consisted of the Sovereign, the Legislative Council, (upper house), and the House of Representatives (lower house). Membership of the Legislative Council was by appointment rather than election. It was not a popular component of the Parliament. Eventually appointees were chosen to ensure there were sufficient of them to support legislation abolishing the Council. This took effect at the end of 1950.

Throughout most of the latter half of the 20th-century the House was dominated by two parties, either of which could expect to obtain a majority of seats at an election. Without even the constraint of an upper house, this provided a form of government that was easily able to dominate Parliament. It eventually led to pressure to change the electoral system from the 'winner takes all' first past the post electoral system to a proportional system. Since 1996 the House has been elected on a mixed member proportional (MMP) basis. This has placed increased emphasis on parliamentary processes, through which the Government needs to work to implement its policies. This is because no single party can expect to have sufficient members to control the House without seeking agreements and co-operation from members of other parties.



# Parliament Brief



## OFFICERS OF THE HOUSE

Some members of Parliament and officials have specific formal duties in the House of Representatives. They are known as officers of the House:

- The Speaker
- Deputy Speaker and Assistant Speakers
- Clerk of the House of Representatives
- Serjeant-at-Arms

### THE SPEAKER

The Speaker presides over the meetings of the House and rules on points of procedure. It is a role of great significance in a parliamentary democracy and it has a colourful past (see 'The Speaker—historical context').

New Zealand's Speaker has a formal role in representing the House to the Sovereign, such as presenting the Address in Reply, but the main visible function is to chair the meetings of the House and to rule on procedure. This is an important role – the Speaker is numbered third in New Zealand's official order of precedence after the Governor-General and the Prime Minister.



*Rt Hon David Carter being sworn in as Speaker by Governor-General (photo by Rebekah Clement)*

The Speaker is elected from among members at the first meeting of the House after a general election. For the purposes of the election of a Speaker, the Clerk of the House acts as chairperson, and calls for nominations. Any member may nominate another

member for election as Speaker. A nomination must be seconded. If only one member is nominated as Speaker, the Clerk declares that member elected. If there are two or more candidates, the process for the election is determined according to the number of candidates. The Speaker-elect then calls on the Governor-General to be confirmed in office and to lay claim to the privileges of the House. The Speaker remains in office for the term of the Parliament.

The Speaker maintains some links with his or her political party (unlike the United Kingdom where all links are severed after becoming Speaker). The Speaker is, however, expected to act impartially and does not participate in debate in the House, but can participate in debate in Committee of the whole House (see *Parliament Brief*, 'The Legislative Process'). The Speaker has an ordinary vote in the House but no casting vote. The Speaker's vote is included in the collective vote of the party he or she was elected to represent. This ensures party proportionality determined at the general election is maintained. If a personal vote is held (for conscience issues, for instance), the Speaker votes individually, like any other member.

In addition to the Speaker presiding over the House, the Standing Orders (procedural rules) of the House confer upon the Speaker a number of functions to be carried out on behalf of the House. These include issuing a summons for a witness to appear before a select committee or for the production of documents, and considering matters of privilege raised by members.

The Speaker has some statutory functions (specific functions established in law), such as those in relation to the Electoral Act 1993. These include the official declaration of a vacancy in the membership of the House of Representatives.

The Speaker chairs three committees. Two of these, the Business Committee and the Standing Orders Committee, deal with procedural matters. The third, the Officers of Parliament Committee, recommends the annual appropriations (supply of funds) for the Ombudsmen, the Auditor-General, and the

Parliamentary Commissioner for the Environment, as well as recommends the appointments of these officers.

The Speaker has functions in relation to parliamentary administration and the parliamentary precincts. There are five public organisations known as either 'non-public service departments' or 'Offices of Parliament', because their responsibilities are direct to Parliament rather than to Ministers (Office of the Clerk of the House of Representatives, Parliamentary Service, Office of the Ombudsmen, Office of the Auditor-General, and the Parliamentary Commissioner for the Environment). The Speaker is accountable to the House for these offices.

The Speaker also chairs the Parliamentary Service Commission, which comprises members of most parties and provides advice to the Speaker about services and funding provided for the House and members. For the purposes of the Trespass Act 1980, the Speaker is the legal occupier of the parliamentary precincts.

### **The Speaker—historical context**

The Speaker's role has evolved over centuries of British parliamentary history. Its origin in 14th-century England is expressed in the title 'Speaker' being one who speaks for the House and represents the House to the Crown (King or Queen). While early Speakers were often viewed as agents of the Crown, the role became pivotal in times of struggle between the Crown and the House of Commons. In 1642 Charles I entered the House of Commons to arrest five members for treason. The Speaker refused to disclose the members' whereabouts, saying 'I have neither eyes to see, nor tongue to speak in this place, but as the House is pleased to direct me'.

It is a common myth that Speakers have been executed in the course of carrying out their duties. While it is true that between 1399 and 1535 nine people who had once held the office of Speaker were executed or suffered violent deaths, those demises can be attributed to causes (such as armed conflict) other than carrying out the function of Speaker. Their premature ends must be viewed in the context of the times, especially the period of the Wars of the Roses. However, the responsibilities still weighed heavily in uncertain times when free speech could not be taken for granted.

### **DEPUTY SPEAKER AND ASSISTANT SPEAKERS**

The House appoints a Deputy Speaker and up to two Assistant Speakers from among its members. The

Deputy Speaker, in the Speaker's absence, can perform any of the duties and exercise any of the authorities conferred upon the Speaker in relation to parliamentary proceedings. The Assistant Speakers can do this only when actually presiding over the House; they cannot, for instance, carry out the Speaker's functions set out in the Electoral Act 1993.

### **CLERK OF THE HOUSE**

Unlike the presiding roles described above, the Clerk of the House is a permanent non-political officer who remains in office regardless of which party (or parties) controls the House. The Governor-General appoints the Clerk on the Speaker's recommendation. A Deputy Clerk is similarly appointed (see the Clerk of the House of Representatives Act 1988).

The Clerk provides a secretariat to the House and its committees, and advises on parliamentary law and procedure. When the House sits, the Clerk is seated immediately in front of the Speaker, noting the proceedings, calling the business items and the votes, and advising members as required.

When the House first meets after a general election the Clerk, under a commission from the Governor-General, administers the oath or affirmation of allegiance required of members (section 11 of the Constitution Act 1986).

The Clerk is the chief executive of the Office of the Clerk of the House of Representatives, which is established to support the discharge of the Clerk's functions.



*Speaker's chair and the mace*

### **SERJEANT-AT-ARMS**

The most visible role of the Serjeant-at-Arms is the ceremonial function of carrying the mace while leading the Speaker in and out of the debating chamber. The Serjeant-at-Arms is responsible for ensuring rules of conduct in the precincts of the debating chamber are observed while the House is sitting. If the Speaker were to issue a summons, it

would be the Serjeant-at-Arms who would ensure it was served.

The office of Serjeant-at-Arms in England dates back to 1415 when a King's serjeant was first appointed to serve the House of Commons when in session. Today in New Zealand, like the Clerk of the House, this is a permanent non-political appointment. The mace carried by the Serjeant-at-Arms symbolises the Speaker's authority. The Serjeant-at-Arms carries it into the debating chamber ahead of the Speaker and on any other ceremonial occasions such as delivering a formal address to the Governor-General.

### **WHERE DOES BLACK ROD FIT IN?**

The Usher of the Black Rod is not an officer of the House, but is included here for completeness. In a Parliament where there is an upper house (such as Australia's Senate or the British House of Lords), the Usher of the Black Rod has a similar role in the upper house to that of the Serjeant-at-Arms in the lower house.

The 'Black Rod' itself is the ceremonial staff of office. New Zealand's upper house (the Legislative Council) was abolished in 1950. However, the position of Usher of the Black Rod in New Zealand has been retained to enable the Governor-General to have a messenger for ceremonial communications with the House, such as conveying the request to members of the House summoning them to the Governor-General's presence to hear the Speech from the Throne. This is done in a traditional manner, with entry to the House being barred until the Usher of the Black Rod knocks three times on the door. Only then will entry be permitted. This procedure developed in Britain to prevent a repeat of the unwelcome foray by Charles I into the House of Commons in 1642.

### **FURTHER READING**

All *Parliament Briefs* are available free of charge at: <http://www.parliament.nz/en-nz/about-parliament/how-parliament-works/fact-sheets/>

Laundy, Philip, *The Office of the Speaker*, Cassell and Company, London, 1964

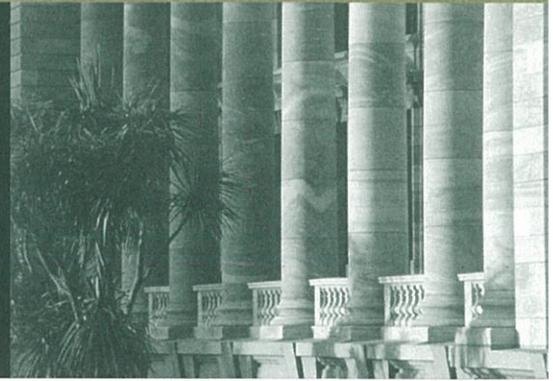
Martin, John E, *The House: New Zealand's House of Representatives 1854–2004*, Dunmore Press, Palmerston North, 2004

McGee, David, *Parliamentary Practice in New Zealand*, 3rd edition, Dunmore Publishing, Wellington, 2005 [www.parliament.nz](http://www.parliament.nz)





# Parliament Brief



## SELECT COMMITTEES

New Zealand's select committee system enables members of Parliament to examine issues in more detail than is possible in the House of Representatives. Select committees can also provide the public with an opportunity to comment on and suggest changes to impending legislation, and to participate in other parliamentary functions such as inquiries. Select committees carry out public scrutiny of the Government's spending plans and of the performance and operations of Government departments, Crown entities, and State enterprises. Select committees operate under the authority of the House and are required to report to the House.

### APPOINTMENT OF COMMITTEES

Select committees are appointed at the start of each Parliament (after a general election). The number of members on a committee can vary, but normally a committee has between six and twelve members each, with parties broadly represented in proportion to party membership in the House. The areas of ministerial responsibility are reflected in 13 subject-specific committees:

- Commerce
- Education and Science
- Finance and Expenditure
- Foreign Affairs, Defence and Trade
- Government Administration
- Health
- Justice and Electoral
- Law and Order
- Local Government and Environment
- Māori Affairs
- Primary Production
- Social Services
- Transport and Industrial Relations

There are also five specialist committees:

- Business
- Officers of Parliament
- Privileges
- Regulations Review
- Standing Orders

An ad hoc committee can also be appointed for a specific purpose such as a bill or an inquiry. For example, in 2010 the House established the Electoral Legislation committee as an ad hoc committee.

### COMMITTEE BUSINESS

Committee work includes examining bills (proposed laws) and holding the Government accountable to the House in several ways. The types of business of the 13 subject-specific committees are set out below.

#### Bills

After passing its first reading, a bill is usually referred to a select committee to examine the bill in detail and make recommendations for amendment to the House. The committee can call for public submissions, by advertising and by approaching organisations and individuals with a known interest in the legislation. Six months is usually allowed for consideration of each bill but this can be either extended or shortened by the House. People can ask to give an oral presentation to the committee, in addition to providing written submissions.

#### eCommittee

eCommittee is the electronic information system for select committees. It is used to distribute papers to committee members electronically, allowing them to access their papers quickly in their parliamentary offices, at committee meetings, and from locations outside Wellington.

eCommittee enhances public access to select committees by making information available on the internet and allowing people to make submissions online. People wishing to make an online submission can access the form from the web address below.

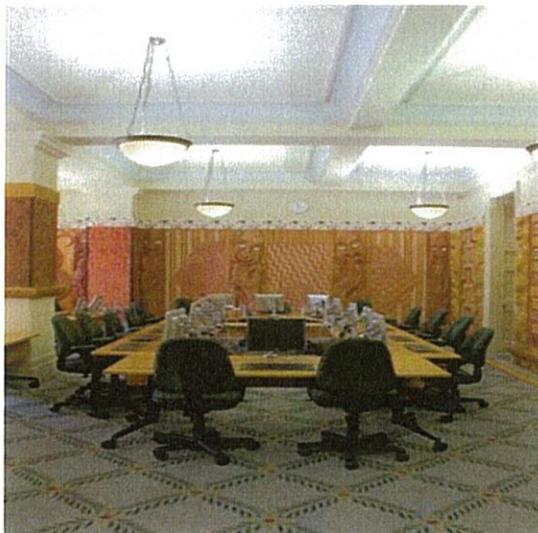
<http://www.parliament.nz/en-nz/pb/sc/make-submission/>

The committee considers matters raised in submissions and receives advice from its appointed advisers, who are usually drawn from Government departments. It then decides whether to recommend the bill be passed, and recommends any amendments

it considers necessary. The committee presents to the House a reprinted bill showing the amendments it recommends, with a report explaining its recommendations (see *Parliament Brief*, 'The Legislative Process').

### **Inquiries**

Committees can hold inquiries within their subject areas. They can call for public submissions and request evidence from any organisation that is the subject of an inquiry. After considering the evidence, committees may report to the House with their findings and recommend that the Government take certain actions. The Government must respond formally to any committee recommendations within 60 working days. The Government's response is presented to the House and is publicly available.



*One of Parliament's committee rooms, known as Māui Tikitiki a Taranga.*

### **Estimates**

After the Budget has been presented in the House, committees have two months to consider the Government's spending plans (the Estimates) for the new financial year. Committees examine the spending plans and call for evidence from the Minister responsible to justify the planned spending. Committees report to the House with recommendations whether to approve spending, and may recommend changes. The reports are debated in the House.

### **Financial reviews**

Committees conduct financial reviews of more than 100 entities (including Government departments, Officers of Parliament, Crown entities, State enterprises, and public organisations) by examining their previous year's performance and current

operations. This is crucial for maintaining the Government's accountability to the House for the funding made available to it by Parliament in the previous year's Estimates. The reports are debated in the House.

### **Petitions**

A member of the public can request that the House take action on a matter of public policy or law, or to address a personal grievance, by presenting a petition to the House, through their local member of Parliament. The petition is referred to the appropriate committee, which decides whether to seek submissions from affected people or organisations. If the committee reports to the House with recommendations, the Government must respond within 60 working days.

### **International treaties**

Some treaties are referred to committees, which consider whether any matters relating to the treaties should be drawn to the House's attention. Committees do not have to report on the treaties within a specific time period, but after 15 House sitting days the Government may take final action on the treaty, such as ratification.

### **Reports of Officers of Parliament Committee**

Committees are required to report to the House on reports from Officers of Parliament. Reports of the Controller and Auditor-General are referred to the Finance and Expenditure Committee, those of the Ombudsmen to the Government Administration Committee, and those of the Parliamentary Commissioner for the Environment to the Local Government and Environment Committee.

These committees can consider the reports themselves, or refer them to another committee whose subject area covers the subject matter of the report.

### **PUBLIC ACCESS TO COMMITTEE PROCEEDINGS**

When a committee hears evidence (such as submissions), the meetings are usually open to the public, including the news media.

A committee may, however, decide unanimously to hear particular evidence in private or in secret. Private evidence remains confidential until the committee reports. It then becomes publicly available, along with all the other committee proceedings. Secret evidence remains secret after the committee presents its report. Secret evidence can be released only by order of the House.

When committees are not hearing evidence, proceedings are not open to the public. This allows members to discuss issues freely while they decide what to report to the House. It would be much harder to have free and frank discussions if committees were open to observation by the public and the media. This would inevitably drive some discussions out of the committee room and into private unofficial meetings.

After a committee reports to the House, papers (other than secret evidence) related to that item are made available through the website at [www.parliament.nz](http://www.parliament.nz).

## PARLIAMENTARY POWERS AND WITNESSES' RIGHTS

Most evidence supplied to committees is given willingly, because people want to help committees reach an outcome that takes into account their concerns. However, committees may sometimes need information that would not be provided so willingly. Therefore, the House of Representatives has the power to require:

- witnesses to appear before a committee
- the production of documents to a committee
- answers to relevant committee questions.

The powers derive from the privilege to send for persons, papers, and records (see *Parliament Brief*, 'Parliamentary Privilege'). Because they are somewhat coercive, procedures have been developed to ensure due deliberation is built into the exercise of these powers, which are used rarely. The mere knowledge of their existence tends to ensure co-operation.

Evidence given to committees is covered by the absolute freedom of speech that applies to all parliamentary proceedings. The House has therefore built into its Standing Orders (procedural rules of the House) some natural justice procedures giving a right of reply. This ensures a fair process is followed for those whose reputation may be seriously harmed by comments made during parliamentary proceedings. Parliamentary privilege prevents the person from taking legal action for defamation.

Standing Orders provide further rights to witnesses, including the right to ask to be heard in private or in secret, the right to be accompanied by counsel, the ability to object to questions, and the right to comment on proposed findings in a draft report that might be damaging to their reputation.

## FURTHER READING

The *Parliament Brief* series are available at: <http://www.parliament.nz/en-nz/about-parliament/how-parliament-works/fact-sheets>

Office of the Clerk, *Making a Submission to a Parliamentary Select Committee*

Office of the Clerk, *Natural Justice before Select Committees*

Office of the Clerk, *Petitioning the House of Representatives*

Office of the Clerk, *Working with Select Committees*

The guides above are available at: <http://www.parliament.nz/en-nz/about-parliament/how-parliament-works/procedures>

*Standing Orders of the House of Representatives*, 2011

The Standing Orders of the House of Representatives are available at: <http://www.parliament.nz/en-nz/pb/rules/standing-orders>

State Services Commission, *Officials and Select Committees – Guidelines* <http://www.ssc.govt.nz>

### **Thirteen subject-specific committees**

**Commerce:** business development, commerce, communications, consumer affairs, energy, information technology, insurance, superannuation, and tourism.

**Education and Science:** education, education review, industry training, research, science, and technology.

**Finance and Expenditure:** audit of the financial statements of the Government and departments, Government finance, revenue, and taxation.

**Foreign Affairs, Defence and Trade:** customs, defence, disarmament and arms control, foreign affairs, trade, and veterans' affairs.

**Government Administration:** civil defence, cultural affairs, fitness, sport and leisure, internal affairs, Pacific Island affairs, Prime Minister and Cabinet, racing, services to Parliament, State services, statistics, and women's affairs.

**Health:** health.

**Justice and Electoral:** courts, Crown legal and drafting services, electoral matters, human rights, and justice.

**Law and Order:** corrections, criminal law, police, and serious fraud.

**Local Government and Environment:** conservation, environment, and local government.

**Māori Affairs:** Māori affairs.

**Primary Production:** agriculture, biosecurity, fisheries, forestry, lands, and land information.

**Social Services:** housing, senior citizens, social development, work and income support, and youth development.

**Transport and Industrial Relations:** accident compensation, immigration, industrial relations, labour, occupational health and safety, transport, and transport safety.

### **Five specialist committees**

**Business:** facilitates House business, decides the size and composition of select committees, grants extensions to the report dates for bills before committees, and grants permission for members' votes to be counted while they are absent from the House.

**Officers of Parliament:** makes recommendations to the House on the appropriations and the appointments of the Auditor-General, the Ombudsmen, and the Parliamentary Commissioner for the Environment.

**Privileges:** considers questions of privilege (see *Parliament Brief*, 'Parliamentary Privilege').

**Regulations Review:** examines the legal instruments variously known as 'regulations', 'delegated legislation', and 'subordinate legislation', made under delegated powers in an Act of Parliament.

**Standing Orders:** House procedures and practices.

# The Beehive – Executive Wing

The 'Beehive' is the popular name for the Executive Wing of the parliamentary complex because of the building's shape. This is where the Prime Minister and Cabinet Ministers have offices, and where the Cabinet meets.

## **Beehive design**

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Sir Basil Spence, a British architect, designed a concept for the Beehive during a visit to Wellington in 1964. Some of his original drawings are on display in the Beehive. In his concept, rooms and offices radiated from a central core. This concept was developed by the Government Architect of the Ministry of Works.

The Beehive was built in stages between 1969 and 1979, when the first parliamentary offices moved in.

A scale model of the building made in 1969 by J A Coker from the Ministry of Work was passed to the Parliamentary Collection by Opus International Consultants Ltd in 1999.

The Beehive is 72 metres tall. It has 14 floors two of which are below ground. It is connected to Bowen House, where many members of Parliament and Ministers have offices, by an underground walkway that runs underneath Bowen Street.

## **Entrance foyer**

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This is where Parliament's Visitor Centre is based and tours start from here. In the vicinity you will also find the Parliament gift shop and the Education Centre. Significant refurbishment was undertaken between 2004 and 2006. The airy double-storey space features macrocarpa wall panels, Takaka marble clad columns, a backlit translucent onyx wall at one end and opaque glazed walls at the opposite end. The core of the building is decorated with marble floors, stainless steel mesh wall panels and a translucent glass ceiling. Susan Skerman's 'Bushwalk' artwork is the main feature in the West foyer.

## **Banquet Hall**

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The Banquet Hall, on the first floor of the Beehive, is the largest function room in the parliamentary complex. Guests reach the Banquet Hall entrance from an open marble staircase with bronze balustrades that leads from the ground floor foyer.

The Banquet Hall is a semi-circular space, designed to be big enough to host state banquets with up to 300 guests. On the inner wall there is a large three-dimensional mural by John Drawbridge (1930–2005). The mural portrays the atmosphere, landscape and sky of New Zealand using enamel gloss paint on aluminium angles. It is one of the artist's most significant works.

The décor of the Banquet Hall is dominated by Takaka marble on the lower walls and columns. The tongue and groove floor is made from tawa, a New Zealand native timber, laid in segments radiating from the core of the building.

## **National Crisis Management Centre**

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The National Crisis Management Centre, in the Beehive sub-basement, is the Government's command centre in the event of a major emergency or security threat. The Centre includes kitchens, bunkrooms, and other facilities so that people can support themselves to live and work here for extended periods of time.

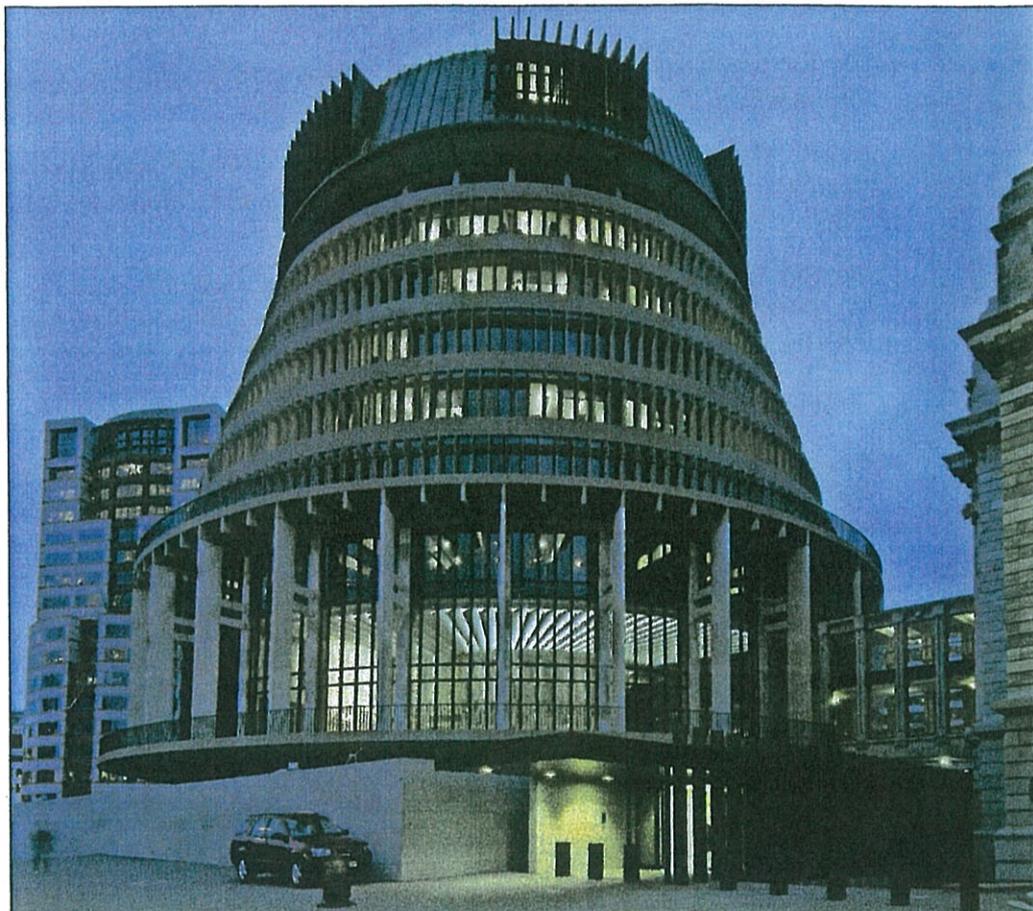


## **Beehive facilities**

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There are special facilities in the Beehive for members of Parliament. These include several function rooms, a theatrette, swimming pool, gymnasium and television studio.

Bellamy's, the parliamentary catering service, is based here. Bellamy's caters for functions for members of Parliament and staff at a number of dining rooms and function venues in the Beehive and elsewhere in the parliamentary complex. Copperfields Café can be visited by the public on Open Days.



Photographer: Paul McCredie  
Parliamentary Service Collection



# Parliament Brief



## PARLIAMENT AND THE GENERAL ELECTION

A term of Parliament in New Zealand may not last more than three years. Several parliamentary processes, laws, and conventions (established practices) ensure a smooth transition and provide safeguards for democratic process when an election has been called.

### HOW A PARLIAMENTARY TERM ENDS

The exact date by which a parliamentary term must end is already fixed before the previous general election. The new Parliament can last no longer than three years from the latest date set for the 'return of the writ' (official return of result) for that election.

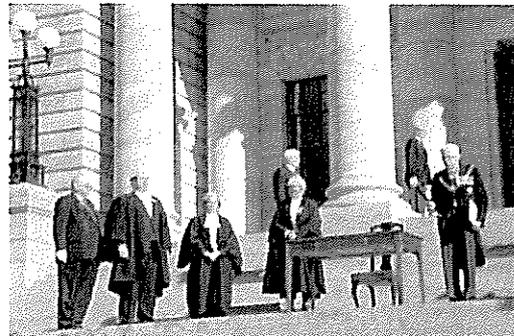
The Governor-General (representing the Sovereign, who, if present in New Zealand, would carry out these functions) normally brings a parliamentary term to an end. In accordance with convention, this action is taken on the formal advice of the Prime Minister, resulting in a proclamation dissolving Parliament – referred to as a 'dissolution'. By convention, the Governor-General then proclaims a date on which the new Parliament will be summoned to meet. This proclamation is likely to be superseded on advice from the new Government (see 'Parliament summoned' below). However, it is an important constitutional safeguard and signifies the intention to maintain democratic institutions.

The dissolution is effective from the time it is published in the *New Zealand Gazette* (the Government's publication for official notices) or earlier if it is read aloud in the presence of the Clerk of the House and other witnesses. This may involve a ceremony on the front steps of Parliament House.

In some countries (such as the United Kingdom, with a parliamentary term of five years) it is common for the Government to seek a dissolution and call an election well before the parliamentary term expires.

In New Zealand the tendency has been for a Parliament to run for most of the three-year period. There is not, however, any specific law or convention requiring this.

There is generally a period of several days between the last day the House sits and the day Parliament is dissolved. This enables some parliamentary processes to be completed, such as obtaining Royal assent to bills and printing select committee reports for presentation. Written questions may be lodged and papers (such as annual reports of government departments) may be presented during this period. In the absence of a dissolution, Parliament automatically expires at the end of the three-year period.



*The 50th Parliament was dissolved on 14 August 2014: the Herald of Arms Extraordinary to The Queen reads the Proclamation in the presence of the Clerk of the House and official witnesses*

### STARTING THE ELECTORAL PROCESS

Once the dissolution or expiration has occurred, the Governor-General issues a writ to the Electoral Commission for a general election to be held. The writ sets out the closing date for nominations of candidates, polling day, and the latest date for the writ to be

returned with the final results. The Electoral Act 1993 prescribes the range of time for these processes. This ensures that there can be no unreasonable delay in electing a new House of Representatives.

For information about the electoral system and processes, visit the elections website at: [www.elections.org.nz](http://www.elections.org.nz).

## UNFINISHED BUSINESS

At the time of dissolution there is likely to be unfinished business (such as bills and petitions) before the House and committees. The Constitution Act 1986 had provided for business to be 'carried over' to the new Parliament by House resolution – effectively imposing an agenda on the newly elected House.

In 2005, the Constitution Act 1986 was amended. Now all business before the House and committees lapses at the time of dissolution or expiration. However, business can be reinstated by the new House at the same stage it had reached in the previous Parliament. This enables the new House to determine which business will continue to be considered.

## THE 'INTERREGNUM'

The period between the dissolution of one Parliament and the opening of the next is sometimes called the 'interregnum'. This word's literal meaning is 'between reigns'. During this period the country is still governed and administrative decisions in relation to Parliament must be made.

## Government continues

The Government in office at the time of the dissolution continues to run the country through executive decision-making. In the period immediately before a general election, successive governments have restricted their actions to some extent in recognition of the fact that an election, and therefore a possible change of government, is imminent. For instance, significant appointments and advertising campaigns might be deferred but day-to-day issues continue to be managed.

The term 'caretaker government' applies in two circumstances. The first is if an election had been called because the House had lost confidence in the Government. The second applies to the period between polling day and the appointment of a new Government if election results indicate either a change of government or uncertainty about the new Government's formation, see 'Forming a new Government' below. Conventions guide Ministers and officials during such periods. These require deferral of significant initiatives until a new Government is in place.

## Role of the Speaker of the House

The Speaker (see *Parliament Brief*, 'Officers of the House') remains in office until the close of polling day. Between polling day and the first sitting of the new House, the former Speaker continues to chair the Parliamentary Service Commission and to be the 'Responsible Minister' for the Office of the Clerk, the Parliamentary Service, and the Offices of the Ombudsmen, Controller and Auditor-General, and Parliamentary Commissioner for the Environment (the Offices of Parliament).

## Forming a new Government

New Zealand's parliamentary system is based on the principle that government Ministers must first be elected as members of Parliament. This ensures direct accountability to the House. However, the official results of the election are not returned in the writ until two to three weeks after polling day. Until 1986 the period of caretaker government continued until after the final results were returned because no new Ministers could be appointed until they had been confirmed as members of Parliament.

The Constitution Act 1986 recognises that the overriding principle in forming a Government is that a new mandate has been given and a new Government should therefore be able to take office immediately after this has been established. The current requirement is that anyone appointed as a Minister must have been a candidate and must become a member of Parliament within 40 days of appointment. This allows a Government to be formed immediately when the outcome of the election is clear.

As soon as the provisional poll results are known (generally within hours of the polls closing), party leaders have a good indication of the number of seats each party will hold in the House. If one party will hold a majority of the seats, it is able to form a Government. However, it is more likely to need to negotiate with other parties to form a coalition and/or an agreement for support on 'confidence' issues such as supply of funds for public expenditure.

Once the political parties have reached an adequate arrangement, and a Government is able to be formed or confirmed, it is expected that the parties will make that clear by appropriate public announcements. By convention, the Governor-General's task in the government formation process is to ascertain where the support of the House lies, so that a Government can be appointed or confirmed in office. Accordingly, the Governor-General will, by convention, abide by the outcome of the government formation process in appointing a new ministry or accepting the right of the incumbent Government to remain in office. The Governor-General will also accept the decision of the

party or parties as to which individual will lead the Government as Prime Minister.

Appointment of a new Government might be delayed where lengthy negotiations occur before any agreement is reached. Under these circumstances, the period of caretaker government continues. It would be expected that a new Government would be in place before the new Parliament meets, but it is possible that caretaker government could continue beyond this point.

## **PARLIAMENT SUMMONED**

The Governor-General must summon Parliament to meet within six weeks of the date for the return of the writ. This ensures that there is not a lengthy period of government without the opportunity to test if the Government has the confidence of the House. Once members have been summoned to attend the House of Representatives at a specified time, there are several procedures to be followed before the House transacts its usual business.

### **Commission opening**

Before the formal State Opening of Parliament by the Governor-General, Parliament is opened on the Governor-General's behalf by three Royal Commissioners (usually the Chief Justice and other senior judges).

The Commissioners come to the parliamentary debating chamber, where elected members are assembled. A Commissioner then reads the proclamation summoning Parliament and informs the members that the Governor-General will attend in person to explain the reasons for summoning Parliament. The Commissioners then depart, while the House continues sitting so that members can be sworn in and a Speaker can be elected.

### **Members sworn in**

All elected members are required to take an oath of allegiance to the Crown before they can sit or vote in the House as members of Parliament. Once the Commissioners have departed, the Clerk of the House administers the oath, having been authorised to do so by the Governor-General. Members are called upon in alphabetical order. They can swear an oath or make an affirmation. The words are set out in the Oaths and Declarations Act 1957.

### **Speaker elected**

Once members have been sworn in, they elect a Speaker. The Clerk of the House presides. Any member may nominate another member for election as Speaker. A nomination must be seconded. If only one member is nominated as Speaker, the Clerk

declares that member elected. If two or more candidates seek the position, several votes may be required until one member is supported by the majority of the House, although in recent times this has involved no more than one vote. The Speaker-elect is then confirmed in office and lays claim to the privileges of the House at a formal meeting with the Governor-General (see *Parliament Brief*, 'Officers of the House').

### **State Opening of Parliament**

Normally on the next day the formal State Opening of Parliament occurs. The Governor-General proceeds to the Legislative Council Chamber, where the former upper house used to meet. The Governor-General's messenger, the Usher of the Black Rod, is sent to the House of Representatives to summon members to the Governor-General's presence to hear the Speech from the Throne. This sets out the Government's legislative and policy intentions for the session of Parliament. Once this ceremony is completed, members return to the debating chamber and the House can start to conduct its usual business.

## **TESTING CONFIDENCE IN THE GOVERNMENT**

While a Government has generally already been formed, it is important that 'confidence' in the Government can be tested in the House. The Address in Reply debate provides this opportunity, taking precedence over other government business. 'Address in Reply' refers to the need for the House to adopt an address to the Governor-General in reply to the Speech from the Throne. This is a 19-hour debate, during which new members deliver their maiden speeches. During the debate a 'no confidence motion' can be moved. This provides an opportunity for the confidence of the House to be tested. At the end of the debate a vote is taken. If the Government survives the 'no confidence' vote, its right to govern is confirmed until that support is withdrawn or until this cycle again comes to an end.

## FURTHER READING

All *Parliament Briefs* are available free of charge at:  
<http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/FactSheets>

Cabinet Manual, [www.dpmc.govt.nz](http://www.dpmc.govt.nz)

Constitution Act 1986

Joseph, Philip A, *Constitutional and Administrative Law in New Zealand*, 4th edition, Wellington, Brookers, 2014

McGee, David, *Parliamentary Practice in New Zealand*, 3rd edition, Wellington, Dunmore Publishing, 2005 [www.parliament.nz](http://www.parliament.nz)

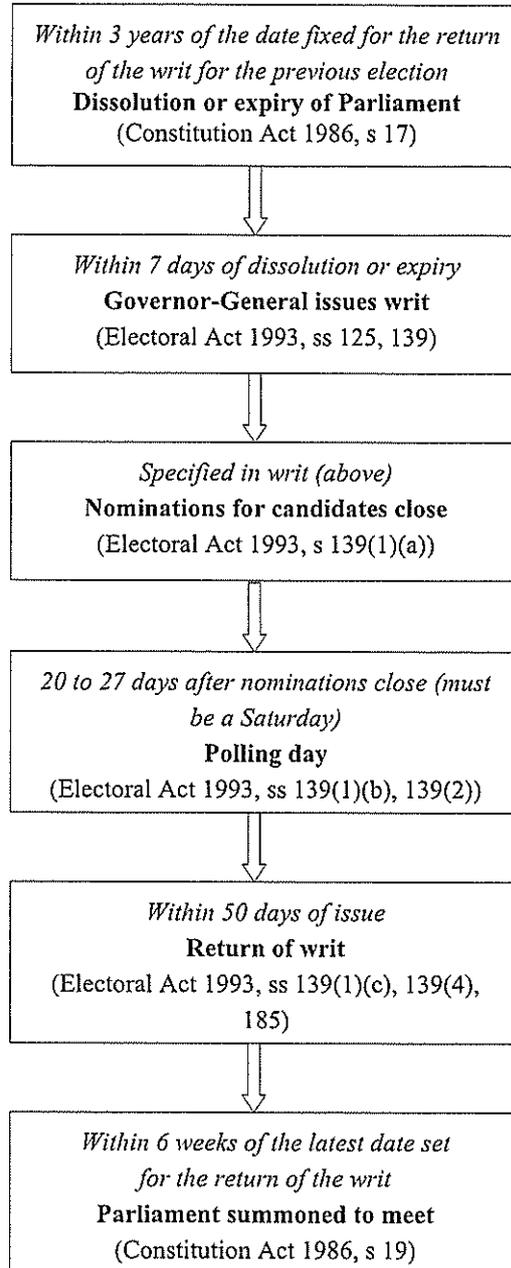
Palmer, Geoffrey and Palmer, Matthew, *Bridled Power: New Zealand's constitution and government*, 4th edition, South Melbourne, Oxford University Press, 2004

Parliamentary Service Act 2000

Public Finance Act 1989

Review of Standing Orders, *Report of the Standing Orders Committee*, December 2003, AJHR, I.18B

## FLOW OF EVENTS



# THE NEW ZEALAND PARLIAMENT - THE HOUSE OF REPRESENTATIVES

## USEFUL VOCABULARY

<b>Act</b> .....	A written law made by Parliament
<b>Bill</b> .....	A proposal for a new law, which is before Parliament
<b>Caucus</b> .....	A meeting of all the members of Parliament of one party
<b>Governor-General</b> .....	The Queen's representative in New Zealand
<b>The House</b> .....	The House of Representatives
<b>MP</b> .....	Member of Parliament
<b>Ministers</b> .....	Members of Parliament who are part of the Executive (the Government) and usually responsible for one or more government departments
<b>Royal assent</b> .....	The process of the Governor-General's signature being added to a bill – necessary to make the bill an Act
<b>Select committees</b> .....	Committees of members of Parliament that do detailed work on parliamentary business and report findings and recommendations to the House

## SOME HISTORY

Established in Auckland in 1854, the New Zealand Parliament moved to the General Assembly Building in Wellington in 1865. When fire destroyed that building in 1907, Parliament House was built – home to Parliament since 1918 except between 1991 and 1995 when the building closed for refurbishment. A temporary debating chamber was established in Bowen House during this time. The refurbishment saw furniture removed and new seating and rimu desks installed to accommodate increased numbers. The House first met again in the restored Chamber on 20 January 1996.

## THE ELECTORAL SYSTEM

Parliamentary elections are held every three years. New Zealand's electoral system is known as MMP (Mixed Member Proportional). Under MMP members of Parliament are elected as either electorate members of Parliament (representing a geographical area and their party) or as list members of Parliament (representing their party only). The electorates include seven specifically for Māori representation. There are more electorate members of Parliament than list members.

## THE FUNCTIONS OF PARLIAMENT

### LAW MAKING

A key role of Parliament is to make new laws. Parliament can also repeal (abolish) or change existing laws. A proposed law is known as a **bill**. Any member of Parliament can introduce a bill but most are introduced by Ministers and these are called Government bills. A bill must pass through a number of stages (readings) in the House before it can become an Act. This allows members of Parliament to consider it carefully, and members of the public to comment on the bill and put forward their suggestions on whether it should be passed and how it might be amended.

Each bill has three readings. Following the first reading a bill is usually sent to an appropriate **select committee** for detailed study.



The select committee will advertise in newspapers inviting the public and interest groups to write submissions commenting on the bill. It will also call for reports from Government departments. Select committees usually hear oral submissions, allowing interested individuals and groups to reinforce what they have said in their written submissions and for the committee to clarify points raised in submissions. Once the select committee has finished considering the bill, it decides what changes, if any, to recommend in a report to the House. The bill is then returned to the House for a second debate – the **second reading**.

The next stage involves a **committee of the whole House** (where the House forms itself into a committee) considering the bill part by part. The bill can be amended at this stage. It then proceeds to its **third reading** debate. After this final reading, the bill still needs the Royal assent (the Governor-General's signature). Once this happens, the bill becomes an Act of Parliament – a new law.

### **PETITIONS AND GOVERNMENT BODY REVIEWS**

In addition to making the laws of New Zealand, Parliament considers other matters. Anyone may petition the House. Petitions are referred to a select committee, which reports back to the House with any recommendations it wishes to make. Select committees also hold inquiries and conduct annual reviews of Government departmental performance and operations, State-owned enterprises and other public bodies.

## **HOW THE HOUSE OPERATES – A TYPICAL DAY**

The House meets three days a week on Tuesdays and Wednesdays from 2 pm to 10 pm and Thursdays from 2 pm to 6 pm for 30 to 33 weeks of the year.

After the Speaker arrives in the House at 2 pm, he or she reads the prayer for the day. Petitions, papers and select committee reports are then announced in the House. The next 45 to 60 minutes are dedicated to question time where any member of Parliament can ask Ministers questions about matters for which they have responsibility. Ministers are given the questions in advance to allow them to prepare informative replies. After the Minister has replied, members of Parliament are able to ask "supplementary" (extra) questions on the same topic, of which Ministers have no warning. Following question time the House debates bills and other business set down on the Order Paper, which is the House's agenda for the day.

## **THE PEOPLE IN PARLIAMENT**

### **MEMBERS OF PARLIAMENT**

The party or parties forming the Government sit on the Speaker's right-hand side with opposition parties (those not in Government) on the left-hand side. The Prime Minister (usually the leader of the largest party in Government) and the Leader of the Opposition (leader of the largest party in opposition), sit opposite each other. Ministers generally sit in the block of seats to the Speaker's immediate right.

### **THE SPEAKER**

At its first meeting following a General Election, the House elects an MP to chair its meetings impartially. Called the Speaker, this member of Parliament sits in the large chair at the front of the House. The Speaker's role is to apply the rules of the House (Standing Orders) and to maintain order. The Speaker decides which members will be called to speak in a debate or ask supplementary questions at

question time. The Speaker is the channel of communication between the Governor-General and the House. The House also appoints a Deputy Speaker and up to two Assistant Speakers.

### **CLERK OF THE HOUSE**

The principal adviser to the Speaker and members of Parliament on parliamentary procedure is the Clerk of the House, who sits in front of the Speaker. The Clerk is responsible for the publication of all parliamentary documents and for recording every decision made by the House. The Clerk is also responsible for presenting all the bills passed by the House to the Governor-General for the Royal assent.

### **SERJEANT-AT-ARMS**

Appointed by the Crown on the Speaker's recommendation, the Serjeant-at-Arms is an Officer of the House of Representatives. The Serjeant carries the mace in the Speaker's procession when the House begins each day and announces his/her arrival to members.

The Serjeant's role in England dates back to 1415. However the title can be traced back further to 1192 when Phillip II of France formed a special corps to guard him in the Holy Land. The Serjeant-at-Arms maintains order in the galleries and controls access to areas near the Chamber reserved for members of Parliament.

### **CHAMBER AND GALLERY OFFICERS**

Chamber and Gallery Officers report to the Serjeant-at-Arms. Under the Speaker's authority, they control the lobby areas, and the visitors (strangers) to the Speaker's Gallery and the two public galleries. They also provide support to members and attend all doors leading to the floor of the House.

### **HANSARD**

Hansard reporters record all proceedings in the House, using digital audio recorders. Until recently they wrote everything in shorthand. Now notes made in the Chamber supplement digital audio recordings of the speeches. Proceedings are then prepared and delivered to members for correction. Members may make only minor changes to what they are reported as saying and must not change the meaning or substance of what they said. An **Advance copy** is produced approximately four days after a sitting, and this is the first official report of the debate. Hansard is published on the Internet and in printed form.

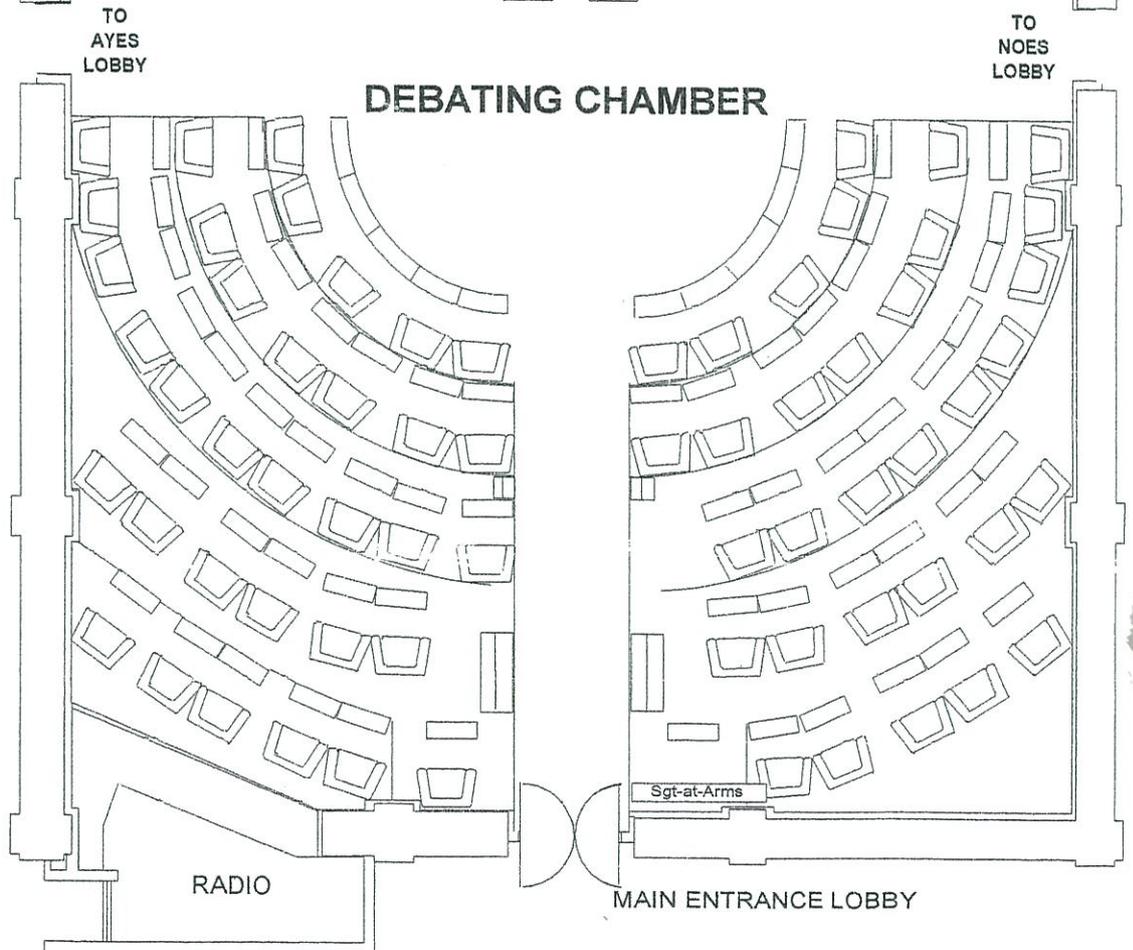
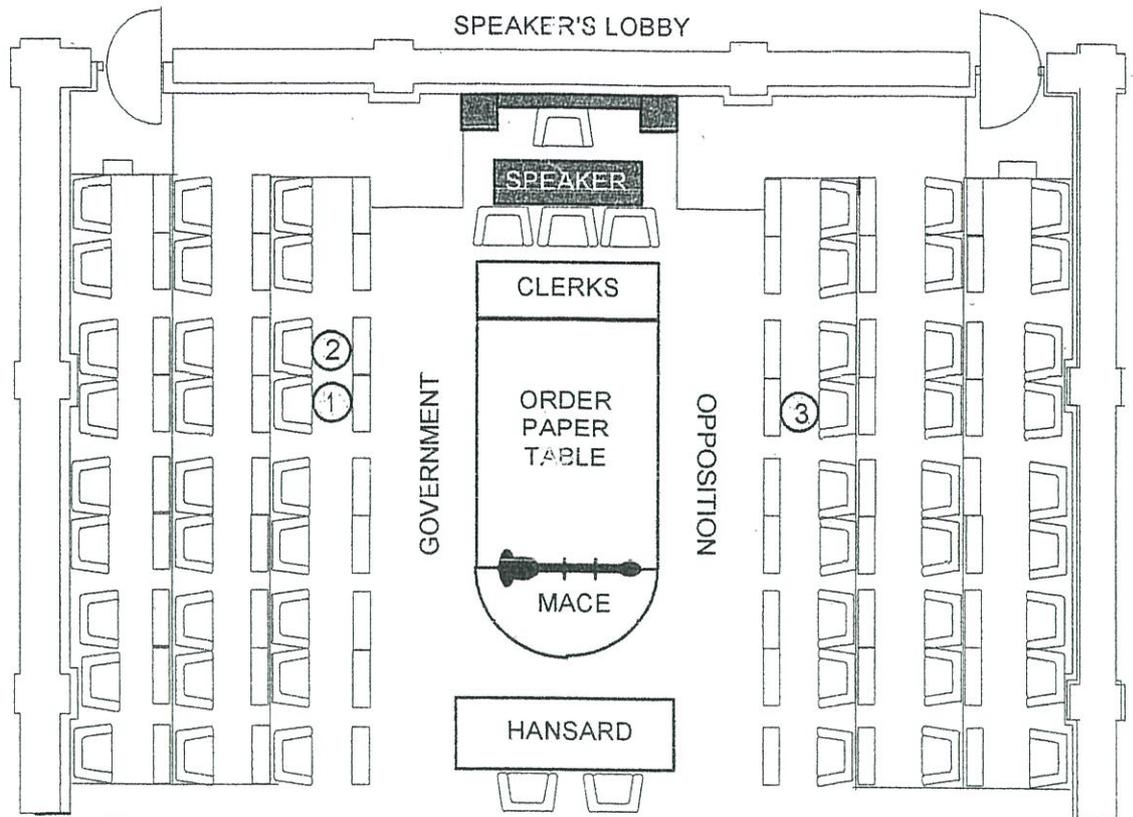
### **THE MEDIA**

The Parliamentary Press Gallery reports parliamentary and political news from within the parliamentary complex. Members of the Press Gallery have their own gallery in the House (above the Speaker's seat) where they note the daily events of the House. About 50 fully accredited journalists work in the press gallery. House proceedings are broadcast live on TV and radio. Television cameras also record items for TV news bulletins from the public galleries on each side of the House.

### **THE MACE**

The Mace symbolises the Speaker's authority. Positioned on the Table while the House sits, it is placed on brackets under the table when the House moves into a committee of the whole House (while the Speaker is not chairing that part of parliamentary business). The New Zealand Mace, dating back to 1909, is made of sterling silver gilded with 18 carat gold. It is 1.49 metres long and weighs about 8 kg.

# The House of Representatives



- ① Prime Minister    ② Deputy Prime Minister    ③ Leader of the Opposition

