

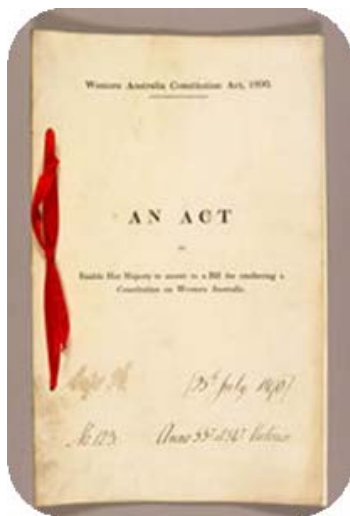


# About Parliament 01

## The Constitution and Roles of Parliament

### *The Constitution*

Although the origins of Western Australia's parliamentary system can be historically traced and linked to the British Parliament located at the Palace of Westminster in London, there is no single document that contains Western Australia's constitution.



Western Australia Constitution Act 1889

The main statutes containing the state's constitution are the *Constitution Act 1889*<sup>1</sup>, the *Constitution Acts Amendment Act 1899*<sup>2</sup> and several other amended acts. Other sources of State constitutional law include:

- other Western Australian legislation (e.g. *Electoral Act 1907*, *Electoral Amendment and Repeal Act 2005*, *Constitution and Electoral Amendment Act 2005*, *Supreme Court Act 1935*, *Parliamentary Privileges Act 1891*, *Financial Management Act 2006*);
- the Commonwealth of Australia constitution;
- the *Australia Act 1986* (UK), *Australia Act 1986* (Commonwealth), *Australia Acts (Request) Act 1985* (collectively known as the 'Australia Acts');
- Imperial Acts (United Kingdom), such as the *Bill of Rights 1689*;

- Letters Patent (a source of constitutional authority for the Governor, as representative of the Crown and head of state);



Letters Patent re Constitution, 25 August 1890

- the common law (that is, the prerogative powers of the Governor and the case law concerning the effect and interpretation of the above constitutional documents and sources); and
- constitutional conventions (unwritten practices concerning the powers, processes and procedures of government) mostly based on the Westminster model.

The Western Australian constitutional documents, as with similar constitutions created by the British Parliament at Westminster and often labelled 'the Westminster model', made provisions for the Parliament to make laws for the 'peace, order and good government' of the state.

Section 50 of the *Constitution Act 1889* specified that the legislative power of the state will consist of the Queen, the Legislative Council and the Legislative Assembly. However, reading the constitutional documents does not provide a clear indication of the main roles of Parliament.

<sup>1</sup> Proclaimed 21 October 1890.

<sup>2</sup> Proclaimed 18 May 1900.

## *The Roles of Parliament*

Broadly, the Parliament debates public policy and passes laws (including those to appropriate money), provides and checks the government, and represents the people.



North-west corner of Parliament House

More specifically, the roles include:

- the provision of responsible government. According to convention (tradition and practice), all members of the government's ministry are members of Parliament. The constitution states that at least one minister must be a member of the Legislative Council. The Ministry will only hold government if it can maintain the confidence of or a majority in the Legislative Assembly, the lower house of the Western Australian Parliament;
- passing ordinary laws (statutes). This involves debate, amendment, passage, and sometimes rejection or repeal of legislation. In the form of a bill, proposed laws may be introduced in either the Legislative Council (upper house) or the Legislative Assembly (lower house);
- passing money laws granting the government finance to provide services to the people such as hospitals and roads. Proposed money bills must be introduced in the Legislative Assembly;
- monitoring and scrutiny of government by providing an opportunity for members of

Parliament to examine, through debate, the government's administration and expenditure. House procedures such as Questions On Notice and Questions Without Notice are also important ways to examine the government's administration;



South-east corner of Parliament House

- representation of the people by providing a forum for the public's interests and concerns to be presented and debated by their elected representatives. In the Legislative Assembly, the people are represented in districts, and in the Legislative Council the people are represented in regions. Many of the procedures of the Parliament are avenues for the representation of the people; and
- educating the public about aspects of the work of Parliament. This role has been expanded in recent years as large numbers of the public (especially students) visit the Parliament.



Front entrance of Parliament House



## About Parliament 02

# A Brief History of Parliament

### *A General History of Parliament*

The word *Parliament* comes from the Latin *parliamentum* and the French *parler* (to speak), and describes the method by which members reach decisions in our Houses of Parliament - by talking to each other.



Palace of Westminster

Parliamentary Government is steeped in English history. From early Saxon times the sovereign (the King or Queen) took counsel with the most powerful of his or her subjects. From the 11<sup>th</sup> century influential barons and church leaders attended the King. Knights of the shires and town representatives were also, from time to time, invited to attend the King's Council in his Parliament.



House of Lords

Two distinct houses emerged in the 14<sup>th</sup> century. One, composed of knights and representatives of the boroughs, began to meet separately in what became the House of Commons<sup>1</sup>; the other, of religious leaders (Lords Spiritual) and magnates (Lords Temporal), became known as the House of Lords.

<sup>1</sup> The British House of Commons (or lower house) is the equivalent of the Western Australian Legislative Assembly, and the House of Lords (or upper house) is the equivalent of the Legislative Council.



House of Commons

By the middle of the 14<sup>th</sup> century, it was established that taxation was illegal without the consent of the two Houses, and that the agreement of the Houses was necessary for all statutory legislation.

Control over finances, or supply, was a means whereby Parliament's role evolved from that of petitioning the monarch to make changes to the laws, to actually making new laws itself. Successive monarchs continually tried to circumvent Parliament's control over money by raising revenue by other means.

The competition between Parliament and the monarch intensified during the English Revolution, which commenced in 1642 and resulted in the beheading of Charles I outside his palace in Whitehall in 1649.



Banqueting House, where Charles I was executed

Even after the monarchy was reinstated in 1660, conflict continued until the Glorious Revolution of 1688 when King James II fled to France.

At this time, Parliament asserted its authority to determine the conduct of governmental affairs. Indeed, relevant portions of the revolutionary settlement contained in the *Bill of Rights 1689* are part of Western Australian parliamentary law today, and include important provisions regarding parliamentary sovereignty and privilege.

## Parliament in Western Australia

Western Australia inherited the English system of government and law when it was colonised in 1829. Its first legislative body was the Legislative Council, which met for the first time on 7 February 1832 and was presided over by the Governor of Western Australia, Captain James Stirling, who nominated four other members.



Owen Garde's commissioned painting (1981) depicts an 'Early Meeting of the Legislative Council'

Between 1850 and 1868 Western Australia was a penal colony and, under the *Australian Colonies Act* (1850), was denied the opportunity to adopt representative or even responsible government, as took place in the eastern colonies.

As a compromise, in 1867 Governor John Hampton agreed to nominate to the Legislative Council those persons elected by all free adult males in the colony who owned property.

In 1870 Western Australia was granted representative government with a Legislative Council consisting of 12 elected members and six members nominated by the Governor.

Western Australia was not granted responsible government until 1890 when Parliament was formed with a Legislative Assembly of 30 elected members and a Legislative Council of 15 members.

When the colony's population reached 60,000 in 1893, the Legislative Council became an elected body of 21 members (three members elected from each of the seven provinces).

In 1899 the Legislative Assembly increased its number of electoral districts to 50; in 1968 to 51; in 1975 to 55; and in 1981 to 57.

In 2005 the number of electoral districts in the Legislative Assembly was increased to 59 (which took effect from the 2008 state election).

The number of members in the Legislative Council was increased from 34 to 36 (which took effect from 22 May 2009).

In 1899 the Legislative Council had 10 electoral provinces, each returning three members for a term of six years. In 1963 this was increased to 15 provinces returning two members each, with half the total elected every three years. In 1976 it was increased to 16 provinces with two members each and in 1981 to 17 provinces with two members each.

In 1987 the Legislative Council underwent a major reform when all members' terms were reduced to a fixed term of four years, and all members retired at the same time for an election. This reform took effect from the 1989 election<sup>2</sup>.

Until the 1964 election, only those people who satisfied a property requirement were entitled to vote in Legislative Council elections. Voting rights were only granted to Aboriginal people in 1962. Women were not entitled to vote until 1899; however, few were able to vote for the Legislative Council because most did not own property.

In 1920 women became eligible for election in Western Australia, and in 1921 Edith Cowan became the first Australian woman to be elected as a member of Parliament.



Edith Cowan

At that time the only other female member of Parliament in the British Empire was Lady Astor, who took her seat in the House of Commons in 1919.



Lady Astor

<sup>2</sup> For information on elections go to the Western Australian Electoral Commission website: [www.waec.wa.gov.au](http://www.waec.wa.gov.au) and *Election & Electorate Profiles* under Information Services at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)



## About Parliament 03

# Parliamentary Government in Western Australia

It is often said that Western Australia has a parliamentary system of government. This has two main strands which are known as responsible government and democratic government.



Crests of each House of the Parliament

### *Responsible Government*

Responsible government, based on British constitutional practice, was adopted in Western Australia in 1890 and is a political system in which, to have power, a government must have the confidence of a majority of members of the Legislative Assembly (the lower house of Parliament).

Under this system, executive power is formally held by the British monarch (King or Queen) represented by the Governor of Western Australia. The Governor is expected to act on the advice of the Premier and the ministers (the cabinet) of the state.

Therefore, in practice, real executive power is held by the ministry or cabinet. Ministers may be appointed from either house, but may only hold office while retaining the confidence (majority) of the lower house.

### *Ministerial Responsibility*

A key element of responsible government is known as collective ministerial responsibility, whereby the ministry or cabinet is expected to 'speak with one voice', and any minister unable to publicly support a key ministry or cabinet decision is obliged to resign.

Collective ministerial responsibility works under the principles of 'unity, solidarity and secrecy'.

Apart from no public disagreement with a ministry or cabinet decision, it is understood that cabinet decisions are made 'behind closed doors' and its discussions remain 'secret'. Taken together these practices are known as 'cabinet solidarity'.



North-west corner of parliament House

Another key element of responsible government is the principle of individual ministerial responsibility.

A minister is responsible to the Parliament for the management and administrative decisions in matters under the minister's control.

With the increasing size and complexity of government, it is often difficult to define a minister's responsibility as compared to that of their staff in the public service or government agencies.

Another important aspect of individual ministerial responsibility is the expectation of integrity. Some of the primary expectations regarding ministerial integrity have been described in the Ministerial Code of Conduct.

Ministers must not mislead Parliament nor use their position for personal gain. They should avoid any conflict of interest between their private actions and their official duties. Nor

should they engage in any unethical behaviour which is unacceptable to the community.

It is very rare for a censure motion against a minister to be passed. However, when the opposition or the media are successful in raising a breach of individual ministerial responsibility, ministers are sometimes forced to resign.

Responsible government also carries the meaning of responsiveness to public opinion. Members of Parliament are representatives of the people, and they are responsible to their electors through the mechanism of elections.

As such, responsible government in Western Australia is also expected to be conducted in the context of parliamentary democracy.

This broadly raises the question: what is a democracy?

### *Democratic Government*

Democratic principles can be traced back to Ancient Greece. The term democracy is derived from the Greek *demos* (people) and *kratos* (rule).

A democracy, meaning 'people's rule', is a set of ideals and a system of government said to require:

- equal voting rights for all adult citizens with relatively frequent and transparent elections;
- political parties that are able to compete freely with each other for legal control of the institutions of state power;
- a government elected by a system that provides (approximately) for majority rule and minority consent;
- agencies to review government decisions; and
- an independent judiciary employing 'due (or proper) process' and the 'rule of law', which is based on the view of equality before the law for all citizens.

Some of the ideals include the freedom of the media, freedom of speech, freedom of assembly, freedom of association, freedom of religion and conscience and freedom of information.

Other more modern concepts include equality of opportunity, which precludes discrimination on grounds such as gender, sexual harassment, age, pregnancy, family status, impairment and marital status.

Equality of opportunity also includes the view that citizens, including children, should be provided with minimum standards of health, education and social services.



South-west corner of Parliament House



## About Parliament 04

# Governor and Executive Council

### *The Governor*

According to constitutional documents, the Western Australian Parliament consists of His Excellency the Governor (representing Her Majesty the Queen), the Legislative Council, and the Legislative Assembly. All three components work together to carry out the functions of Parliament.



Flag of the Governor of Western Australia

In the Western Australian *Constitution Act 1889* (section 50) the office of Governor<sup>1</sup> was formalised; however, there are only brief references to the way in which the constitutional powers and duties of the Governor should be exercised.

Some of the formal powers of the Governor are also set out in the Letters Patent under which the governor is appointed. Other duties have evolved with the office.

Some of the Governor's roles include:

- opening, proroguing (suspending) and dissolving (ending) Parliament's sittings;
- signing and giving assent to bills passed by Parliament so they become acts of Parliament;
- presiding over the Executive Council;
- appointing judges, magistrates and justices of the peace;
- administering or authorising an official to take the oath or affirmation of allegiance from members of the houses of parliament;
- issuing writs for general elections;

- receiving visiting heads of state and dignitaries from other countries including ambassadors, high commissioners and diplomatic and military representatives;
- travelling throughout Western Australia to meet people in regional areas and to keep abreast of developments within the state; and
- supporting community and charitable causes.

### *The Executive Council*

In most cases, reference to the Governor in any legislation means the Governor in Executive Council.

The Executive Council is the supreme executive authority in Western Australia and is chaired by the Governor; it includes at least two members of the Ministry and has as its secretary the Director General of the Department of the Premier and Cabinet. It meets fortnightly and for special occasions requested by the Premier.



Executive Council Room

Some of the matters considered by the Executive Council include:

- the allocation of responsibilities to ministers such as legislation, departments and instrumentalities;
- the proclamation of acts passed by Parliament;
- the appointment of members of the judiciary and senior public officials;
- appointments to government boards and committees; and
- the formal approval and making of certain delegated legislation.

<sup>1</sup> Visit [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au) under Information Services to view a Parliamentary Profile on *Governors of Western Australia*



Entry Room in Government House

Our system of responsible government requires that the Governor generally exercises the constitutional duties of office in conformity with the wishes of the elected government of the day.

By convention the Governor retains the right to be consulted, 'to encourage and to warn'<sup>2</sup> the Premier and ministers of the day.

In exceptional circumstances, however, the Governor may act independently or without advice from the Premier, ministers, or Executive Council.

In these circumstances the Governor is said to be exercising reserve powers. Circumstances when the reserve powers could be exercised include:

- the government refuses to resign or advise a dissolution of the Legislative Assembly when it no longer has the 'confidence or support of a majority in the Legislative Assembly'—for example, as indicated by a successful no-confidence motion in the Legislative Assembly;
- the government refuses to resign or to advise a dissolution even though it is unable to secure necessary supply (budget);
- a situation in which a Premier is advising a dissolution but where an alternative government may be formed; and
- a situation in which the Premier is doing something which is manifestly illegal in the function of his or her office.

## Government House

Since 1838 the Governor has resided at the site of the historic Government House on St Georges Terrace, Perth. Successive Governors have occupied the present Government House since its completion in 1863.

This is also known as the Governor's Establishment.



Government House

Many functions are held at Government House for the presentation of awards and medals, and community and charitable organisations often use the ballroom and grounds. The House, ballroom and grounds are sometimes opened to the public.

The Governor is in regular contact with a wide range of people throughout the state and from all walks of life, including schoolchildren, charity organisations, church groups and sporting clubs. In keeping with tradition, the Governor is patron of some 150 organisations.

In the past, the Governor, who is appointed by the sovereign<sup>3</sup> on the advice of the Premier, was often a person of military rank from the United Kingdom. Recently, however, the Governor has been an Australian by birth with experience in the fields of university education, the judiciary, the Australian military, and the state public service<sup>4</sup>.



Ballroom of Government House

<sup>2</sup> Bagehot, W. 1993, *The English Constitution* [1867]

<sup>3</sup> The Queen or King of the United Kingdom.

<sup>4</sup> Further information about the Governor and Government House is available at [www.govhouse.wa.gov.au](http://www.govhouse.wa.gov.au)





## About Parliament 05

# Three Branches of Government

The system of government in Western Australia is that of a parliamentary democracy based on the rule of law.

More than 250 years ago, a famous French philosopher, the Baron de Montesquieu, published a book *The Spirit of the Laws* (1748).

In the book he claimed that liberty existed in England because of the way in which the system of government was organised.

He recognised three branches of government: namely the legislature; executive; and judiciary.

Each branch checked each other to prevent any person or arm becoming too powerful. Western Australia's constitution does not exactly follow the ideas set down by Montesquieu as there are, in reality, overlaps. Viewing the three branches of government does assist in understanding how the government is structured.

### 1. Legislature

*The power to make laws.*

In Western Australia, the legislative arm of government is the Parliament (the 'legislature').

The Western Australian Parliament is bicameral (made up of two houses), consisting of the Legislative Council (upper house) and the Legislative Assembly (lower house).



The two houses of the Parliament of Western Australia

### 2. Executive

*The power to execute (enforce) laws.*

The executive has the power to put into effect, in individual cases, the general rules made under the legislative power. In Western Australia, the peak executive body is the Executive Council.

The Executive Council is appointed by the Governor under Letters Patent issued by Her Majesty the Queen. In practice it consists of all the members of the ministry and is presided over by the Governor.

All ministers also meet as a body called the cabinet, which is led by the Premier. The Premier and the cabinet are not recognised in the constitution, but in practice make the major decisions relating to government policy and guide ministerial decision-making.

The carrying out or execution of the laws is undertaken by the public service (government departments) and statutory authorities.



Government House

### 3. Judiciary

*The power to interpret and apply laws.*

In Western Australia, the judicial arm of government is the hierarchy of courts (the 'judiciary'), headed by the Supreme Court. The Chief Justice of Western Australia is the state's chief judicial officer. The High Court of Australia is the nation's highest court.



The Supreme Court

Although the functions of government in Western Australia can conveniently be classified into legislative, executive, and judicial, there is no formal constitutional separation of these powers as there is, for instance, in the constitution of the United States.

LEGISLATURE	EXECUTIVE	JUDICIARY
Law-making	Carrying out or executing the law	Judging or adjudicating on the law
<b>The Government of Western Australia</b>		
Parliament	Government	Courts
<p><b>Legislative Council</b> Upper house of Parliament House of Review</p> <p><b>Legislative Assembly</b> Lower house of Parliament House of Government</p> <p><i>Parliamentary Committees</i> Examine and report on issues concerning Western Australia</p> <p><i>Select Committees</i> Appointed to undertake a particular or select task e.g. Select Committee on Youth Affairs (Assembly), Select Committee on Aboriginal Education (Council)</p> <p><i>Standing Committees</i> Appointed for the life of the Parliament for a continuing task, e.g. Public Accounts Committee (Assembly) Legislation Committee (Council)</p> <p><i>Joint Committees</i> Made up of members from both houses of Parliament e.g. Joint Standing Committee on Delegated Legislation</p>	<p><b>Governor</b> Represents the head of state of Western Australia (the monarch of the United Kingdom)</p> <p><b>Executive Council</b> Supreme executive authority in Western Australia</p> <p><b>Premier</b> Head of government in Western Australia</p> <p><b>Cabinet (Ministry)</b> Administers government departments and reports to Parliament</p> <p><b>Departments</b> e.g. Education, Environment, Health, State Development, Treasury, Police</p> <p><b>Statutory Authorities</b> e.g. Lotteries Commission, Water Corporation, Rottneest Island Authority</p>	<p><b>High Court</b> Highest court in Australia</p> <p><b>Supreme Court</b> Highest court in Western Australia <i>General Division</i> <i>Court of Appeal</i></p> <p><b>District Court</b></p> <p><b>Magistrates Court</b></p> <p><b>Family Court</b></p> <p><b>Children’s Court</b></p> <p><b>Drug Court</b></p> <p><b>Coroner’s Court</b></p> <p><b>Liquor Commission of WA</b></p> <p><b>Tribunals</b> e.g. State Administrative Tribunal, Prisoners Review Board</p> <p><b>Other legal officers</b> e.g. Office of the Director of Public Prosecutions, Office of the Solicitor-General, Sheriff’s office</p>
<p style="text-align: center;">Independent Agency Officers include: Auditor General, Ombudsman (Parliamentary Commissioner for Administrative Investigations), Public Sector Commissioner, Information Commissioner, Corruption and Crime Commissioner and Parliamentary Inspector of the Corruption and Crime Commission</p>		



# About Parliament 06

## Legislative Council

### *History*

The Parliament of Western Australia has, as its genesis, an Order-in-Council issued in England in November 1830, and received and published in Western Australia in December 1831<sup>1</sup>.

The Order-in-Council allowed for the establishment of a Legislative Council to make all necessary laws and to constitute all necessary courts for the 'peace, order and good government of the settlement'.

The Legislative Council, also known as the upper house, is based on the House of Lords in Britain where in the 13<sup>th</sup> century they formed two houses of Parliament.

The House of Lords, having representatives of the religious leaders (Lord Spiritual) and magnates (Lord Temporal) came to be known as the upper house. The House of Lords is superior in degree to the House of Commons as it has both a legislative and judicial function. The House of Lords is the highest court of appeal in both civil and criminal cases.

Following a general election in 1889, the colony's sole house, the Legislative Council, met and decided unanimously on a resolution in favour of responsible government for the colony.

A constitution bill was passed and forwarded to the Secretary of State to the Colonies in London for presentation to the Imperial Parliament. The bill was eventually passed by the British Parliament, after some opposition, and received royal assent on 15 August 1890.

On 21 October of that year the act was proclaimed. This day became known as Proclamation Day, and for many years was celebrated with a public holiday.

The effect of the new Constitution was to substitute the old Legislative Council for two houses of Parliament – the Legislative Council and the Legislative Assembly in order to form a true Parliament of Western Australia.



Legislative Council chamber

### *Membership and Term of Office*

Members of the Legislative Council are elected for a fixed term of four years from the time they take their seats following their election. There is no way that the Legislative Council can be dissolved prior to the end of each four-year term, even if there is an early election for the Legislative Assembly.

In 1987 a system of proportional representation was introduced for Legislative Council elections whereby, as near as possible, the number of seats obtained by each political party reflects the percentage of votes that the party received.

Under this system the state is divided into six regions, with each region being allocated six elected representatives. To be elected, a candidate needs to poll a certain quota of votes. This differs from the Legislative Assembly, where each electorate elects only a single member.

The current regions are as follows:

Agricultural Region	6 Members
East Metropolitan Region	6 Members
Mining and Pastoral Region	6 Members
North Metropolitan Region	6 Members
South Metropolitan Region	6 Members
South West Region	6 Members

<sup>1</sup> See the State Records Office of Western Australia website for more information: [www.sro.wa.gov.au](http://www.sro.wa.gov.au).

## *Role and Function*

One of the principles of maintaining a bicameral Parliament in a system of responsible government is that the two houses should have different representational compositions.

Consequently, in Western Australia, the members of the Legislative Council are elected from different geographical regions and by a different system of voting from the way in which members of the Legislative Assembly are elected. This means that the political composition of the Council may be different from that of the Assembly.



View to President's Gallery

Before legislation can become law, it has to be supported by both houses. As the government is formed in the lower house, it generally has the numbers to pass legislation in that house. Because the upper house is elected by a different method of voting, the government of the day may not necessarily have a majority in both houses.

This gives the Legislative Council an important role as a check on the government, particularly when the government does not have a majority in the upper house and needs to obtain the support of at least some non-government members in order to pass legislation.

Although the majority of government ministers are drawn from the Legislative Assembly, at least one minister (and usually more) is always an upper house member.



Legislative Council crest

Some of the functions of the Legislative Council are:

### *Legislating*

Any bill, apart from a money bill, can be initiated in the Legislative Council. In practice, most bills are introduced by the government in the Legislative Assembly; however, bills that are introduced in the Legislative Assembly must also be passed by the Council (just as bills that are introduced in the Council must also be passed by the Assembly).

### *Monitoring and reviewing government legislation, administration and expenditure*

The Council is often called a 'house of review' because of its function of monitoring and reviewing legislation and scrutinising the government's budget and the administration of government departments and other public agencies.

### *Gathering information and publicising issues*

One of Parliament's responsibilities is to inform the public of, and debate, the government's actions and any other matters of concern within our society.

Procedures for carrying out these functions include:

- committees;
- Question Time; and
- other parliamentary procedures, including moving motions, conducting urgency debates, introducing bills, and presenting petitions on behalf of members of the public.



# About Parliament 07 Legislative Assembly

## History

The Legislative Assembly is traditionally referred to as the lower house of Parliament. Its origins stem from the British House of Commons, whose members were principally merchants and lesser knightly and untitled classes (commoners) and were of lower social status than the lords and barons who sat in the House of Lords (the upper house).



Legislative Assembly Crest

Although the *Western Australia Constitution Act 1889* requires the Legislative Council and Legislative Assembly to make laws for the 'peace, order and good government' of Western Australia, it is the Legislative Assembly in which the government is formed.

The Legislative Assembly was established by the *Constitution Act 1889*. The first elections for the Assembly were held in November and December 1890. The first Premier and ministers were sworn in on 29 December 1890 and Parliament assembled the next day.

## Membership and Term of Office

The Legislative Assembly comprises 59 members elected by the people from single-member electoral districts by a system of preferential voting. Each Legislative Assembly may exist and continue for a maximum period of four years, with a recent 2011 act setting a fixed date for general elections.



View from the Table of the House with mace in place

## Role and Function

The Legislative Assembly has six principal roles and functions:

### 1. Form a Government

The Legislative Assembly is the house in which responsible government is formed under the traditions of the Westminster parliamentary system.

The party (or coalition or alliance of parties), with the support of a majority of members, forms government.

The leader of the majority (the Premier) appoints ministers from the governing party's membership in the Legislative Assembly and Legislative Council who jointly become the ministry (cabinet) or executive government.

All ministers and the Premier must be officially sworn-in by the Governor. The executive provides for the ongoing administration and services of government departments and authorities.



Legislative Assembly Chamber

### 2. Provision of Finance for Government Operations

The moneys required for the operation of government are provided by legislation (bills) passed by the Parliament. In particular, the annual budget bills (Appropriation Bills) are presented to the Parliament and are usually debated in the months immediately preceding each financial year. All bills which appropriate public moneys (money bills) must commence their passage through the Parliament in the Legislative Assembly.

If the annual budget bills are defeated in either the Legislative Assembly or the Legislative Council, the government of the day is effectively defeated as the Parliament has denied it supply; that is, the money needed to provide annual government services. The government is likely to be forced to call an election for the Legislative Assembly to determine whether or not it still has the confidence of the people.

### *3. Scrutinise the Government's Performance*

All backbench members (including government members) who are not ministers participate in overseeing the work of government.

However, the task of monitoring and scrutinising the executive government's (cabinet's) administration and operations is generally regarded to be the primary function of Her Majesty's Opposition. The opposition is the largest party not in government and its leader is known as the Leader of the Opposition.

The following procedures are used to scrutinise and monitor the executive in the Legislative Assembly:

- parliamentary questions;
- motions in the house; and
- parliamentary committees.

### *4. Legislative Function*

One of the functions of Parliament is to legislate; that is, to make law. It does this by enacting statutes or acts of Parliament.

Legislation is used to regulate our society. To introduce a new law, or amend or repeal an existing law, a bill (a draft law) must be passed in identical form by both houses of Parliament, and be assented to by the Governor. The bill then becomes an act.

Some acts of Parliament only set out the main framework of a law. Filling in the details is then delegated to another body such as a government department or agency which produces regulations under the act. Such regulations are known as delegated legislation. Parliament has a joint committee that examines delegated legislation to ensure that it falls within the parameters of the parent act.

Most bills deal with the management of public affairs and the implementation of government policy and are introduced by a minister. However, any member of either house is entitled to introduce a Private Member's bill. All bills appropriating revenue (money or budget bills) constitutionally must be introduced in the Legislative Assembly.

During debate, members consider the general principle and detail of all bills. Amendments to legislation may be accepted by the government if they improve or clarify the bills.



Legislative Assembly Mace

### *5. Forum for Matters of Public Concern*

The Parliament is a forum whereby members can examine and debate matters of public concern and importance to the people of Western Australia. Providing this forum allows the pressures or concerns within our society to be aired in a less hostile manner than may occur in countries that do not have such outlets. Parliament achieves this by processes such as debate on motions, matters of public interest, grievances, and questions asked of ministers.

### *6. Represent the People of Western Australia*

Members are able to raise in the Legislative Assembly specific issues of concern to their respective constituents, whether or not they share the constituent's views. Members may also ask questions of ministers in Parliament or contact public servants on behalf of their constituents. On a larger scale, through the party system and elections, the electorate is offered policy choices.



# About Parliament 08

## President of the Legislative Council

### History

The office of the President can be traced back to the Lord Chancellor of the House of Lords in the British Parliament. The office of the Lord Chancellor dates back to at least 1066.

In order to gain the cooperation and confidence of members from both sides of the house, the President (also known as the Presiding Officer) must exercise the office with political impartiality. Some Presidents have chosen not to attend meetings of their party, despite remaining an elected member of that party.



Crest of the Legislative Council

### Role

Chosen by the members of the Legislative Council at the beginning of each four-year parliamentary term, the President of the Legislative Council has a host of duties, some of which are constitutional and some of which have evolved from the Parliament's Westminster origins and Western Australia's history.

The roles of the President include:

- upholding the traditions, powers and privileges of the Legislative Council with a major function being to regulate debate and to ensure that the proceedings are carried out in accordance with the Standing Orders and customs of the house;
- calling on MLCs who wish to speak and deciding on points of order and giving rulings when required;
- casting the deciding vote if a division (or vote) of the Legislative Council results in equal numbers;

- giving guidance to MLCs in respect of their general behaviour, language and dress;
- exercising on behalf of the Legislative Council the control of the behaviour of visitors to the public gallery in order to ensure that the proceedings are not interrupted;
- representing the Legislative Council at official functions and exercising overall responsibility for the operations of Parliament House together with the Speaker of the Legislative Assembly; and
- explaining and promoting the role and operation of the house to the public.



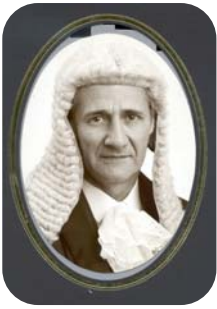
President's Chair centre of the podium

In the earlier phases of the history of the Legislative Council, when knighthoods were awarded to leading public figures, no less than 10 of the first 12 Presidents were bestowed knighthoods. In the last decade the position of President has been occupied by men who have been qualified with law, political science or educational qualifications.

In the absence of the President, the Chair of Committees performs the duties and exercises the authority of the President.

The Chair of Committees in the Legislative Council is elected by fellow members and takes the centre chair at the Clerk's Table whenever the house moves into the Committee of the Whole to consider a bill in detail.

*The most recent Presidents of the Legislative Council of Western Australia*



Clive Edward Griffiths



Samuel George Ernest Cash



John Alexander Cowdell



Nicholas David Griffiths



Barry John House

*Presidents of the Legislative Council*

President of the Legislative Council	Period of Office
Sir Thomas Cockburn-Campbell (Baronet)	29 December 1890 - 27 September 1892
Sir George Shenton, Kt	11 October 1892 - 21 May 1906
Sir Henry Briggs, Kt	21 June 1906 - 8 June 1919
Sir Walter Kingsmill	31 July 1919 - 21 May 1922
Sir Edward Wittenoom, KCMG	27 July 1922 - 9 August 1926
Sir John Waters Kirwan, Kt	10 August 1926 - 21 May 1946
James Cornell	25 July 1946 - 25 November 1946
Sir Harold Seddon, Kt	26 November 1946 - 21 May 1954
Anthony Lloyd Loton	14 June 1954 - 6 August 1958
Sir Charles Latham, Kt	7 August 1958 - 21 May 1960
Sir Leslie Charles Diver	28 July 1960 - 21 May 1974
Sir Arthur Frederick Griffith	22 May 1974 - 21 May 1977
Clive Edward Griffiths	24 May 1977 - 21 May 1997
Samuel George Ernest Cash	27 May 1997 - 21 May 2001
John Alexander Cowdell	22 May 2001 - 21 May 2005
Nicholas David Griffiths	24 May 2005 - 21 May 2009
Barry John House	22 May 2009 - still in office



President's location in the Legislative Council chamber





# About Parliament 09

## Speaker of the Legislative Assembly

### History

The role of the Speaker is an ancient and important office of the Westminster parliamentary system.

The first person to be called the Speaker of the House of Commons was appointed in 1377.

The name Speaker dates from a time when the House of Commons<sup>1</sup> was only allowed to address humble petitions to the Crown through its appointed spokesman, the Speaker.

The procedure of the House of Commons revolved around talking until the opinion of the majority was discovered. Once the majority opinion was agreed on, the Speaker was sent to express it to the Crown.

At least nine British Speakers are known to have died a violent death because the monarch did not want to hear what the Speaker had to say or agents of disgruntled barons and lords carried out similar persecution. The position of Sergeant-at-Arms was created in order to protect the Speaker from harm.



Speaker's location in the Legislative Assembly Chamber

### Role

The Speaker is the Presiding Officer of the Legislative Assembly and is elected by members of that chamber in a secret ballot (if multiple nominations) at the beginning of each parliamentary term.

The role of the Speaker is to:

- uphold the traditions, powers, and privileges of the Legislative Assembly;
- regulate debate and ensure that proceedings are carried out in accordance with the Standing Orders and customs of the house;
- call on members who wish to speak or ask a parliamentary question without notice, decide on points of order, and give rulings;
- give guidance to members of the Legislative Assembly in respect of their general behaviour, language and dress;
- exercise, on behalf of the Legislative Assembly, control over the behaviour of public gallery visitors in order to ensure that the proceedings are not interrupted;
- not take part in debates (except on rare occasions). The Speaker does not normally vote, but does have a casting vote in the event that numbers in a division are equal; and
- represent the Legislative Assembly at official functions and exercise overall responsibility for the operations of Parliament House together with the President of the Legislative Council.

Traditionally, Speakers have worn a wig and gown as part of the regalia of office. There has been no resolution concerning the extent to which such regalia should be retained or discarded. Recently, the tendency has been for Speakers to not wear the full regalia.

In the absence of the Speaker, the Deputy Speaker performs the duties and exercises the authority of the Speaker. Between 2001 and 2008 Ms Dianne Guise, MLA, held the position of Deputy Speaker. She was the first woman to hold the position.



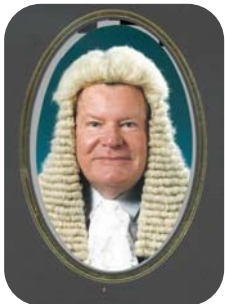
Speaker's chair positioned behind the Clerks' chairs

<sup>1</sup> The lower house of the British Parliament.

### *Speakers of the Legislative Assembly*

Speaker of the Legislative Assembly	Period of Office
Sir James George Lee Steere, KCMG	30 December 1890 - 30 November 1903
Charles Harper	2 December 1903 - 27 July 1904
Mathieson Harry Jacoby	28 July 1904 - 27 October 1905
Timothy Francis Quinlan	23 November 1905 - 8 October 1911
Michael Francis Troy	1 November 1911 - 13 February 1917
Edward Bertram Johnston	13 February 1917 - 1 March 1917
James Gardiner	1 March 1917 - 28 June 1917
George Taylor	19 July 1917 - 23 July 1924
Thomas Walker	24 July 1924 - 29 July 1930
Sydney Stubbs	30 July 1930 - 17 July 1933
Alexander Hugh Panton, CMG	18 July 1933 - 24 March 1938
William Dartnell Johnston	4 August 1938 - 2 August 1939
Joseph Bertram Sleeman	3 August 1939 - 31 July 1947
Charles Frederic John North	31 July 1947 - 5 August 1953
Aloysius Joseph Rodoreda	6 August 1953 - 1 August 1956
James Hegney	2 August 1956 - 29 June 1959
John Merrifield Hearman, CMG	30 June 1959 - 23 March 1968
Hugh Norman Guthrie	25 July 1968 - 20 February 1971
John Mervin Toms	15 July 1971 - 8 October 1971
Daniel Norton	16 November 1971 - 30 March 1974
(Sir) Ross Hutchinson, DFC	22 May 1974 - 19 February 1977
Ian David Thompson	24 May 1977 - 21 March 1983
John Joseph Harman	22 March 1983 - 8 February 1986
Michael Barnett	10 June 1986 - 17 June 1993
James George Clarko	17 June 1993 - 14 December 1996
George Joseph Strickland	6 March 1997 - 10 February 2001
Fredrick Riebeling	1 May 2001 - 7 September 2008
Grant Allen Woodhams	6 November 2008 - 9 March 2013
Michael William Sutherland	11 April 2013 - still in office

### *The Most Recent Speakers of the Legislative Assembly of Western Australia*



*James (Jim) Clarko*



*George Strickland*



*Fredrick (Fred) Riebeling*



*Grant Woodhams*



*Michael Sutherland*



# About Parliament 10

## Premier of Western Australia

The Premier of Western Australia is the head of the executive government. Following a general election, the Premier, who is the leader of the party or coalition of parties holding a majority in the Legislative Assembly, is by convention commissioned by the Governor to form government.

### History

When Western Australia first commenced responsible government in 1890, the word 'Premier' was merely a courtesy title and the position was not recognised constitutionally. In fact, the office was not formally listed as one of the executive positions until the appointment of Ross McLarty in 1947.

Today, Sir John Forrest is officially regarded as being the first Premier of Western Australia when he took office in 1890. Dr Carmen Lawrence, on 12 February 1990, became the first woman to hold this office in Australia.



Sir John Forrest

### Role

Although the Premier does have ministerial responsibilities, one of the most important tasks is to oversee and coordinate the work of other ministers. In Labor governments, the Premier is the leader of the parliamentary party and is chosen by the caucus<sup>1</sup>. The Premier allocates portfolios to those members who are elected to the ministry by the caucus.

In Liberal and National Party coalition or alliance governments, the Premier is usually chosen by the parliamentary members of the dominant party in the coalition (Liberal Party). The Premier selects the ministry and allocates the portfolios. An agreement between the Liberal and National Parties indicate

how many ministerial posts are held by the respective parties.

The Premier leads the government and takes a major part in parliamentary debates and speaking to the media about government policy.

The roles of the Premier include:

- leading the government in the state;
- chairing cabinet meetings;
- providing advice to Her Majesty the Queen on the exercise of powers and functions of the Governor;
- choosing ministers and allocating portfolios (Liberal and National) or allocating portfolios to ministers chosen by caucus (Labor);
- setting out the principal ministerial responsibilities of ministers and the acts they will administer (through Executive Council (EXCO));
- authorising a minister to perform the duties and functions of another minister (through EXCO);
- advising the Governor as to the opening day of a session and the proroguing of Parliament prior to a general election;
- ensuring adherence to caretaker government conventions and practices following a general election announcement;
- being the prime communicator between the Governor and cabinet, the Western Australian government and federal, state and territory governments, and between the Western Australian government and overseas governments; and
- as a member of Parliament, representing his/her electorate.

<sup>1</sup> A meeting of all the elected ALP members from both houses.

### *Premiers of Western Australia*

Premiers of Western Australia	Party	Period of Office
Rt Hon. Sir John Forrest, PC, GCMG	Forrest	20 December 1890 - 14 February 1901
George Throssell, CMG	Forrest	14 February 1901 - 27 May 1901
George Leake, KC, CMG	Opposition	27 May 1901 - 21 November 1901
Alfred Edward Morgans	Ministerialist	21 November 1901 - 23 December 1901
George Leake, KC, CMG	Opposition <sup>2</sup>	23 December 1901 - 1 July 1902
Sir W.H. James KC, KCMG	Liberal	1 July 1902 - 10 August 1904
Henry Daghish	Labor	10 August 1904 - 25 August 1905
Sir Cornthwaite H. Rason	Liberal	25 August 1905 - 1 May 1906
Sir Newton J. Moore, KCMG	Liberal	7 May 1906 - 16 September 1910
Frank Wilson, CMG	Liberal	16 September 1910 - 7 October 1911
John Scaddan, CMG	Labor	7 October 1911 - 27 July 1916
Frank Wilson, CMG	Liberal	27 July 1916 - 28 June 1917
Sir Henry B. Lefroy, KCMG	Nationalist	28 June 1917 - 17 April 1919
Sir Hal. P. Colebatch, CMG <sup>3</sup>	Nationalist	17 April 1919 - 17 May 1919
Sir James Mitchell, GCMG	Nationalist	17 May 1919 - 16 April 1924
Philip Collier	Labor	17 April 1924 - 23 April 1930
Sir James Mitchell, GCMG	Nationalist	24 April 1930 - 24 April 1933
Philip Collier	Labor	24 April 1933 - 20 August 1936
John Collings Willcock	Labor	20 August 1936 - 31 July 1945
Frank J.S. Wise, AO	Labor	31 July 1945 - 1 April 1947
Ross McLarty, KBE, MM	Liberal	1 April 1947 - 23 February 1953
Albert R.G. Hawke	Labor	23 February 1953 - 2 April 1959
Sir David Brand, KCMG	Liberal	2 April 1959 - 3 March 1971
John Trezise Tonkin, AC	Labor	3 March 1971 - 8 April 1974
Sir Charles W.M. Court, AK, KCMG, OBE	Liberal	8 April 1974 - 25 January 1982
Raymond James O'Connor	Liberal	25 January 1982 - 25 February 1983
Brian Thomas Burke	Labor	25 February 1983 - 25 February 1988
Peter M'Callum Dowding	Labor	25 February 1988 - 12 February 1990
Dr Carmen Mary Lawrence	Labor	12 February 1990 - 16 February 1993
Richard Fairfax Court	Liberal	16 February 1993 - 10 February 2001
Dr Geoffrey Ian Gallop	Labor	10 February 2001 - 25 January 2006
Alan James Carpenter	Labor	25 January 2006 - 23 September 2008
Colin James Barnett	Liberal	23 September 2008 - still in office

### *The most recent Premiers of Western Australia*



*Carmen Mary Lawrence*



*Richard Fairfax Court*



*Geoffrey Ian Gallop*



*Alan James Carpenter*



*Colin James Barnett*

<sup>2</sup> Premiers were not officially associated with organised parties until 1904.

<sup>3</sup> Hal Colebatch was the only Member of the Legislative Council (MLC) to ever hold the position of Premier of Western Australia, albeit for one month.



# About Parliament 11

## Ministers and Parliamentary Secretaries

### *Ministers*

A minister is a high ranking government member and a member of the cabinet (executive government).

Ministers are vested with the responsibility for administering one or more government departments (or portfolios), and are answerable to the Parliament for all actions taken by the department(s) under his/her authority.

According to the constitution, all ministers must be elected members of Parliament and at least one minister must be a member of the Legislative Council (MLC).

In Western Australia the terms 'ministry' and 'cabinet' are used interchangeably. The cabinet conducts most of its business in confidence, undertaking major decisions on policy and administration.

If ministers publicly disagree with a cabinet decision they are, according to tradition, obliged to resign from the ministry.

It is widely acknowledged that appointment as a minister demands a very busy work schedule, in addition to the usual obligations of a member of Parliament.

Through Questions without Notice and Question on Notice, members on both sides of the house, and on behalf of their constituents, ask questions of ministers.

These questions are usually answered by the relevant minister responsible for that portfolio.

With the growth of the state and the scale of government services the number of ministers has increased over the years.

In Western Australia the constitution limits the size of the ministry (cabinet). Through amendments the ministry has gradually increased from six in the 1890 Forrest Government to the current 17 set in 1986.

The authority of ministers is issued by the Governor, giving them the right to be called 'Honourable', and hold responsibility for a government department.

Various acts of Parliament give ministers the power to make payments, effect appointments, and to delegate certain powers to officials to perform duties on their behalf. Ministers also keep Parliament advised of a department's activities by tabling annual reports.

Ministers rely heavily on the advice and expertise of officials within a department. They must not mislead the Parliament when providing information about a department.



### *History*

When responsible government commenced in Western Australia in 1890, the *Constitution Act 1889* provided for six ministers.

The founding ministry held very broad portfolios:

- Sir John Forrest, Premier and Colonial Treasurer;
- George Shenton, Colonial Secretary;
- Septimus Burt, Attorney General;
- William Marmion, Commissioner of Crown Lands;
- Harry Venn, Commissioner for Railways and Director of Public Works; and
- Edward Wittenoom, Minister for Mines and Education.

In British parliamentary history a 'portfolio' was a term used to describe the collection of documents and papers connected with a government department.

In more modern usage 'portfolio' is used to indicate the departments for which a minister is responsible.



The number of ministers allowable rose to eight in 1927, to 10 in 1950, to 12 in 1965, to 13 in 1975, to 15 in 1980 and to 17 in 1986.

At present the number of ministers is limited to 17, but there is no limit on the number of portfolios, or departments, for which a minister may be responsible.

Apart from expanding the number of ministries and portfolios, some cabinets have included ministers without portfolio, honorary ministers, and more recently parliamentary secretaries.

From 1901, for over half a century, many cabinets included at least one minister without portfolio. A minister without portfolio sat and deliberated in cabinet, in order to ensure broader community representation.

The first woman in Australian politics to become a minister was Florence Cardell-Oliver, who was appointed as a minister without portfolio from 1 April 1947.

Another designation in Western Australia has been the title of honorary minister. Cardell-Oliver became Honorary Minister for Supply and Shipping in 1948 before becoming Minister for Health, Supply and Shipping in 1949.

Edmund Gray was an honorary minister in the Labor Governments of John Willcock and Frank Wise from 1936 to 1947. This move ensured that a member from the Legislative Council (MLC) had a voice in cabinet.

Liberal MLA Jim Clarko was made Honorary Minister for Education in January 1982 before becoming the Minister for Education in May of the same year. Richard Shalders, a Liberal MLA, was an honorary minister for the same period.

Ernie Bridge, a Labor MLA, was made an honorary minister in 1986 with the portfolios of Water Resources, North-West and Agriculture before later gaining full ministry status.

In 1984 an amendment to the constitution indicated that an honorary minister should not receive remuneration other than expenses incurred in connection with such duties.

### *Parliamentary Secretaries*

Parliamentary secretaries in the Parliament of Western Australia are appointed by the Governor in Council to assist ministers.

Parliamentary secretaries are elected members of the governing party in Parliament. They can be members of the Legislative Council (MLCs) or members of the Legislative Assembly (MLAs).

Parliamentary secretaries are sworn into office by the governor. However, as they are not cabinet ministers they do not receive an additional salary, but receive an allowance for expenses incurred within their office.

In 1990 the *Constitution Acts Amendment Act 1899* was amended to enable the appointment of parliamentary secretaries. Three parliamentary secretaries were subsequently announced by the Lawrence Labor Government, and were officially appointed by the Governor in Council.

By the beginning of the 39<sup>th</sup> Parliament in 2013, there were eight Parliamentary Secretaries. There is no constitutional limit to this number.

### *Role*

Parliamentary Secretaries perform many of the functions of ministers, as directed by the ministers, and are able to stand in for a minister in the chamber.

They can perform all the minister's duties on the floor of the house, such as taking carriage of bills, but they cannot answer questions on portfolio matters.



# About Parliament 12

## Leader of the Opposition and Shadow Ministry

The leader of the largest political party or coalition of parties not in government in the Legislative Assembly is known as the Leader of the Opposition.

### *History*

The term 'Her Majesty's Loyal Opposition' originated in the British Parliament in 1826. This term is rarely used in Australia.

The Western Australian Parliament did not officially recognise the position of Leader of the Opposition until 1905.

Since 1911 the Leader of the Opposition in Western Australia has been paid a salary equivalent to a minister and has been given special entitlements above those received by a backbench member.

### *Role*

The Leader of the Opposition appoints and coordinates the shadow ministry's scrutiny and questioning of government policies and administration.

The opposition is considered to be the alternative government and the leader has an important role in creating alternate policies for the state.

The Leader of the Opposition is also often viewed as being the next possible Premier of Western Australia.

An Opposition Leader:

- coordinates the scrutiny of government policy and administration;
- formulates alternative policies that are responsible and practical to provide the electorate with an alternative government; and
- can force an election - provided a successful vote of no confidence against the government can be carried in the Legislative Assembly.

Opposition Leaders rely heavily on the procedures of each house to enhance their role. These procedures include Questions without Notice and Questions on Notice to ministers, budget debates, legislative debates, making speeches on motions (including Matters of Public Interest), and grievance and adjournment debates.

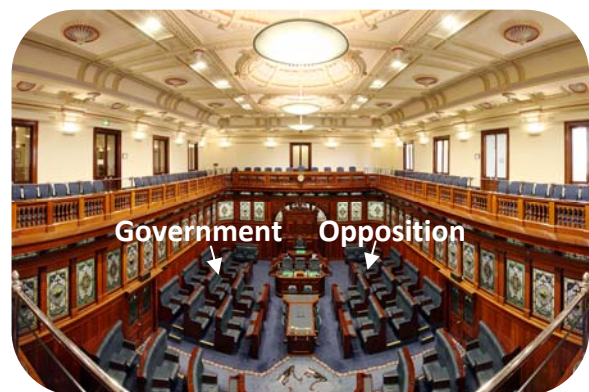
Apart from the range of parliamentary procedures, the Leader of the Opposition and shadow ministers also promote their own policies to the public through the media.

The Leader of the Opposition in Western Australia has always been a member of the Legislative Assembly (MLA).

When the Assembly is in session, the Opposition Leader sits to the Speaker's left, directly opposite the Premier.

The Speaker usually affords the Leader of the Opposition the right to ask the first Question without Notice. On other parliamentary procedures the Speaker usually recognises the call of the Leader of the Opposition.

The Leader of the Opposition fulfils a vital function in our parliamentary system of government and, in collaboration with the other opposition members, contributes to the preservation of our democracy.



Government and opposition separation in the Legislative Assembly chamber

### *Leaders of the Opposition since 1971*

David Brand (Lib)	3 March 1971 - 5 June 1972
Charles Court (Lib)	5 June 1972 - 8 April 1974
John Tonkin (ALP)	8 April 1974 - 15 April 1976
Colin Jamieson (ALP)	16 April 1976 - 21 February 1978
Ron Davies (ALP)	21 February 1978 - 18 September 1981
Brian Burke (ALP)	18 September 1981 - 19 February 1983
Ray O'Connor (Lib)	19 February 1983 - 15 February 1984
Bill Hassell (Lib)	15 February 1984 - 25 November 1986
Barry MacKinnon (Lib)	25 November 1986 - 12 May 1992
Richard Court (Lib)	12 May 1992 - 7 February 1993
Carmen Lawrence (ALP)	16 February 1993 - 7 February 1994
Ian Taylor (ALP)	7 February 1994 - 12 October 1994
James McGinty (ALP)	12 October 1994 - 15 October 1996
Geoffrey Gallop (ALP)	15 October 1996 - 16 February 2001
Richard Court (Lib)	16 February 2001 - 26 February 2001
Colin Barnett (Lib)	26 February 2001 - 9 March 2005
Matthew Birney (Lib)	9 March 2005 - 24 March 2006
Paul Omodei (Lib)	24 March 2006 - 17 January 2008
Troy Buswell (Lib)	17 January 2008 - 6 August 2008
Colin Barnett (Lib)	6 August 2008 - 23 September 2008
Eric Ripper (ALP)	23 September 2008 - 23 January 2012
Mark McGowan (ALP)	23 January 2012 - still in office

### *Shadow Ministry*

The Leader of the Opposition is assisted in fulfilling such a role by the shadow ministry of which he or she is a member.

The shadow ministry is composed of the most prominent members of the opposition in the Parliament who are usually given shadow portfolios to match those of the government.

Members of the shadow ministry occupy the opposition front benches in both the Legislative Assembly and Legislative Council. The shadow ministry is often labeled as the 'alternative government'.

A shadow minister's role is to scrutinise, appraise and criticise a particular government minister, questioning the minister about relevant policy direction and administration, and sometimes integrity issues.

Shadow ministry members are the opposition's main spokespeople in Parliament and to the electorate through the media. Unlike ministers, shadow ministers can also serve on parliamentary committees.

In the Western Australian Parliament shadow ministers date back to 1974, but they do not have an official status.

Apart from its Leaders, Deputy Leaders and Party Whips, shadow ministers do not receive a salary allowance for their roles, although many are appointed to parliamentary committees for which there is remuneration.

In recent times the shadow ministry has been numerically greater than the Government ministry.

Opposition members may be given 'shadow spokesperson' positions including portfolio areas not listed in the government ministry. These extra portfolios may be indicative of the opposition's future policy directions.





# About Parliament 13

## Members of Parliament

### *Who is eligible to be a Member of Parliament?*

To be a member of the Western Australian Parliament, a person must be an Australian citizen over the age of 18 and be eligible to vote in this state. This means that the person must be a Western Australian resident.

A member of Parliament must not be an undischarged bankrupt, must not hold an office under the crown (a government position or pension), and must not have been convicted of a crime for which the penalty is imprisonment for five years or more.

The *Constitution Act 1889* also forbids a person from simultaneously being a member of any other Parliament. A person cannot be a member of both the Legislative Assembly and the Legislative Council at the same time.

### *'Backbencher' or Private Member*

Members of Parliament who are not members of the cabinet or ministry or members of the shadow cabinet or shadow ministry are often referred to as Private Members or 'backbenchers'.

This name derives from the British parliamentary convention that stipulates ministers and shadow ministers occupy the front seats of the chamber.

Ministers occupy the front seats to the right of the Presiding Officers<sup>1</sup> and shadow ministers occupy the front seats to the left of the Presiding Officers.

The remaining members of each chamber occupy the 'backbenches'.

### *How are members of Parliament elected?*

Members of the Western Australian Parliament are elected by the people eligible to vote in Western Australia. Voting is conducted by secret ballot and is compulsory for all citizens aged 18 and over.

Candidates from a district of the Legislative Assembly or a region of the Legislative Council are

<sup>1</sup> The President of the Legislative Council or the Speaker of the Legislative Assembly.

elected according to the voting system for each house. Members then represent all persons in their district or region.

### *Where do members sit in Parliament?*

The Western Australian Parliament's Legislative Assembly (lower house) is divided into 59 electoral districts and the voters in each district elect one member to the Assembly. Members of the Legislative Assembly hold their seats for a maximum of four years.



Legislative Assembly Chamber

Legislative Council (upper house) members are drawn from six regions. Six members are elected to represent each region. Members of the Legislative Council hold their seats for a fixed term of four years (commencing on 22 May following a general election).



Legislative Council Chamber

### *What do members of Parliament do?*

The discussion over what roles members should fulfil has occupied the minds of several great political thinkers such as Edmund Burke and John Stuart Mill.

Today the subject is still widely debated, but three very important roles are often identified:

#### *1. Members are lawmakers*

Members sit in Parliament where they take part in debates and pass, amend or defeat laws for all

Western Australians. Members also serve on parliamentary committees (subsets of each house) that closely examine all types of issues. Committee recommendations can often influence legislation introduced into Parliament.

### *2·Members represent their constituents*

Members of Parliament seek to address the concerns, issues, questions and ideas of the people they represent (their constituents).

This sometimes requires members to ask questions of ministers in Parliament or contact public servants to raise specific issues about constituent concerns. Often they need to direct people to the most appropriate department or agency to deal with their problems.

### *3·Most members represent a political party*

Most members of Parliament belong to a political party and contribute to the views and policies of that party.

The manner in which a member undertakes their role may vary according to a number of conditions:

- whether the member is a minister or shadow minister;
- whether the member belongs to the government or opposition;
- whether the member is from a major party, minor party, or is an Independent;
- whether the member sits in the Legislative Assembly or Legislative Council
- whether the member represents a metropolitan or non-metropolitan electorate or region;
- whether the member is on a parliamentary committee.

### *Salaries and Allowances*

Payment of members of the Western Australian Parliament (apart from ministers) did not begin until 1900. However, the appropriate level of payment has always been keenly debated.

Since 1975 a Salaries and Allowances Tribunal annually determines the remuneration of members of Parliament. Recent surveys by the tribunal have indicated that members usually work long hours, often in excess of 70 hours a week.

In addition to a salary, allowances are also made for matters such as electorate offices, motor vehicles, travelling, accommodation and some expenses of members on parliamentary business.



Parliament House

### *Contact Your Local Member*

Any member of the public is welcome to contact their member of Parliament, either at the member's electorate office or at Parliament House when the houses are sitting.

Contact numbers can be accessed on the Parliament's website (under the individual member's names) at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au) or by contacting Parliament House on (08) 9222 7222.



# About Parliament 14

## Party Whips

### *Party Whips*

The term 'whip' originated in the Parliament of the United Kingdom and is derived from an English fox-hunting term 'whipper-in'. This was the person who kept the hounds in order and controlled their straying from the pack.

In Parliament a whip is a member of a political party whose task is to ensure that members of the party attend the chamber and support their party when a vote is taken.

The whips, as tellers, also count the members who vote in a division and give the numbers to the President or Speaker.

Historically, whips have been responsible for arranging the order of speakers in the house, but in modern Parliaments, this task is often shared by the Leader of the House and the Manager of Opposition Business in each house. Liaison with the party leaders is also necessary.

The party whip has close ties with the respective party leader and is responsible for maintaining party discipline, which is exercised in several forms including suspension from party meetings or denial of responsibilities.

Whips are responsible for arranging 'pairs', a system that allows a member to be absent from the chamber at the same time as a member from the opposite side of the house. This means that the anticipated result of a division will not be disturbed. Although 'pairs' are not officially recognised parliamentary procedure, they are published in *Hansard*.

The tasks of the whips and deputy whips are time-consuming, but are necessary for the efficient running of party and parliamentary affairs. They are addressed as the 'Government Whip' and the 'Opposition Whip'.

The Salaries and Allowances Tribunal provides specific remuneration for the respective whips, but the allowance differs for the Legislative

Council and the numerically greater Legislative Assembly.

### *The Leader of the House*

The role of the whips in modern Parliaments is conducted in consultation with the Leader of the House.

The appointment of the Leader of the House is made by the Premier, who has the ultimate authority and responsibility for government business.

An important function of the Leader of the House is to undertake or oversee negotiations, often resulting in the trading of parliamentary time with their opposition counterpart, the Manager of Opposition Business, on matters relating to the programming of the house.

In the House of Representatives<sup>1</sup> the post of Leader of the House dates back to 1951. In Western Australia, the Leader of the House in the Legislative Assembly was not instituted until 1983, when the role was assigned to a minister who was also in charge of other portfolios.



Parliament House

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<sup>1</sup> The lower house of the Federal Parliament.

*Government and Opposition Whips from 1974*

Legislative Council		Legislative Assembly	
Government	Opposition	Government	Opposition
Victor Jasper Ferry 1974-1977	Desmond Keith Dans 1974- 1976	Raymond Laurence Young 1974-1975	James Moiler 1974-1977
		James George Clarko 1975-1977	
Gordon Edgar Masters 1977-1980	Roy Edward Cunningham 1976-1980	Richard Steele Shalders 1977-1982	Thomas Henry Bateman 1977-1983
Margaret McAleer 1980-1983	Fred Evan McKenzie 1980-1983	Michael Nanovich 1982-1983	
Fred Evan McKenzie 1983-1993	Margaret McAleer 1983-1993	Gordon Leslie Hill 1983-1986	Rex Geoffrey Williams 1983-1988
		Pamela Ann Buchanan 1986-1990	Dudley John Maslen 1988-1989
		Jacqueline Patricia Watkins 1990-1993	Barry Roy Blaikie 1989-1992
Muriel Grace Patterson 1993-2001	Thomas Richard Helm 1993-1997	Robert Clyde Bloffwitch 1993-1997	Kevin John Leahy 1993-1996
	Robert John Thomas 1997-2001		Diana Muriel Warnock 1996-1997
Edmund Rupert Joseph Dermer 2001-2008	Bruce Kirwan Donaldson 2001-2008	Ian Frederick Osborne 1997-2001	Edward Joseph Cunningham 1997-2001
		Margaret Mary Quirk 2001-2005	John Leslie Bradshaw 2001-2005
		David Alan Templeman 2005-2008	Graham Gibson Jacobs 2005-2006
			Trevor Raymond Sprigg 2006-2008
Bruce Kirwan Donaldson 2008-2009	Edmund Rupert Joseph Dermer 2008-2013	John Edwin McGrath 2008-2011	David Alan Templeman 2008-still in office
		Kenneth Charles Baston 2009-2013	
Phillip John Edman 2013-still in office	Samantha Helen Rowe 2013-still in office	Antonio Krsticevic 2013-still in office	



# About Parliament 15

## Meetings (sessions) of Parliament

### *New Parliaments*

A Parliament lasts for the term of the Legislative Assembly, which is a maximum of four years calculated from the day on which it first meets after a general election.

The Legislative Assembly is subject to earlier dissolution by the Governor.

Members of the Legislative Council (MLCs) are elected for a fixed term of four years, and take office on 22 May following their election.

Unlike the Legislative Assembly, the Legislative Council cannot be dissolved before its full term expires.



Parliament House

### *Sessions*

Parliament meets and transacts business for a period known as a 'session'.

The *Constitution Act 1889* provides that there must be at least one session every 12 months.

Sessions are convened by the Governor on the advice of the Executive Council.

References to spring, autumn, or budget sessions are not the correct technical descriptions of parliamentary sessions. They are merely colloquial references to the seasons during which the

sittings occur (spring, autumn) or the purpose for which they are held (budget).

A session commences with the official opening of Parliament by the Governor, and does not end until prorogation of both houses or the dissolution or expiry of the Legislative Assembly.

In practice Parliament can consist of one session which runs for the duration of the Parliament (maximum four years).

### *Sittings*

A sitting is a meeting, or series of meetings, of a house.

Sitting days, and the times of meeting and adjournment on those days, are fixed by each house through standing or sessional orders.

In the course of a session, a house has the right to adjourn by its own motion for a specified period without prior permission of the Governor.

At the close of the last sitting day in a session, both houses adjourn to a date to be fixed by the President or Speaker respectively.



Sitting of Parliament in the Legislative Assembly

### *Prorogation*

A session is terminated by a prorogation of Parliament, which is put into effect by proclamation of the Governor on the advice of the Executive Council.

Prorogation has the following effects:

- all business of the two houses lapses;
- any temporary orders cease to have effect;
- resolutions or orders made by either House cease to have effect, unless otherwise determined;
- bills not passed by both houses must be reintroduced in the next session as if for the first time, unless restored to the notice paper of the house in which the bill lapsed. On restoration, the bill proceeds from the stage it had reached in the previous session of Parliament;
- bills that have completed their passage through the Parliament may lawfully be assented to after prorogation;



Legislative Assembly Committee

- standing committees appointed by either house still exist, although they may not meet and transact business; and
- select committees cease to exist. If a select committee inquiry is to continue in the next session, the committee must be re-established.



Legislative Council Committee

In recent times, the Parliament has been prorogued and the Legislative Assembly has been dissolved simultaneously, immediately before a state general election.

### *Dissolution*

Dissolution of the Legislative Assembly occurs when the Governor, acting on the advice of the Executive Council, calls for the current Legislative Assembly to end all business and be subject to a general election.

### *Recess*

The period between a prorogation of Parliament and the commencement of a new session is known as a recess.

### *Adjournment*

An adjournment occurs when a house stands adjourned, by its own motion, for any period of time—for example, between the end of one sitting day and the commencement of the next or between blocks of sitting weeks. An adjournment does not affect the continuation of the business of the house.



## About Parliament 16

# Business of the House – Legislative Council

### *Sitting Patterns*

The way the Legislative Council conducts its business has evolved over time to suit changing needs. For example, the Legislative Council used to sit only in the evenings, reflecting a time when members were unpaid and had other occupations to attend to. Although the current sitting hours may appear peculiar compared with a conventional working day, they have been retained because members find them effective.

The sitting patterns may suit regional members who need to divide their time between their electorate and Parliament. By sitting later in the day, mornings can be used for committee and other related work. Committees (and the work of members involved with them) have grown substantially in recent times. Standing committees are a comparatively recent arrangement; the Council previously formed select committees to examine particular matters, although not very often.

### *Work of the Chamber*

The business before the house is listed in a publication called the notice paper, which is published each sitting day. The notice paper contains matters currently being debated and a range of matters waiting to be considered. It is possible a matter may sit on the notice paper for years without being debated. The particular business dealt with on any day is negotiated by party leaders and members. As the parliamentary term continues, the notice paper may grow longer as unresolved matters accumulate.

The decisions about which matters listed on the notice paper will be dealt with on any particular day are generally not announced until shortly before a sitting. After discussions between the Leader of the House and other parties, decisions about the day's business are published in the Daily Business Program.

Although the Council can potentially consider any matter, each sitting day is generally arranged

according to an agreed pattern. This is reflected in the sitting timetable (see other page). The day starts with "Formal Business", which includes members giving notice of an intention to do something in the future, such as introduce a new bill or initiate debate on a topical matter.

Giving notice of the intention to do something is an important feature of how business is conducted. It ensures members are not taken by surprise and are able to consider how they might respond when the matter is moved. "Orders of the Day" refers to matters that are under consideration by the Legislative Council but not finalised, such as a bill that is being debated.

Question Time, when the government is queried on any aspect of its functions, occurs each sitting day and is one of the traditional uses of Parliament to keep governments accountable. A time is also reserved for the consideration and debate of reports produced by Legislative Council committees.



Although the house operates according to a set of rules known as "Standing Orders", many other influences can affect the conduct of business. The President will issue a "ruling" to clarify the meaning of particular rules and how they apply.

There are also many traditions or conventions, where there is general acceptance of unwritten rules of behaviour. For example, applying the "gag" or curtailing debate on a subject is very rarely used in the Legislative Council, as that is regarded as incompatible with the role of a "house of review".



## ORDER OF BUSINESS ON A SITTING DAY

### Legislative Council Timetable

TIMES	TUESDAY	WEDNESDAY	THURSDAY	TIMES
10.00am			<b>HOUSE MEETS FORMAL BUSINESS</b>	10.00am
10.15am				10.15am
10.15am			<b>NON-GOVERNMENT BUSINESS (80 minutes)</b>	10.15am
11.35am				11.35am
11.35am			<b>PRIVATE MEMBERS' BUSINESS (60 minutes)</b>	11.35am
12:35pm				12.35pm
12.35pm			<b>ORDERS OF THE DAY</b>	12.35pm
1.00pm				1.00pm
1.00pm			<b>LUNCH</b>	1.00pm
2.00pm				2.00pm
2.00pm		<b>HOUSE MEETS FORMAL BUSINESS</b>		2.00pm
2.15pm			<b>ORDERS OF THE DAY</b>	2.15pm
2.15pm				2.15pm
3.00pm				3.00pm
3.00pm	<b>HOUSE MEETS FORMAL BUSINESS</b>	<b>MOTIONS ON NOTICE (120 minutes)</b>		3.00pm
3.15pm				3.15pm
3.15pm	<b>ORDERS OF THE DAY</b>			3.15pm
4.15pm				4.15pm
4.15pm		<b>AFTERNOON TEA</b>	<b>AFTERNOON TEA</b>	4.15pm
4.30pm				4.30pm
4.30pm	<b>QUESTIONS WITHOUT NOTICE</b>	<b>QUESTIONS WITHOUT NOTICE</b>	<b>QUESTIONS WITHOUT NOTICE</b>	4.30pm
5.00pm				5.00pm
5.00pm	<b>ORDERS OF THE DAY</b>	<b>CONSIDERATION OF COMMITTEE REPORTS (60 minutes)</b>	<b>ORDERS OF THE DAY</b>	5.00pm
5.20pm				5.20pm
5.20pm			<b>MEMBERS' STATEMENTS</b>	5.20pm
6.00pm				6.00pm
6.00pm	<b>DINNER</b>	<b>DINNER</b>		6.00pm
7.30pm				7.30pm
7.30pm	<b>ORDERS OF THE DAY</b>	<b>ORDERS OF THE DAY</b>		7.30pm
9.45pm				9:45pm
9.45pm	<b>MEMBERS' STATEMENTS</b>	<b>MEMBERS' STATEMENTS</b>		9:45pm
10.25pm				10.25pm

Note: Time periods above are not to scale, and many times are estimates only





## About Parliament 17

# Business of the House – Legislative Assembly

The business of the house in the Legislative Assembly (as in the Legislative Council) has been modified historically in order to accommodate the changing roles of Parliament and parliamentarians.

As the 'House of Government', there is substantial media and public interest in the business of the Legislative Assembly. This is particularly true for questions without notice, or 'Question Time', occurring at approximately 2.00 pm every sitting day.

### *Days and Times of Sitting*

Unless it decides otherwise, the Assembly meets on Tuesday, Wednesday and Thursday of each sitting week. Sitting weeks are set by the government and generally total about 20 to 25 weeks each year.

### *Order of Business*

The work of the Legislative Assembly can vary markedly from one day to the next depending upon the items of business. Some activities like Question Time occur regularly each day whilst others like the presentation of papers may vary in frequency.

A typical sitting day in the Legislative Assembly generally includes the following procedures:

- prayers;
- presentation of petitions;
- presentation of papers for tabling (often reports from government departments and subsidiary or delegated legislation);
- giving notices of motion;
- brief ministerial statements;
- Questions without Notice;

- Government Business (notices of motion and the passage of bills); and
- Adjournment of the house (a collective decision to conclude the sitting day).

On particular days the Legislative Assembly allocates time to matters of public interest (MPIs), private members' business, committee reports, grievances and members' 90-second statements.

### *Matters of Public Interest (MPIs)*

If a member wishes to raise a motion as a matter of public interest they must do so by writing to the Speaker before 12 noon on any given day. Only one MPI may be debated in each sitting week. Debate can occur at the conclusion of giving notices of motion on Tuesdays or at the conclusion of Question Time on Wednesdays and Thursdays.

### *Private Members' Business*

Generally takes place between 4.00 pm and 7.00 pm on the Wednesday of a sitting week. The term 'private members' business' refers to business that is initiated by a member who is not a minister.

### *Grievances*

Grievances are debated only on a Thursday after brief ministerial statements. Four members may speak on grievances and no member may speak more than once. A minister or a member deputed will have the right to reply to each of the grievances.

### *Members' 90-Second Statements*

Once in each sitting week, at a time decided by the Speaker, the Speaker will call for statements by members. Up to six members, other than a minister, may make a statement not exceeding 90 seconds.



## LEGISLATIVE ASSEMBLY ORDER OF BUSINESS

Times	Tuesday	Wednesday	Thursday	Times	
9.00 - 9.10 am			9.00 am - House sits Prayers, Petitions, Papers, Notices, Brief Ministerial Statements	9.00 - 9.10 am	
9.10 - 10.10 am			Grievances	9.10 - 10.10 am	
10.10 - 11.00 am			Government Business (or Committee Reports)	10.10 - 11.00 am	
11.00 - 12.00 pm			Government Business	11.00 - 12.00 pm	
12.00 - 12.50 pm			12 noon - House sits Prayers, Petitions, Papers, Notices, Brief Ministerial Statements	12.00 - 12.50 pm	
12.50 - 1.00 pm				Members' Statements (90 Second Statements)	12.50 - 1.00 pm
1.00 - 2.00 pm			Government Business	Lunch Break	1.00 - 2.00 pm
2.00 - 2.05 pm	2.00 pm - House sits Prayers Brief Ministerial Statements	Questions without Notice (approx.. 45 Minutes)	Questions without Notice (approx.. 45 Minutes)	2.00 - 2.05 pm	
2.05 - 2.45 pm	Questions without Notice (approx. 45 Minutes)			2.05 - 2.45 pm	
2.45 - 2.50 pm	Petitions Papers Notices	Government Business or Matter of Public Interest*	Government Business or Matter of Public Interest*	2.45 - 2.50 pm	
2.50 - 3.45 pm	Government Business or Matter of Public Interest*			2.50 - 3.45 pm	
3.45 - 3.50 pm	Government Business	Government Business	Government Business	3.45 - 3.50 pm	
3.50 - 4.00 pm		Private Members' Business		House Adjourns Approx. 5.00 pm	3.50 - 4.00 pm
4.00 - 5.00 pm					4.00 - 5.00 pm
5.00 - 6.00 pm					5.00 - 6.00 pm
6.00 - 7.00 pm	Dinner Break	House Adjourns Approx. 7.00 pm		6.00 - 7.00 pm	
7.00 - 9.00 pm	Government Business			7.00 - 9.00 pm	
9.00 - 10.00 pm	Government Business			9.00 - 10.00 pm	
10.00 pm	House Adjourns Approx. 10.00 pm			10.00 pm	

Note: Time periods above are not to scale. All times are approximate.\* One Matter of Public Interest per week, on any day.



# About Parliament 18

## Passage of Legislation

One of the main functions of Parliament is to make laws for the 'peace, order and good government' of the state. To make laws, Parliament must pass legislation which is also known as 'statutes' or Acts of Parliament.

An Act of Parliament starts as a bill in either the Legislative Assembly (lower house) or the Legislative Council (upper house). A bill is a draft of a proposed law which must be passed by both houses before it can become law. A minister or member of either house may introduce a bill.



Legislative Assembly chamber

The formal stages that a bill must go through are:

### *Notice of Motion*

Before a bill is introduced the minister/member responsible for the bill will give notice. The notice is published in the notice paper of that house as a 'Bill Notice of Motion'.

### *Introduction and First Reading*

In accordance with Legislative Assembly Standing Orders, a bill introduced in the Legislative Assembly must be accompanied by an explanatory memorandum, which is a brief summary of the bill. If a bill does not have an explanatory memorandum it cannot be introduced.

The minister/member stands and presents a copy of the bill to the house at the appropriate time. After introduction, the house decides if the bill should be read a first time. This is usually agreed to without debate. The bill is 'read' a first time when the Clerk reads the title of the bill to the house.

### *Second Reading*

The minister/member in charge of the bill starts the second reading debate with a speech that explains the intended effect of the proposed legislation. All members are entitled to make one speech on that debate with the minister/member in charge of the bill having a right of reply in which the various arguments raised in debate are answered.

The second reading is the most important stage through which a bill passes because the whole principle or policy of the bill is at issue. At the end of the second reading, the main vote on the bill is taken.

### *Committee of the Whole House (Legislative Council) or Consideration in Detail (Legislative Assembly)*

When a bill has passed the second reading, the house forms itself into a 'committee', presided over by the Chair of Committees in the Legislative Council, or goes into consideration in detail in the Legislative Assembly. The bill is then dealt with clause by clause to ensure that when it becomes an act, it will carry out Parliament's intention.

At this stage, amendments can be moved to the clauses of the bill. In some cases a bill may be committed to the Committee of the Whole House or to consideration in detail more than once, mostly to tidy up amended clauses.



Legislative Council chamber

It is possible to bypass the Committee of the Whole House or consideration in detail stage when a bill is not controversial. In other words, if all members of a house agree with the bill, it need not be referred to the Committee of the Whole House or to consideration in detail and may proceed directly to the third reading.

### *Referral to Legislation Committee or Standing Committee*

In the Legislative Council, bills may be referred to an appropriate standing committee for its consideration and report to the Committee of the Whole House.

This is a good example of how the Legislative Council performs its review function. Similarly, in the Legislative Assembly, bills may be referred to a select or standing committee or a legislation committee.



Members and staff of a Legislative Council committee hearing

### *Third Reading*

Once the house has dealt with the bill in Committee of the Whole House or consideration in detail, the next stage is the third reading.

Although this stage is mainly formal, the bill is occasionally debated again when its subject matter is controversial, although new material cannot be introduced.

### *Presentation to Other House*

Once agreed upon, the bill is then sent to the other house where, following receipt by message (a formal means of communication between the houses) rather than introduction, the same procedure takes place.

### *Disagreement between the Houses*

If the two houses cannot agree on amendments made to a bill, informal negotiations usually occur. As a last resort, each house may appoint a number of members to meet to try to settle the difference. This procedure is known as a Conference of Managers. If the Conference of Managers fails to reach agreement, the bill fails.

### *Royal Assent and Proclamation*

Having passed through both houses, the bill is certified by the Clerk of the Legislative Council in his role as the Clerk of the Parliaments and is then presented to the Governor, who assents to it in the name and on behalf of the monarch. On assent, the bill becomes an Act of Parliament.

Some Acts of Parliament specify that they, or portions of them, do not come into operation until they are proclaimed by order of the Governor (on the advice of the Executive Council). A notice of proclamation must be published in the *Western Australian Government Gazette*.

### *Money Bills*

Under section 46 of the *Constitution Acts Amendment Act 1899*, all bills that involve expenditure of public moneys must originate in the Legislative Assembly. This is to ensure that the initiation of proposals for public expenditure remains in the hands of the government (which is formed from the party or parties having a majority in the Legislative Assembly).



# About Parliament 19

## Parliamentary Committees

### *What is a Parliamentary Committee?*

Parliamentary committees are part of the established procedure of most Westminster-style Parliaments. In Western Australia, both the Legislative Assembly and the Legislative Council have established a number of committees to carry out much of the work of their respective houses. In doing so, committees assist Parliament in its functions of legislating; monitoring and reviewing legislation, administration and expenditure; gathering information; and publicising issues.

A parliamentary committee is a group of members of Parliament appointed by the house in which they sit (or both houses in the case of joint committees) to undertake detailed work on its behalf and report back to the house on completion of investigations.

The Legislative Assembly generally appoints five members to its committees, while Legislative Council committees have between four and seven members appointed from that house. Joint committee members are drawn from both houses, with equal numbers appointed from each.

Each committee consists of members drawn from both the government backbench and non-government members. Ministers are generally not able to serve on committees as this may create a conflict of interest with their role in the executive government. Members often serve on one or more committees.

Committee proceedings are proceedings of the Parliament; they are delegated the same rights, powers and immunities as the houses. Parliamentary committees operate in accordance with the Standing Orders or rules of

their respective house. Service on a committee carries the same responsibility as service in the Parliament itself.

### *Why are Parliamentary Committees Important?*

Parliamentary committees are important because they:

- facilitate the division of labour, in that more than one committee can meet at a time (except when a house is sitting, unless by leave);
- provide a more bipartisan forum than the house for addressing issues;
- provide a more practical forum in which to hear evidence from witnesses;
- are able to seek advice from experts and travel; and
- provide an avenue of public communication between the Parliament and the public.

### *Types of Committees*

There are several types of committees, including standing, select and sessional committees.

#### *Standing Committees*

Standing committees are established by each house at the commencement of each Parliament and exist for the duration of that Parliament (usually four years); however, Legislative Council standing committees survive dissolution. If the Parliament is prorogued, the standing committees in either house cannot meet or transact business, although they remain in existence.

Each standing committee has a defined set of functions to perform (terms of reference) and

investigates matters and undertakes inquiries within its terms of reference. Inquiries may be initiated by the committee itself or referred by the house.

The Legislative Assembly currently administers five standing committees while the Legislative Council has six. These include a Procedure and Privileges Committee in each house to examine and report on the procedures and privileges that apply to their respective Houses.

*Legislative Council Committee Meeting*

### *Select Committees*

Select committees are established to carry out a specialised inquiry into a particular matter and within established terms of reference. They have a limited life and dissolve once they have reported to the house or the Parliament is prorogued, whichever occurs first.

### *Joint Committees*

By agreement, the houses may together appoint joint standing or select committees. Joint committees differ from other committees in that they consist of members from, and report to, both houses of Parliament. For practical purposes each committee is administered by one house. There are currently four joint standing committees of the Parliament.

### *Sessional Committees*

Sessional committees are established from session to session to consider matters of internal parliamentary administration. For example, each house appoints a Parliamentary Services Committee which advises the respective Presiding Officer on matters dealing with Hansard, Library, Security, Catering and Building Management in the Parliament. The two committees meet several times a year, as both Presiding Officers are jointly responsible for policy issues in the Parliament.

### *Powers of committees*

Standing and select committees have extensive powers to call and examine witnesses, to call for written submissions, documents and records, and they can undertake investigative travel.

### *Other Committees*

#### *Legislation Committees*

On occasions, the Legislative Assembly has referred a bill to a Legislation Committee. Legislation Committees allow for detailed scrutiny of legislation to occur outside the debating chamber and allow more efficient use of time through the simultaneous consideration of different pieces of legislation. Once the Legislation Committee has concluded its consideration of a bill, the next stage is the third reading in the Legislative Assembly.

#### *Estimates Committees*

Annually, the Legislative Assembly appoints two estimates committees to examine and report on the proposed expenditure contained in the estimates for the various departments and agencies that are funded from the consolidated account (budget).

The Legislative Council's Standing Committee on Estimates and Financial Operations conducts hearings on government spending and operations throughout the year.

For more information about parliamentary committees, visit the Parliament of Western Australia's website [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au).



## About Parliament 20 Legislative Assembly Committees

Parliamentary committees are made up of members of Parliament and assist Parliament in its scrutiny and review function by holding inquiries into complex issues. They investigate and report on matters of public importance within their area of responsibility.

During the inquiry process, committee members gather information, call for submissions and speak with government and non-government bodies, specialists and private individuals about the inquiry topic.

The committee members discuss the evidence gathered and formulate findings and recommendations for government action. The committee will then prepare and deliberate on a draft report, which is presented (tabled) in Parliament.



The current Legislative Assembly committee structure was established in 2001, when three portfolio-based standing committees were created by the Assembly (Community Development and Justice, Economics and Industry, and Education and Health). Although there has been a Public Accounts Committee since 1971, Legislative Assembly committee activity during the 1990s was primarily undertaken by select committees.

During this period, a number of select committees were created by the Legislative Assembly to inquire into a diverse range of matters such as road safety, recycling and waste management, heavy transport, effluent disposal, ancient shipwrecks and child migration.

The diversity and range of select committees during this period gave rise to consideration of creating a series of standing, portfolio-based

committees, rather than establishing select committees for a specific purpose that disbanded at the conclusion of their inquiry.

Accordingly, the Legislative Assembly agreed to the creation of the portfolio committees at the commencement of the 36th Parliament (2001). There have been no select committees of the Assembly since the establishment of the standing committee system. Standing committees are appointed by the Assembly and established for the duration of a Parliament (usually four years). Therefore, a standing committee remains in existence until the Assembly expires or is dissolved before an election.

Standing committees exist to undertake work on behalf of the Assembly, and report their findings, conclusions and recommendations back to the Assembly (not the government).

Standing committees must investigate matters and undertake inquiries within their specified terms of reference. Inquiries may be:

- initiated by the committee itself; or
- referred by the Legislative Assembly.

### *Current Standing Committees (2013)*

The Legislative Assembly committee system currently consists of seven standing committees. This includes two joint standing committees comprising members of both Houses of Parliament and administratively supported by the Assembly. The Procedure and Privileges Committee focuses on the procedures of the Assembly and privilege issues.

The Public Accounts Committee inquires into matters concerning the receipt and expenditure of public moneys. This includes the examination of

the financial affairs and accounts of government agencies. This committee also has allocated portfolio responsibilities (see Table).

The Community Development and Justice Standing Committee, the Economics and Industry Standing Committee and the Education and Health Standing Committee are portfolio-based committees. The portfolio responsibilities for each committee are assigned by the Speaker at the commencement of each Parliament and prescribe the areas of government activity for oversight by the relevant committee (see Table).

The Joint Standing Committee on the Corruption and Crime Commission is established pursuant to section 216A of the *Corruption and Crime Commission Act 2003* and monitors the functions of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission. The specific functions and powers of the committee are prescribed in the Assembly's Standing Orders and the act.

The Joint Standing Committee on the Commissioner for Children and Young People is established pursuant to section 51 of the *Commissioner for Children and Young People Act 2006*. Its functions and powers are established by resolution of the Assembly and Legislative Council. Its role is to monitor the functions of the Commissioner for Children and Young People.

For further information about Legislative Assembly committees, please contact:

Telephone: (08) 9222 7494

Facsimile: (08) 9222 7804

Freecall: 1800 199 187

Website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)

*Assigned Portfolio Responsibilities of  
Legislative Assembly Standing Committees in  
the 39<sup>th</sup> Parliament*

<i>Committee</i>	<i>Portfolios</i>
<i>Community Development and Justice Standing Committee</i>	Aboriginal Affairs Electoral Affairs Women's Interests Disability Services Police Emergency Services Road Safety Sport and Recreation Culture and the Arts Attorney General Corrective Services Child Protection Community Services Seniors and Volunteering Local Government Citizenship and Multicultural Interests Veterans Environment Youth
<i>Economics and Industry Standing Committee</i>	State Development Mines and Petroleum Fisheries Regional Development Lands Tourism Transport Commerce Science Housing Racing and Gaming Planning Energy Water Heritage Agriculture and Food Forestry Small Business
<i>Education and Health Standing Committee</i>	Education Training and Workforce Development Health Mental Health
<i>Public Accounts Committee</i>	Premier Treasurer Finance





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## Legislative Council Committees

Committee systems are often associated with the work of upper houses, as they complement the function of a “house of review”.

In a bicameral system, the government will not necessarily have control of the upper house. As such, upper houses and, by extension their committees, are sometimes regarded as having greater independence from government.

Committees enable the house to look closely at particular issues, take evidence in hearings, and commission research into matters without occupying the time of the entire membership of the house in the process.



The committee system offers the advantages of a division of labour and specialisation to enable the house to deal with complex or controversial matters more thoroughly.

Committees also provide a forum that is less partisan than the chamber.

Although committees of the house have existed for a long time, the system of standing committees in their current form is a relatively recent phenomenon, dating from 1989.

### *Standing Committees of the Legislative Council*

The standing committees of the Legislative Council are permanent committees, which are largely organised by particular functions, such as reviewing different types of legislation. The three standing committees listed below primarily deal with different types of legislation.

#### *Standing Committee on Legislation*

The legislation committee is the most general of the three legislation committees. It focuses on the

feasibility, clarity and technical accuracy of any bill (rather than the policy behind it) referred to it by the house. The committee is prohibited from considering the policy basis for a bill unless ordered to by the Legislative Council.

#### *Standing Committee on Uniform Legislation and Statutes Review*

This committee inquires into legislation that has resulted from agreements the government has entered into with other governments. These agreements often seek to introduce identical or similar laws in each jurisdiction. The committee also reviews the form and content of existing laws (statutes) and inquires into and reports on proposals to reform those laws.

#### *Joint Standing Committee on Delegated Legislation*

Delegated legislation is not subject to the same degree of scrutiny as other legislation, being made under an act that has already been passed by the Parliament. Local government by-laws, such as the power to issue parking fines, are typically made under delegated legislation. This committee reviews such laws to ensure that, among other things, they do not exceed the powers allowed by the parent act; they do not unduly trespass on established rights, freedoms or liberties; and they do not contain matters that are more properly dealt with by an Act of Parliament.

#### *Other Standing Committees*

##### *Standing Committee on Public Administration*

This committee inquires into and reports on the structure, efficiency and effectiveness of present arrangements for the public administration of the state.

### *Standing Committee on Estimates and Financial Operations*

This committee considers and reports on matters relating to the estimates of expenditure laid before the Legislative Council each year (also known as the 'budget'), as well as the financial administration of the state.

### *Standing Committee on Environment and Public Affairs*

This committee performs two distinct functions, dealing with matters relating to the natural environment and investigating matters raised in petitions to the Legislative Council. All petitions presented to the Legislative Council are considered. The committee may recommend action be taken in relation to matters raised in petitions.

### *Standing Committee on Procedure and Privileges*

Procedure and privileges committees are common to most Westminster-style Parliaments, and are responsible for the internal affairs of a house. They review the law and customs of Parliament, the rules of procedure of the house and its committees, and recommend to the house such alterations to the law, customs or rules that, in their opinion, will assist or improve the proper and orderly transaction of the business of the house or its committees. Matters of privilege may also be referred to the committee.

### *Joint Standing Committee on Audit*

This committee comprises members of the Council's Standing Committee on Estimates and Financial Operations and the Assembly's Public Accounts Committee. Its role is to inquire into and make recommendations about the budget and organisational structure of the Office of the

Auditor General and to review the *Auditor General Act 2006*.



A witness at a Legislative Council Committee hearing

### *Select Committees*

Select committees are set up for a particular purpose and dissolve once their inquiry is completed. Previous Legislative Council select committees have inquired into a range of issues, including the Department for Community Development's foster care assessments; the Department of Education and Training; privilege; immunisation and vaccination rates in children; and the police raid on *The Sunday Times*.

### *Committee of the Whole House*

The "Committee of the Whole House" is a phrase used to describe the process whereby the detail of a bill is considered by the house and within the chamber—that is, each clause of a bill can be debated. The procedural rules surrounding this debate are more flexible and better suited to detailed examination of legislation.

For further information about Legislative Council committees, please contact:

Telephone: (08) 9222 7300

Facsimile: (08) 9222 7805

Freecall: 1800 199 187

Website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)



## About Parliament 22 Parliamentary Questions

Parliamentary questions are an important means used by members of Parliament to ensure the government is accountable for its policies and actions to the Parliament and, through the Parliament, to the people.

In the parliamentary chambers, questions are used by members on both sides of the house to ask a minister about matters of concern relating to government policy within the minister's portfolio.

Questions may also be asked of a member regarding any matter connected with the business of the house for which the member has charge, and also to a member chairing a committee.

Questions must conform to the rules or the Standing Orders of each house. The Speaker in the Legislative Assembly and the President in the Legislative Council may disallow or edit a question that is considered to not conform to the house's Standing Orders.

Questions asked of a minister must be brief, must not contain a long preamble (introduction) and must relate to the minister's portfolio or area of responsibility.

Through asking questions, members attempt to extract information and often imply criticism of government policies and actions.

Parliamentary questions are categorised into two groups:

- Questions without Notice; and
- Questions on Notice.



### *Questions without Notice (Question Time)*

Questions without Notice are asked orally by Opposition or Government backbench members during Question Time in the House. Question Time is a set part of each sitting day, and occurs in both houses.

In the Legislative Assembly, ministers are asked questions for approximately 45 minutes every sitting day starting at 2.00 pm or shortly thereafter.

In the Legislative Council, Question Time typically takes place for approximately 30 minutes starting at 4.30 pm each sitting day.

Question Time is one of the liveliest times in a parliamentary sitting day. Generally all members are in attendance in the house at this time, when current issues are raised. For this reason, Question Time attracts media attention, with televised extracts being regularly used in television news programs.

Given the media and public focus on Question Time, the performance of the Government and Opposition is under particular scrutiny during this part of the proceedings.

In addition to the rules outlined above, a Legislative Assembly member may, at the discretion of the Speaker, ask a supplementary question providing it relates strictly to the original question.

A minister's answer must be relevant to the question asked. If a minister's answer is prolonged, the Presiding Officer may intervene to ensure the answer is brought to a prompt conclusion.

Some questions are known as 'Dorothy Dixers'. These questions from Government backbench members are often pre-arranged to allow a minister to talk of the positive achievements in his/her portfolio, and to allow for some 'free publicity' for the Government.

The term 'Dorothy Dixer' derives from an American question and answer column whose author, Dorothy Dix, purported to solve readers' problems. She was in fact both author and respondent with no true correspondents.

The proceedings of the Legislative Assembly and the Legislative Council (including Question Time) are broadcast live on the Parliament's website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au).

### *Questions on Notice*

Questions on Notice are submitted in writing, and are responded to by the minister on a later day.

Questions on Notice are often used when a detailed answer is required and it is unrealistic to expect the minister to answer the question comprehensively during Question Time.

Questions on Notice are lodged with the Clerk of the house, checked, edited in accordance with the Standing Orders and Presiding Officer's direction, and sent electronically to the relevant ministerial office.

Following advice from departmental and ministerial advisers, the minister's answer is returned electronically to the Parliament for circulation to the member who asked the question and for publication in *Hansard* and on the Parliament's website.

Parliamentary Questions: 1896 to 2006

	Questions on Notice		Questions without Notice	
	Legislative Council	Legislative Assembly	Legislative Council	Legislative Assembly
1896	40	41	4	12
1906	33	217	4	21
1916/17	39	208	0	18
1926	50	177	0	9
1936	41	107	1	8
1946	66	219	1	24
1956	140	1009	12	235
1966	206	827	16	163
1976	378	2114	38	380
1986	700	2037	222	432
1996	1038	2556	1182	694
2006	4377	1754	1206	957



# About Parliament 23

## Petitions

A petition is a document that allows members of a community, through the gathering and presentation of signatures to Parliament, to publicly seek redress of their grievance by requesting that Parliament give consideration to a particular course of action.

The right to petition dates back to at least the reign of King Edward I (1239-1307) with its use being an important factor in the development of democratic values and institutions in Britain between the 13<sup>th</sup> and 17<sup>th</sup> centuries. The right to petition both the crown and Parliament was recognised in the Magna Carta (1215) and in the *Bill of Rights* (1689).

Originally, the terms 'petition' and 'bill' held similar meanings as parliamentary historians have noted that 'all or most ancient acts of Parliament were made by way of petitions as a means of providing formal redress for grievances'.

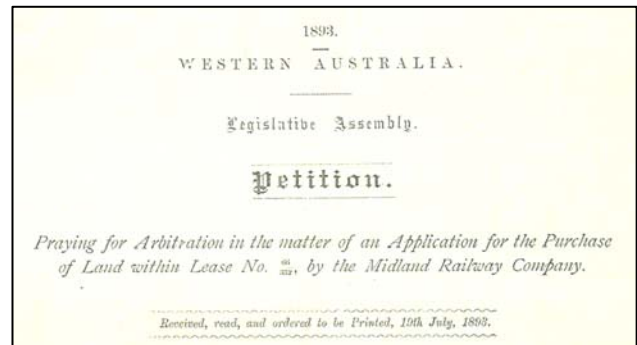
The earliest forms of legislation were often little more than petitions agreed to by the King. Then during the English Civil Wars and Revolution between 1640 and 1660, there was an outbreak of mass political petitions.

Individuals and groups, particularly from the 'lower classes', began to presume they had a right to instruct their 'social and political betters'. Mass political petitions were brought to the crown and the Parliament protesting matters such as arbitrary imprisonment, excessive taxation, and the use of martial law.

In Western Australia, petitions were part of the parliamentary process at the beginning of responsible government in 1890; however, the procedure was very rarely used.

In fact, there were many parliamentary sessions (and years) in which no petitions were tabled in either the Legislative Council or the Legislative Assembly.

Not until the late 1970s did petitions become a more significant strategy of political participation for pressure and interest groups and citizens.



The title of a petition from 1893

### *Famous Petitions*

One example of the major use of a petition to express a public mood took place when over 100,000 signatures were filed in 1979 to oppose the government's decision to close the Perth-Fremantle passenger rail service.

Another instance of the use of petitions to convey widespread public concern took place in 2007 with the campaign to stop the proposed Yarragadee water supply development. The plan was to transport 45 gigalitres of water from the Yarragadee aquifer in the south west to Perth. Petitions tabled in both houses of Parliament consisted of at least 15,000 signatures.

Another issue that prompted the large-scale use of parliamentary petitions was daylight saving. This drew petitions in both support of and opposition to daylight saving.

### *Rules*

In order to be tabled in either house of the Western Australian Parliament, a petition must conform to the Standing Orders of the house in which it is presented.

It must be addressed either to the President of the Legislative Council or the Speaker in the Legislative Assembly and contain the name and address of each petitioner along with their original signature.

The petition must not make an application for a direct grant of money to be paid to an individual, nor may it be tabled by a member of Parliament who has signed the petition as a petitioner. At the same time, the petition must not have letters, affidavits or other documents attached to it.

Guidelines on how to prepare a petition for presentation to the Legislative Assembly and the Legislative Council are available from the Parliament of Western Australia website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au). Your local member of Parliament can also assist in the preparation of petitions.

### *Petitions Committee*

In the Legislative Assembly, a petition may be referred by motion to a parliamentary committee. However, in the Legislative Council, one of the terms of reference for its Standing Committee on Environment and Public Affairs is to inquire into and report on all petitions.

The Legislative Council was the first House of Parliament in Australia to introduce automatic referral of petitions for consideration by a committee.

When reviewing petitions, the Committee seeks

to provide for public discussion on matters of community interest and to allow interested persons or groups to bring their concern to the attention of the Legislative Council.

Upon receipt, the committee generally writes to the tabling member and to the principal petitioner inviting a one to two-page submission providing further information on the matters and issues raised in the petition.

The committee may also make preliminary investigations to obtain background information on the issues from government agencies, private organisations and individuals.

If a petition comes within the terms of reference of another standing committee of the Legislative Council, it may refer the matter to that committee.

All transcripts of evidence taken in public and all the committee's reports and relevant government responses are available from the Parliament's website.

Regular reports published by the Standing Committee on Environment and Public Affairs contain details and responses to the petitions it has received.

PETITION		
To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.		
We, the undersigned, say <i>(outline situation which needs change)</i>		
Now we ask the Legislative Assembly <i>(detail the action which the Legislative Assembly should take)</i>		
NAME	ADDRESS	SIGNATURE

At least one signature on the face page is required.  
The request for action must appear on each page which has signatures.

Legislative Assembly petition pro forma - available from [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)



# About Parliament 24

## *Hansard* and the Records of the House

### *Hansard*

*Hansard* is the name by which the official printed record of parliamentary debates is usually known.

If you would like to know what is said during parliamentary debates, refer to *Hansard*. If you would like to know the official record of decisions and votes made in one of the Houses of Parliament, refer to the *Votes and Proceedings* of the Legislative Assembly or the *Minutes of Proceedings* of the Legislative Council.

*Hansard, Votes and Proceedings, and Minutes of Proceedings* are available from the Western Australian Parliament's website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au). On sitting days a live broadcast of the proceedings of each House is also available.



Legislative Council Chamber

### *History*

The publication is named after the Hansard family who first printed, and then took responsibility for producing, reports of the parliamentary debates in the House of Commons<sup>1</sup> in the 19<sup>th</sup> century.

Since 1890, Hansard reporters have been providing clear and independent reports of the debates of the Parliament of Western Australia.

### *Role*

Hansard reporters, who are highly trained, take 10-minute turns to record the debates and proceedings of Parliament, using machine shorthand, written shorthand or audio transcription.

Most Hansard reporters use a stenograph

machine. The shorthand data from a stenograph machine is extracted to a computer, which translates it into English.

The principal function of Hansard reporters is to prepare edited transcripts of parliamentary debates. In addition, the department provides transcripts of evidence given before parliamentary committees.



Legislative Assembly Chamber

*Hansard* is not a verbatim transcript; rather, it is a full report in the first person in which the member's words are used. However, obvious mistakes are corrected and redundancies and needless repetition are removed. Clarity is provided, while ambiguity and elegant variation are avoided. Nothing is added to or omitted from the transcript which alters the meaning of the speech.

Members are provided with copies of their speeches progressively throughout the day's sitting to enable them to check the accuracy of the report.

A daily proof document is produced by 9.00 am the following day and a copy of the transcript is available on the Western Australian Parliament website. After further proofreading and editing, the weekly *Hansard* is published on the following Tuesday.



The bound volumes are printed after the session has ended, and become the official and permanent records of parliamentary debates. A cumulative index to the whole session is published in a bound volume.

<sup>1</sup> The lower house of the British Parliament.

Under the *Parliamentary Papers Act 1891*, persons involved in publishing the *Parliamentary Debates (Hansard)*, are protected by parliamentary privilege; that is, they are immune from civil liability for any defamation contained within the debates.

Article 9 of the *Bill of Rights 1689* also prevents courts and other places from questioning the proceedings of Parliament. However, the debates may be referred to by a court to assist in interpreting the meaning of an Act of Parliament.

### *Votes and Proceedings (Legislative Assembly) and Minutes (Legislative Council)*

The *Votes and Proceedings* of the Legislative Assembly and the *Minutes of Proceedings* of the Legislative Council are the official record of proceedings, and do not include text of debate which is recorded in *Hansard*. These documents record all votes, including those taken on the voices and by division. Votes taken by division show which way each individual member voted.

### *Messages*

Messages are a means of written formal communication between the two houses. Messages may deal with the transmission of bills between the two houses, requests for the attendance of members or officers of the other House as witnesses, appointment of joint standing or select committees, requests for conferences and the transmission of resolutions for concurrence.

Once it is signed by the Presiding Officer, the Sergeant-at-Arms or the Usher of the Black Rod delivers it over the Bar of the recipient house.

### *Notice Paper*

A notice paper (agenda of business for the house) is issued by each House every sitting day, except the first day of a session when there is no business before either house. Business is listed in the order determined by the Standing Orders (see below) of each House. The Leader of the House in the Legislative Assembly and the Leader of the

Government in the Legislative Council normally determine the order of Government business for the notice paper of their respective houses.

However, the house may decide to vary the order of business listed on the notice paper. Usually there is far more business listed on each day's notice paper than can be debated on that sitting day. Business not dealt with is automatically listed on the notice paper for the next sitting day.

If it is desired to pursue business that remains on the notice paper when Parliament is prorogued, that business must be reintroduced or reinstated in the next session - it does not automatically carry over into the new session.

### *Business Program*

Because more is listed on the notice paper than can be dealt with on any day, a daily 'Business Program' is issued. This lists the items the house seeks to deal with that day.

### *Standing Orders*

Standing Orders are the formal rules set down by each house for its operation, and determine how debates and business are conducted. Any variation to these rules must have the support of an absolute majority of members in that house. The Clerk of the House is the principal adviser to the Presiding Officer and members regarding the Standing Orders, procedures and privilege.

### *Tabled Papers*

A document presented to Parliament is laid on the Table of the House and is called a tabled paper. These papers are public documents and are available to members of Parliament, the media and the public.

Examples of papers include annual reports of Government agencies, subordinate legislation (such as regulations, rules, local laws and by-laws), and documents relating to government activities, the Parliament, the Auditor General and the Parliamentary Commissioner for Administrative Investigations (Ombudsman).





# About Parliament 25

## Parliamentary Privilege

The term 'parliamentary privilege' refers to the immunities and powers possessed by each house of Parliament and their members to allow them to carry out their parliamentary functions effectively. Without these immunities and powers, members of Parliament could not function properly when inquiring, debating and legislating.

Although the immunities and powers have been inherited from the UK Parliament, the Western Australian Parliament has also passed its own legislation that enshrines parliamentary privilege in Western Australia.

Section 36 of the *Constitution Act 1889* provides that it shall be lawful for the Parliament by an act to "... define the privileges, immunities and powers to be held, enjoyed and exercised by the Legislative Council and Legislative Assembly." This was done in 1891 when the Parliament enacted the *Parliamentary Privileges Act*, which linked the privileges held by the UK House of Commons to the Western Australian Parliament on an ongoing basis.

In 2004, the *Parliamentary Privileges Act 1891* was amended to 'peg' this linkage as of 1 January 1989, so that any subsequent changes made by the UK House of Commons would not automatically apply to the Western Australian Parliament.

### *Immunities*

The most important parliamentary immunity inherited from the United Kingdom is freedom of speech in Parliament, which was enshrined in the 1689 UK *Bill of Rights*. Article 9 of the Bill declares that:

The freedom of speech and debates or proceedings in Parliament ought not be impeached or questioned in any court or place out of Parliament.

This means that members of Parliament cannot be taken to court and prosecuted for anything they say or do in the course of parliamentary proceedings.

This is important so that they can do their job and raise any issue without fear of being sued for defamation or fear of harassment, intimidation or improper influence by anyone.

Parliamentary privilege also extends to non-members who participate in parliamentary proceedings, such as witnesses who give evidence at a parliamentary committee hearing and those making documentary submissions to a committee inquiry.

Under the *Parliamentary Papers Act 1891*, persons involved in publishing the *Parliamentary Debates (Hansard)*, are protected by parliamentary privilege; that is, they are immune from civil liability for any defamation contained within the debates.

Article 9 also prevents courts and other places from questioning the proceedings of Parliament. However, the debates may be referred to by a court to assist in interpreting the meaning of an Act of Parliament.

Other legal immunities for members include freedom from arrest in civil actions, exemption from attendance in court as a witness on sitting days and exemption from jury duty. These immunities are justified on the grounds that a member's first duty is to Parliament. However, there is no immunity from arrest in relation to criminal matters.

### *Powers*

The principal powers of the houses include the power to conduct inquiries, which is usually delegated to parliamentary committees, and the power to require the attendance of persons to give evidence or produce documents. These powers are essential as they enable the houses to inquire into matters in order to have informed debate, to scrutinise the activities of the government and to legislate.

A further related power is the power to punish acts that are regarded by the houses to be a contempt or breach of parliamentary privilege, which is similar to the courts' power to punish for contempt of court. This is important because it enables the houses to protect themselves from actions that directly interfere with or impede the work of the houses, their members or committees.

For example, contempt may include disobeying an order by a committee to produce papers, books, records or other documents; refusing to answer questions put by a committee; or obstructing a member from going to or entering Parliament on a sitting day.

### *Penalties*

There are a range of penalties available to punish a person or member of Parliament declared guilty of contempt, including a reprimand by the Speaker or President; the requirement of an apology; the imposition of a fine in certain circumstances; suspension (of a member); and imprisonment.

### *Procedure and Privileges Committees*

At the commencement of each Parliament, both Houses appoint a Procedure and Privileges Committee, chaired by the President and Speaker respectively, which focus on the procedures and privilege issues in each house.

If a contempt or breach of privilege matter is raised in the house, the house may decide to act or refer it to the Procedure and Privileges Committee for investigation. The Committee will then report back to its house as to whether a breach of privilege or contempt has occurred and what action, if any, the house should take (as committees themselves do not have the power to punish).

In certain circumstances, the Corruption and Crime Commission can act on behalf of the Procedure and Privileges Committee of either house to investigate allegations of misconduct by a member of Parliament.

### *Responses from Persons Adversely Referred to in the House*

Although parliamentary privilege provides members of Parliament the freedom to speak their minds without fear of legal action for what they say, from time to time people may feel aggrieved by adverse statements or comments made in a house or in committee reports presented to the Legislative Assembly or the Legislative Council.



The **Legislative Assembly** allows people who believe that they have been adversely referred to, to have an opportunity to make a response providing certain rules are complied with. A person or corporation may write to the Speaker requesting that their response be published. If the request appears to be appropriate, the Speaker will refer the matter to the Procedure and Privileges Committee. The committee will then consider the request in detail and report to the house whether or not a response should be published in *Hansard*.



In the **Legislative Council**, a person or corporation may also seek redress through a similar petition process, known as making a "Prayer for Relief". If the complaint is considered legitimate, the Council has a range of actions it may take to address the issue.

For further information, a pamphlet on 'Responses from Persons Adversely Referred to in the Legislative Assembly' is available by telephoning (08) 9222 7390 or visiting the Parliament of Western Australia website [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)



# About Parliament 26

## Clerks of the Houses

### *Clerks of the two Houses*

The Clerk of the Legislative Council and the Clerk of the Legislative Assembly are the senior permanent officers serving each house. The Clerks advise the President and Speaker and members of their house on the Standing Orders (rules of debate) and matters of procedure in an impartial (non-political) way.

### *Clerk of the Legislative Council*



### *History*

The term 'Clerk of the Parliaments', which is the title of the Clerk in the UK House of Lords, was first used during Henry VIII's reign (1509-1547) and meant that the Clerk of the Parliaments served from one Parliament to the next, not just the current one.



Legislative Council Chamber

### *Role*

The Clerk of the Legislative Council is the senior permanent officer serving the house.

In Western Australia, the Clerk of the Legislative Council is appointed by the Governor on the advice of the President of the Legislative Council.

The Clerk of the Legislative Council:

- is usually appointed to the position after many years of experience;
- gives procedural advice based on Standing Orders, procedures and practices of the Legislative Council to the President, ministers and members;
- assists in the administration of the Parliament in concert with the Legislative Assembly and the Department of Parliamentary Services;
- compiles and has the custody of the official records of business known as the *Minutes of Proceedings* of the Legislative Council;
- calls items of business, reads titles of bills and announces petitions;
- rings the bells for divisions;
- is responsible for the administration of the Legislative Council and its committees;
- sits in the Chamber at the table in front of the President on the right-hand side;
- wears the traditional dress of a black gown; and
- is assisted by a Deputy Clerk and Clerk-Assistants.

### *Clerk of the Parliaments*

Historically, the Clerk of the Legislative Council has also been designated as the Clerk of the Parliaments. The Clerk of the Parliaments has additional responsibilities to fulfill, including certifying bills for the Governor to give royal assent.

## Clerk of the Legislative Assembly

### History

The office of Clerk had its origins in the early English Parliament. The first appointment of an official nominated by the King to the Parliament, with secretarial and recording duties, dates from 1315. The first reference to a Clerk of the Commons was in 1363.

Originally, the word 'clerk' simply meant a person who could read and write. Since many members of Parliament could then do neither, one of the Clerk's main functions was to read petitions, bills and other documents to the house – hence the origins of a 'First Reading' and so on.

In the 16<sup>th</sup> century, Clerks began to undertake a much wider range of functions and began keeping a written record of the Parliament's decisions in a journal. By the 17<sup>th</sup> century they had developed the role of advising on precedents and procedure.



Legislative Assembly Chamber

As with the Clerk of the Legislative Council, the Clerk of the Legislative Assembly is appointed by the Governor on the advice of the Presiding Officer of the house (in this case, the Speaker of the Legislative Assembly).



### Role

The Clerk of the Legislative Assembly:

- is usually appointed to the position after many years of experience;
- provides procedural advice, including practices and conventions, based on the Standing Orders (rules of debate) to the Speaker, ministers and members of the Legislative Assembly;
- listens to debates and makes sure that all the actions and decisions of the Legislative Assembly are legal and accurately recorded in the daily *Votes and Proceedings* publication;
- calls items of business and reads the titles of Bills;
- is responsible for the administration of the Legislative Assembly and its committees; and
- assists with the administration of the Parliament in concert with the Legislative Council and the Department of Parliamentary Services.

As there are more than 300 rules or Standing Orders, plus precedents relevant to the Standing Orders, the Clerk has to be able to give quick, learned advice on them.

The Clerk has the assistance of a Deputy Clerk and a Clerk Assistant (Procedure) and Clerk Assistant (Committees). These senior officers are referred to as table officers. While the House is sitting, the table officers sit at the table in front of the Speaker's chair.

Since the establishment of the Legislative Assembly in 1890 there have been only nine Clerks of the Legislative Assembly.



# About Parliament 27

## Sergeant-at-Arms and Usher of the Black Rod

### *Sergeant-at-Arms*

The Sergeant-at-Arms is an officer of the Legislative Assembly who attends upon the Speaker on ceremonial occasions such as the opening of Parliament. The Sergeant-at-Arms carries the mace.

The formal role of the Sergeant-at-Arms is also to keep order, at the direction of the Speaker, during the sittings of the Legislative Assembly. The word 'Sergeant' derives from the Latin *serviens*, which means 'servant'.

### *History*

The first record of a Sergeant-at-Arms dates back to the late 14<sup>th</sup> century when a Sergeant-at-Arms was appointed from King Richard II's personal bodyguard to protect the Speaker of the House of Commons.

The office originated in Medieval England to serve the sovereign in a police role, much like a bailiff in more recent times.

The first Sergeant-at-Arms in the Legislative Assembly was Charles Kidson who held the office from January 1890 to January 1932. He had also held the post in the pre-1890 Legislative Council period of representative government.

### *Role*

The Sergeant-at-Arms:

- at the beginning of each sitting day, escorts the Speaker into the Legislative Assembly chamber whilst carrying the mace;
- is the Constable of the Assembly, responsible for the security and maintenance of the Legislative Assembly chamber, its galleries and committees;
- at the direction of the Speaker and the Legislative Assembly, may assist with the removal of a member of the Legislative Assembly for willfully disrupting the proceedings of the Legislative Assembly or

disobeying the directions of the Speaker;

- at the direction of the Speaker, may assist with the removal of any person from the galleries of the Legislative Assembly, its committees or Parliament House;
- delivers summons to witnesses on behalf of Legislative Assembly committees;
- delivers messages from the Legislative Assembly to the Legislative Council; and
- undertakes ceremonial duties for the opening of a new session of Parliament.

### *The Mace*

The Sergeant-at-Arms' mace had originally been part of the normal fighting equipment of mounted men at arms, together with their lances, swords and armour.

Over time, the mace became ornamental and was recognised as the emblem of a Royal Sergeant-at-Arms.



Mace of the Legislative Assembly

The Sergeant-at-Arms is the custodian of the mace which symbolises the authority of the Speaker of the House.

The Western Australian mace was designed by the State Works Department in 1887 and was manufactured in South Australia by S. Schlank's Beaver Factory in Adelaide at a cost of £70.

Made of silver with gold leaf, it was first used in the Legislative Council in 1888, and was transferred along with the Sergeant-at-Arms to the Legislative Assembly upon its establishment in 1890. It is the oldest Parliamentary mace in Australia.

### *Usher of the Black Rod*

The Usher of the Black Rod, known as 'Black Rod', is an officer of the Legislative Council who is appointed by the Governor. The office is derived from the British Gentleman Usher of the Black Rod who is appointed by the Crown to attend the House of Lords.

#### *History*

The Usher of the Black Rod is a position with ancient origins. Letters of Patent were issued in 1361 by King Edward II to create the usher as a court position involved in meeting with the Parliament.

By the 16<sup>th</sup> century, the Gentleman Usher of the Black Rod had become a position entirely associated with the House of Lords, where he acted initially as the Monarch's representative in the House of Lords. Later the position evolved to include the ceremonial and other duties associated with the position today.

#### *Role*

The Usher of the Black Rod:

- at the beginning of each sitting day, escorts the President into the Legislative Council chamber whilst carrying the Black Rod;
- is responsible for the security and maintenance of the Legislative Council Chamber, its galleries and committees;
- at the direction of the President and the Legislative Council, may assist with the removal of a member of the Legislative Council for willfully disrupting the proceedings of the Legislative Council or disobeying the directions of the President;
- at the direction of the President, may assist with the removal of any person from the galleries of the Legislative Council, its committees or Parliament House;
- delivers messages from the Legislative Council to the Legislative Assembly;
- undertakes ceremonial duties for the opening of Parliament; and receives distinguished visitors or groups on behalf of the President.



Usher of the Black Rod and Sergeant-at-Arms  
Opening of Parliament 2013

#### *Opening of Parliament*

At the opening of a new Parliament, the Usher of the Black Rod is the personal attendant upon the Governor and, upon the Governor's instructions, summons the Legislative Assembly and its Speaker to the Legislative Council to hear the Governor's speech.

In this ceremony, the Black Rod knocks three times on the closed door of the Legislative Assembly. After being admitted, the Black Rod moves to the Bar of the House, bows and delivers a message requesting the members to go to the Legislative Council chamber.



Black Rod of the Legislative Council

#### *Black Rod*

The symbol of office of the Usher of the Black Rod is a black rod about one metre in length.

The Black Rod now in use was specifically designed for Western Australia by the Crown Jeweller and was presented to the Legislative Council to mark the visit of Her Majesty the Queen in 1954.

The Black Rod was the gift of Hon Harry Hearn, OBE, member of the Legislative Council (1948 to 1956) for the Metropolitan Province.



## About Parliament 28

### Women Members of the Western Australian Parliament

When Western Australia gained responsible (self) government in 1890, women could not vote in Legislative Assembly elections or stand as a candidate for a seat.

This was despite the fact that during the period of representative government from 1876 women did have the right to vote in municipal elections, and were permitted to sit on school boards.

During the 1890s a series of motions seeking to grant women the right to vote were debated in the Western Australian Parliament. In 1893, Joseph Cookworthy, MLA, put forward a proposal to give women the vote as an amendment to a bill creating voting qualifications for the Legislative Council.

This amendment was restricted to single, widowed, and divorced women. The attempt failed, with Premier Sir John Forrest stating: 'the proper place for a woman was to look after her home and not be running all over the place'.



Parliament House

The formation of the Karrakatta Club and the Women's Temperance Union helped the quest for the vote. In 1894 South Australia not only enfranchised women but also made them eligible to sit in Parliament.

After several unsuccessful attempts in 1896 and 1897, Western Australian women narrowly won the right to vote with changes to the *Constitution Acts Amendment Act 1899*. Sir John Forrest finally gave his support, justifying his decision by saying he was responding to the calls for justice for women.

Women in Western Australia were able to vote in the referendum that affirmed the colony's entry into the Federation. The first votes in federal and state parliamentary elections took place in 1901.

The federal election was conducted under the electoral provisions for Western Australia before separate commonwealth electoral statutes were passed.

It was not until 1920, however, that women became eligible to stand for and win Western Australian parliamentary seats. This right was granted with the passage of the *Parliament (Qualification of Women) Act 1920*.



Within one year, community activist Edith Cowan won the seat of West Perth in the Legislative Assembly.

Her maiden speech proclaimed that 'the views of both sides [men and women] are more than ever needed in Parliament today'.

Although she served only one term, Edith Cowan had a broad platform and sought many changes to parliamentary practice. She was able to eliminate the tradition of the Speaker's gallery being reserved for men. Cowan also successfully piloted through Parliament two rare Private Members' Bills that enhanced the status of women in Western Australia. The *Women's Legal Status Act 1923* paved the way for the legal and other professions for women, and her amendment to the *Administration Act Amendment Act 1922* gave mothers and fathers equal status when their child died without a will.

Edith Cowan, as the first woman to be elected to an Australian Parliament, began a number of

historic firsts for the comparatively small Western Australian Parliament.



Florence Cardell-Oliver May Holman

Florence Cardell-Oliver (1947) became the first woman cabinet Minister in Australia; May Holman (1925) was Australia's first female Labor MP; Dr Carmen Lawrence (1990) became the first woman to head any Australian Government; and Carol Martin (2001) was the first Aboriginal woman to be elected to an Australian Parliament.



Carmen Lawrence Carol Martin

Despite the breakthroughs for women in Western Australia, only four had been elected to its Parliament as late as 1970, with Ruby Hutchison (1954) being the first woman to win a seat in the Legislative Council.

The 1983 election marked a partial advancement with Yvonne Henderson later earning a special place in history by becoming the first woman to give birth whilst serving as a Cabinet Minister.

In May 2013, the total number of women elected to the Western Australian Parliament stood at 82.

There is some disagreement about whether special measures, such as quotas, would lead to a higher return of female parliamentarians. More female MPs have come from the Labor Party, but there has been a reasonable spread of party affiliation.

There has been a greater concentration of women in the Legislative Council, which has been linked to the adoption of the proportional representation electoral system in that Chamber.

In contemporary Western Australia, with almost 30 per cent of members being female, there is little novelty in women serving in Parliament. Moreover, many of the leading Officers of the Parliament, including its Clerks, Hansard staff, librarians, and education staff are women.

### *Women's Representation in the Western Australian Parliament up to 22 May 2013*

	Legislative Assembly	Legislative Council
<b>Liberal / Nationalist</b>	13	10
<b>National / Country Party</b>	1	4 <sup>1</sup>
<b>Labor</b>	22	23 <sup>1+2</sup>
<b>Greens (WA)</b>	1	5
<b>Australian Democrats</b>	-	1
<b>Liberals for Forests</b>	1	-
<b>Independent Liberals</b>	1	-
<b>Total</b>	<b>39</b>	<b>43</b>

<sup>1</sup> Kay Hallahan (ALP), Alannah MacTiernan (ALP), Wendy Duncan (Nat) and Mia Davies (Nat) have been included in the Legislative Council count. All later moved to the Legislative Assembly.

<sup>2</sup> Shelley Archer was elected as a Labor member in 2005, but resigned from the ALP and became an Independent in 2007.





## About Parliament 29

# Independent Statutory Officers

Parliament has established by statute (legislation) several key agencies to help ensure accountability.

Important statutory officers at the head of these agencies include the Parliamentary Commissioner for Administrative Investigations (often referred to as the Ombudsman), the Auditor General, the Information Commissioner, the Public Sector Commissioner, the Parliamentary Inspector of the Corruption and Crime Commission, and the Commissioner for Children and Young People.

### *Parliamentary Commissioner for Administrative Investigations (the State Ombudsman)*

The idea of a body additional to Parliament, the executive and the judiciary being able to examine government actions was considered a breakthrough in constitutional theory.

Western Australia, with its *Parliamentary Commissioner Act 1971*, was the first state to legislate for the office, more commonly known as the Ombudsman.

The main task of the Ombudsman is to carry out an independent and impartial investigation into complaints by individuals relating to 'matters of administration' about Western Australian state government agencies, statutory authorities, local government authorities and public universities.

The Ombudsman can also initiate its own inquiries and investigations. In certain circumstances, the investigations can include the police force. The Ombudsman will generally attempt to resolve a matter by discussion before making recommendations.

Although the Ombudsman has no power to force any department or agency to take certain steps, its annual reports to Parliament are considered a strong incentive for government agencies to comply with any recommendations.

It should be noted that the Ombudsman cannot investigate complaints about private organisations such as finance companies, banks and retail shops; disputes between individuals; or commonwealth departments and authorities.

The state Ombudsman should not be confused with the Energy Ombudsman who receives, investigates and facilitates the resolution of complaints including electricity/gas supply and billing disputes.

For further information, see [www.ombudsman.wa.gov.au](http://www.ombudsman.wa.gov.au)

### *Auditor General*

The Auditor General is an independent statutory officer appointed by the Governor under the *Auditor General Act 2006*.

The Auditor General's role is to annually audit the financial records of the Western Australian public sector including over 200 government departments, statutory authorities and agencies.



The audit is an official check of accounts to ensure that the payment of moneys is proper and legal. The importance of the audit function was given constitutional recognition in section 65 of the *Constitution Act 1889*, which provided that the 'consolidated fund shall be subject to being reviewed and audited in such a manner as directed by any Act of the Legislature'.

In order to fulfil its functions, the Auditor General is entitled to unhindered access to all accounts, documents and records of public service departments and statutory authorities.

The *Financial Administration and Audit Act 1985* and the more recent *Auditor*



*General Act 2006* expanded the role of the Auditor General's office beyond examining the legality of expenditures to regularly conducting examinations on the efficiency and effectiveness of the performance of government agencies. Visit [www.audit.wa.gov.au](http://www.audit.wa.gov.au) for more information.

### *Information Commissioner*

The Information Commissioner is an independent officer who reports directly to Parliament. The Western Australian *Freedom of Information Act 1992* (the FOI act) gives people the right to apply for access to documents held by ministers, state government departments, local government authorities and statutory authorities.

The access to documents includes applications for amendments of personal information. For requests other than those for personal information a fee is charged. Each agency has a nominated FOI officer who assists people in lodging an application. Sometimes only part of a document will be provided if it contains information considered to be exempt.

Visit [www.foi.wa.gov.au](http://www.foi.wa.gov.au) for more information.

### *Public Sector Commissioner*

The office of the Commissioner for Public Sector Standards was established under the *Public Sector Management Act 1994*. The commissioner is required to establish and monitor standards and proper procedures in the public sector.

These standards relate to matters of recruitment, selection, appointment, transfer, performance and termination of employment in the public sector.

Under the *Public Sector Management Act 1994*, the Premier in 2008 delegated his powers to further establish a Public Sector Commissioner with a broad aim to enhance the independence, professionalism and integrity of the Western Australian public sector. Visit [www.publicsector.wa.gov.au](http://www.publicsector.wa.gov.au) for more information.

### *Parliamentary Inspector of the Corruption and Crime Commission*

Under section 188 of the *Corruption and Crime Commission Act 2003*, the role of Parliamentary Inspector of the Corruption and Crime Commission was created.

In broad terms, the inspector's role is to 'audit' the operation of the act. This includes assessing the effectiveness and appropriateness of the Corruption and Crime Commission's procedures.

According to Section 195 of the *Corruption and Crime Commission Act 2003*, the parliamentary inspector's main roles include:

- auditing the operation of the Act;
- auditing the operations of the commission to ensure compliance with the laws of the State, including allegations of misconduct by officers of the commission;
- auditing any operation carried out under the Act;
- assessing the effectiveness and appropriateness of the commission's procedures; and
- making recommendations to the commission, independent agencies and appropriate authorities.

The Parliamentary Inspector of the Corruption and Crime Commission regularly reports to both Houses of Parliament and to the Joint Standing Committee on the Corruption and Crime Commission. Visit [www.piccc.wa.gov.au](http://www.piccc.wa.gov.au) for more information.

### *Commissioner for Children and Young People*

The office of the Commissioner for Children and Young People was established in 2006. A parliamentary Joint Standing Committee on the Commissioner for Children and Young People was created in 2008. The *Commissioner for Children and Young People Act 2006* specifically states that the commissioner 'must regard the interests of children and young people as the paramount consideration'.

Promoting, monitoring and inquiring into the wellbeing of children and young people, particularly those who are vulnerable or disadvantaged in any way, are some of the commissioner's 15 roles mentioned in the legislation. Go to [www.ccp.wa.gov.au](http://www.ccp.wa.gov.au) for more information.



# About Parliament 30

## Elections, By-Elections and Referendums

### *Elections*

The conduct of regular and fair elections is one of the central features of a modern representative democracy.

For many citizens voting is one action that they recognise as being political.

In Western Australia general elections are constitutionally required for both houses of Parliament at least once every four years.

By-elections may also be necessary for the Legislative Assembly, and the filling of 'casual vacancies' for the Legislative Council may take place.

Referendums may also be conducted to assess electoral opinion.

### *Roles of Elections*

Elections fulfil many roles including the:

- selection of representatives to Parliament;
- determination of which political party, coalition or 'alliance' will either govern or be in opposition;
- provision of a guide for the direction of policies to be pursued in Parliament and government;
- education of voters on public issues; and
- provision of a 'safety valve' enabling electors to record their voice in a peaceful, constitutionally approved form.

The outcomes of elections are closely dependent upon who exercises voting rights, which voting systems are employed and the division of the electorate into constituencies. In Western Australia, electorates are called districts in the Legislative Assembly and regions in the Legislative Council.

2013 State Election (State Wide Totals)				
Party	Legislative Assembly		Legislative Council	
	Seats	% Vote	Seats	% Vote
Liberal	31	47.1	17	47.62
Labor	21	33.13	11	32.51
Greens	-	8.39	2	8.21
National	7	6.05	5	4.88
Independent	-	2.79	-	1.6
Family First	-	0.59	-	1.37
Other	-	0.12	-	0.08
Australian Christians	-	1.18	-	1.95
Shooters & Fishers	-	-	1	1.78
Total Seats	59		36	
Informal vote %	6.0		2.83	
Turnout %	89.2			

*Compiled by Antony Green  
for the WA Parliamentary Library*

### *By-elections*

A by-election is an election held to fill a vacancy in the Legislative Assembly between elections. Such elections may result from death, resignation, absence without leave, a Court of Disputed Returns decision, disqualification or ineligibility of a member. Between 1890 and 1947, the Constitution required that when a member was appointed as a minister it was necessary for the member to recontest the seat in a by-election.

By-elections, apart from filling a vacancy in Parliament, are often regarded as significant

indicators of the current electoral standings of the political parties. The poll ratings of party leaders can be affected by the performance of their party candidates in by-elections.

Historically, it has been normal for a 'swing against the governing party' with turnout typically lower than for a general election. As by-elections normally create media interest, this provides the candidates with a higher than normal media profile.

### Referendums

In Australia a referendum, a referral by Parliament of a policy or proposed law to the electors, is required to formally amend the commonwealth Constitution.

To achieve a formal change to the Constitution, the proposition must be accepted by a majority of voters in a majority of states.

Only eight amendments out of 44 attempts have achieved the double majority to change the Constitution.

Referendums in Western Australia are not necessary to amend the state Constitutional documents unless the proposal is to abolish the office of Governor or abolish or reduce the size of the Legislative Assembly or Legislative Council.

When referendums are conducted, they are usually advisory. One very significant referendum in Western Australia's colonial history took place on 31 July 1900 when the voters decided to be constitutionally an 'Original State' in the Federation.

On 8 April 1933 voters decided to secede (withdraw) from the Federation. Of course this was only an advisory poll as Western Australia ultimately remained in the Federation.

Other referendums conducted in Western Australia have been about local option and prohibition questions as to whether the sale of

alcoholic beverages should generally be permitted to the public.

In conjunction with the 2005 general election one referendum question sought direction to the Parliament and government about extended retail trading hours on weekdays, with another referendum question focused on retail trading on Sundays. Both referendums resulted in strong 'no' votes.

One very contentious matter that has gone to referendum on four occasions has been whether daylight saving should be adopted during the summer months. On 8 March 1975, 7 April 1984, 4 April 1992 and 16 May 2009, the electors of Western Australia have rejected daylight saving with a very similar voting pattern of about 55 per cent 'no' and 45 per cent 'yes'. Country region electors have strongly rejected the four trials.

*Pattern of Regional Voting for Fourth Daylight Saving Referendum, 16 May 2009:*

2009 Daylight Saving Referendum		
Region	Yes (%)	No (%)
North Metropolitan	55.46	44.54
South Metropolitan	51.35	48.65
East Metropolitan	44.89	55.11
<b>Metropolitan Total</b>	<b>50.60</b>	<b>49.40</b>
South West	34.61	65.39
Mining and Pastoral	34.11	65.89
Agricultural	17.15	82.85
<b>Country Total</b>	<b>29.96</b>	<b>70.04</b>
<b>State Wide Total</b>	<b>45.44</b>	<b>54.56</b>

Source: [www.waec.wa.gov.au](http://www.waec.wa.gov.au)

Visit the Western Australian Electoral Commission website at [www.waec.wa.gov.au](http://www.waec.wa.gov.au) for more information on elections, by-elections and referendums. For analysis of elections go to Information Services at [www.wa.parliament.gov.au](http://www.wa.parliament.gov.au) and see *Election and Electorate Profiles*.



## About Parliament 31

# Proportional Representation in the Legislative Council

Proportional representation (PR) is the name given to the voting system that is used to elect members to the Legislative Council. This system was introduced in 1987 in time for the 1989 state election. PR is different from the preferential voting system that is used to elect members to the Legislative Assembly.

The proportional representation system was designed to more accurately reflect the intentions of voters. Generally speaking, the number of votes cast for a political party will be mirrored in the number of seats won. This differs from the preferential system used in the Legislative Assembly, which works to create an artificial majority so that one party or coalition can form a government.

Importantly, the operation of PR requires multi-member electorates for the distribution of seats to be allocated to the competing parties. For instance, in a six-member electorate if one political party received 50 per cent of the vote it could expect to win 50 per cent of the seats—namely, three seats. If another party received one-third of the votes (33 per cent), it could expect to win one-third of the seats—that is, two seats.

To be elected to the Legislative Council, a candidate must achieve a quota, which is based on the number of formal votes and the number of candidates to be elected. The quota required is calculated using the following formula:

$$\frac{\text{Number of formal votes per region}}{\text{Number of MLCs to be elected} + 1} + 1 = \text{Quota}$$



For example, the quota for the six-seat East Metropolitan Region for the 2008 state election was:

$$\frac{276,591 \text{ (formal votes)}}{7 \text{ (6+1)}} + 1 = 39,514$$

Candidates who receive a quota, or more, of first preference votes are immediately elected. The surplus votes of candidates who receive more than the quota are transferred to second choice candidates. Because it is not possible to determine which votes actually elected the candidate and which are surplus, all the elected candidates' ballot papers are redistributed at a reduced rate.

The transfer value of the elected candidate's ballot papers is worked out by dividing the number of surplus votes by the total number of the elected candidate's ballot papers:

$$\frac{\text{Candidate's number of surplus votes}}{\text{Total number of votes candidate received}} = \text{Transfer value}$$

If at any stage there are no candidates with a surplus of votes and not all Council seats have been filled, the candidate with the fewest votes is excluded from the count. The excluded candidate's ballot papers are distributed to the remaining candidates at the same vote value as they were received. In some counts this will mean ballot papers are transferred at the value of 1 while others will have various transfer values. The process of distributing surplus votes from elected candidates and excluding the candidate with the fewest votes is continued until all vacancies are filled.

From 1989, as for the Senate, the transfer of votes formula was known as the Inclusive Gregory Method. In 2006 this was changed to the Weighted Inclusive Gregory Method<sup>1</sup>.

<sup>1</sup> For a model count, see the Western Australian Electoral Commission website <http://www.waec.wa.gov.au>.

The count for the East Metropolitan Region for 2013 is tabled below. It shows the correspondence between the percentage of the political party vote and the proportion of seats won by each party.

The table shows the percentage of voters who used the so-called 'ticket vote' as 96.61 per cent. The ticket vote is when an elector votes above the line and places the figure 1 beside the political party of their choice.

The preferences of such voters follows a written statement of preferences lodged with the Electoral Commission. The remaining 3.39 per cent of voters cast their preferences between all competing candidates.

*East Metropolitan Region 2013*  
(Roll 350,350)

Party	Total valid voters	Ticket vote %	% vote	Quotas	Seats
Liberal	142004	96.17	46.08	3.2760	3
Labor	115979	95.90	38.22	2.6756	3
Greens	24756	87.95	8.16	0.5711	
Australian Christians	8189	89.83	2.70	0.1889	
Shooters & Fishers	4963	88.31	1.64	0.1145	
Family First	3655	89.77	1.20	0.0843	
Independent	2933	79.36	0.97	0.0677	
Unaffiliated	949	69.79	0.31	0.0219	
Formal	303428		96.61		
Informal	10655		3.39		
Total vote (turnout)	314083		(89.65)		
Quota	43347				



As a consequence of legislation passed in 2005, the number of members of the Legislative Council representing each region changed.

From 1989-2009, the six electoral regions of the Legislative Council, which returned 34 members, were:

South West Region	7 Members
North Metropolitan Region	7 Members
South Metropolitan Region	5 Members
East Metropolitan Region	5 Members
Agricultural Region	5 Members
Mining and Pastoral Region	5 Members

However, in 2005 the constitutional provisions were changed in the Legislative Council to provide for six members to represent each region. As from 22 May 2009, there are 36 members of the Legislative Council. The four-year fixed term and proportional representation voting were retained.

South West Region	6 Members
North Metropolitan Region	6 Members
South Metropolitan Region	6 Members
East Metropolitan Region	6 Members
Agricultural Region	6 Members
Mining and Pastoral Region	6 Members

Visit the Western Australian Electoral Commission website at [www.waec.wa.gov.au](http://www.waec.wa.gov.au) for more information on elections, by-elections and referendums. For analysis of elections go to Information Services at [www.wa.parliament.gov.au](http://www.wa.parliament.gov.au) and see *Election and Electorate Profiles*.



## About Parliament 32

### Preferential Voting System in the Legislative Assembly

Preferential voting, sometimes known as the 'alternative vote', is the system of voting used for the election of members to the Legislative Assembly. This system of voting differs from the proportional representation system that is used to elect the Legislative Council.

#### *Historical Background*

When Western Australia conducted its first elections for the Legislative Assembly under responsible government in 1890, the voting system for the 30-seat chamber was known as 'plurality', sometimes called 'first past the post'.

Under this method of voting, the candidate who receives more primary votes than any other candidate for a district is elected.

The ballot paper instructions usually required voters to mark the candidate of their choice with an X. The candidate with the highest number of Xs was declared the winner.

The plurality method, mostly in single-member districts, had been inherited as the system to elect members to the British House of Commons.

It was also used in the period of representative government for the Legislative Council from 1870, in other Australian colonies and other commonwealth countries, such as Canada and New Zealand, as well as the United States of America.

About the time of the granting of responsible government and the establishment of the Australian Federation in 1901 there were many public and parliamentary debates about the most appropriate voting systems to be used to elect members of Parliament.

Although single member plurality ('first past the post') was simple to understand and administer, it was widely contended that voting

reforms could improve the representative nature of Parliaments that had begun to be elected by universal franchise with the emergence of political parties.

One of the voting reforms most widely canvassed was preference voting (the alternative vote). Under this system a candidate could not be elected with a minority vote as the successful candidate had to obtain an absolute majority, which required 50 per cent of the valid vote, plus one.

When the new commonwealth Parliament debated its electoral laws in 1902, the Prime Minister, Edmund Barton, sought to have the House of Representatives elected by the preference vote.

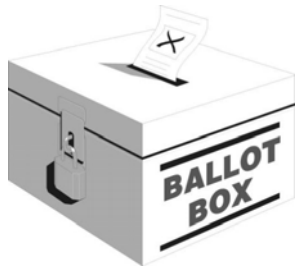
Barton thought the system had the democratic appeal of ensuring that the eventual winner gained an absolute majority with 'minority' candidates usually being able to influence the result. Eventually, though, the common plurality system was adopted.

In 1907, Western Australia was the first state in Australia to introduce preference voting. This took place after a select committee review of the state's voting systems. However, the 1907 legislation was characterised by providing electors with the option of giving preferences to candidates beyond their primary or first preference vote.

At the 1908 Legislative Assembly election, two-thirds of voters just 'plumped' for one candidate. Only one-third of voters listed further preferences when casting a vote. In only eight of the 50 electorates was it necessary to count preferences and no results were changed as a consequence of the additional counts.

In 1911 a clause was adopted that made it compulsory for electors to indicate a full distribution of candidate preferences as the

requirement of a valid vote. This provision has been retained for nearly a century.



*The simple example below shows how the outcome for an election can be different under plurality as compared with the preference vote formula.*

Candidate	Party	Votes
Geoffrey Andrews	A Party	1,000
Andrea Smith	B Party	800
Ross Williams	C Party	500
<b>Total</b>		<b>2,300</b>

Under plurality Andrews would be elected. However, as Andrews did not receive an absolute majority (2,300 divided by 2 plus 1 = 1,151) he would not be elected under the preference voting formula.

As Ross Williams would be eliminated, his second preference votes would be distributed to the remaining candidates.

If according to his second preferences 100 were directed to Geoffrey Andrews and 400 to Andrea Smith the final totals would read as:

Candidate	Votes	Votes after Distribution
Geoffrey Andrews	1,000 + 100	1,100
Andrea Smith	800 + 400	1,200
<b>Total</b>		<b>2,300</b>

As Andrea Smith (B Party) has more votes than an absolute majority she would be declared elected.

In the 1980 Legislative Assembly election, no candidate was defeated after leading on the primary vote.

However, in the last 30 years, a handful of candidates have been defeated for a seat after having gained the most votes on the first count.

For the 57 Legislative Assembly seats in this period (and 59 in 2008 & 2013) the number of candidates who have obtained a plurality (winning according to first past the post) but defeated in the quest for an absolute majority have been:

- 1983 - 4 candidates;
- 1986 - 3 candidates;
- 1989 - 4 candidates;
- 1993 - 3 candidates;
- 1996 - 2 candidates;
- 2001 - 6 candidates;
- 2005 - 4 candidates;
- 2008 - 4 candidates; and
- 2013 – 4 candidates.

The preference voting system, whilst often debated, has remained the law for Legislative Assembly elections.

Despite its very rare use in other countries, preferential voting systems have remained the norm for all mainland state lower houses, as well as the House of Representatives.

It should be noted, however, that in both New South Wales and Queensland, electors have the option of distributing preferences. This was permitted only for the first use of the preference vote for the 1908 Western Australian election.





# About Parliament 33

## Voting Rights

### *Historical Background*

The quest to gain the right to vote, sometimes known as the franchise (or even suffrage), is one of the most interesting and important in parliamentary history.

Many histories of voting rights in Australia commence with its path in Britain. The great *Reform Act 1832* was expected to widely extend voting rights in Britain but most working people felt betrayed and rallied behind their own program for reform, including votes for all men, which they called the 'people's charter'.

The supporters of the charter were called 'Chartists' who planned to win these changes by peacefully presenting to Parliament petitions signed by thousands of citizens.

Progress, though, was slow as the requirement to own property was considered important.

When representative government began in 1870 in Western Australia, electors to the Legislative Council had to possess property worth at least £50 or had to be householders paying an annual rent of £10 or more.

Electors who leased crown land to the same amount of annual rental also qualified.



From 1890 when responsible (self) government was gained, different voting rights prevailed for the Legislative Assembly and the Legislative Council until 1964.

Some of the main voting rights' milestones, broadly part of the steps to a more democratic society in Western Australia, include:

- 1893: For the Legislative Assembly, voting rights were granted to male British subjects (if naturalised of at least one year's standing) who were at least 21 years of age. Aborigines were debarred from voting. For the Legislative Council, there were additional property qualifications including holding freehold property worth at least £100 and other leasehold and rental provisions.

- 1899: Women were granted voting rights (but could not take a seat in Parliament until 1920).
- 1904: Plural voting was abolished for the Legislative Assembly. Previously, the law had permitted electors to vote in any Legislative Assembly district in which they had satisfied certain residential property requirements. Some electors had been able to cast as many as 30 votes in one general election. This change meant that an elector was restricted to one vote in one Legislative Assembly district.
- 1911: Modifications for Legislative Council electors were introduced to require the possession of freehold property worth at least £50 and leasehold or householder qualifications of £17 annual value.
- 1919: Compulsory enrolment was introduced for Legislative Assembly elections.
- 1936: Voting was made compulsory for Legislative Assembly elections. Citizens were subject to a fine if they did not cast a vote and a 'valid, truthful and sufficient reason' was not provided.
- 1962: Voting rights were granted to Aboriginal people, with voluntary enrolment.
- 1963: Restricted adult franchise was removed for electors to the Legislative Council with the abolition of property qualifications. Plural voting was also abolished with enrolment and voting being made compulsory for the Legislative Council.
- 1970: The minimum age for voters was reduced from 21 years to 18 years.
- 1983: Enrolment and voting was made compulsory for all eligible citizens.

In summary, the various changes, which have often been keenly debated, mean that voting rights for Western Australian Parliament elections are held by:

- adults who are 18 years of age or older<sup>1</sup>; and
- who have Australian citizenship; and
- who have lived at their present address for at least the last month.

As in the past, though, there have always been disqualifications, which prevailed in colonial times and the early years of statehood, which were included in section 18 of the *Electoral Act 1907*.



Image source: courtesy of WA Electoral Commission

Some of the disqualifications have included:

- those of unsound mind;
- a mentally impaired person (as defined in the *Criminal Law (Mentally Impaired Accused) Act 1996*;
- those dependent on charitable relief from the State (removed in 1964);
- Aboriginal peoples and others (frequently amended and removed in 1962);
- adults sentenced for a period of one year, temporarily extended in 2008 to comply with commonwealth law; and
- those attainted of treason.

<sup>1</sup> Note that citizens 17 years of age are permitted to enrol to vote. Citizens are not allowed to vote (despite enrolment) until they are 18 years of age.

As electoral law provides for both compulsory enrolment and compulsory voting, a citizen's voting rights must be exercised.

This helps to account for why there are several provisions in the *Electoral Act 1907* to enable a citizen to cast their vote at a general election, by-election or referendum.

The primary methods of voting are:

- ordinary vote: electors cast their votes on election day at a polling booth within the district and region for which they are registered.
- absent vote: electors cast their votes on election day at a polling booth outside the district for which they are registered.
- early vote: electors cast their vote in person or by post prior to polling day. Such electors must have an approved reason to vote early. The rate of early voting has greatly increased in recent elections.

To further assist eligible citizens to cast their vote, the Electoral Commission makes further arrangements such as:

Mobile polling: teams visit many hospitals, special institutions and some remote areas in the week before polling day.

- drive-in polling places: a polling place officer can bring ballots upon request to an elector with limited mobility who can cast a vote without leaving their car.
- accessible parking bays: wheelchair-accessible polling places are advertised.
- services to assist hearing and vision-impaired electors.



WESTERN AUSTRALIAN  
Electoral Commission

For further information on enrolment or voting, see the Western Australian Electoral Commission website: [www.waec.wa.gov.au](http://www.waec.wa.gov.au).



## About Parliament 34

# Political Parties in Parliament

A political party is a voluntary group of people with a common ideology or similar views on issues and policies who establish an association to contest elections.

The main aim of political parties contesting elections is for their elected representatives to either form a government or to influence a government. Political parties:

- draw people together with similar viewpoints. People in groups can seek common causes and formulate policies and platforms;
- seek to win government or influence government policy;
- help organise the decision-making activities of government. These include managing some of the business of Parliament;
- attempt to educate voters about public affairs and their respective policies;
- encourage people to join their organisation and may train party members in leadership skills; and
- choose candidates. At election time the candidates and their supporters distribute pamphlets, advertise in the media and visit voters to persuade them to vote for their candidates. At polling booths they usually hand out how-to-vote cards.

### *Political Parties in Western Australia*

Although political parties fulfil important roles in the Parliament and government of Western Australia, they are not recognised in Western Australia's constitutional documents or Standing Orders (rules of debate of each House).

Until 1900 there were no firmly established political parties in Western Australia. Before Federation, John Forrest, as Premier, required the support of at least five members of Parliament who would join him as ministers, hence the label that developed - 'Ministerialists'.

The first major political party to be formed was the Labor Party. Other groups gradually organised themselves into political parties.

One way of showing the history of political parties in Western Australia is to use the Labor and non-Labor (mainly Liberal and National/Country Party) labels. On this basis, the 'ratio of rule' over the last century from 1908 to 2008 is about equal. This means that non-Labor parties have been in power for about the same length and number of times as the Labor Party.

In recent years the Labor/non-Labor classification has been challenged, particularly with the Upper House (Legislative Council) electoral success of the Australian Democrats, Greens (WA), One Nation and the Shooters and Fishers Party; together with several Independents and recently the Greens (WA) in the Lower House (Legislative Assembly).

Over the years parties change their policies and sometimes their names. The current political parties in Parliament are:



### *Australian Labor Party (ALP)*

The first meeting of the federal Labor Party took place one day before Federation in 1901.



### *Liberal Party*

The modern Liberal Party was formed in 1945 by combining several non-Labor parties.



### *The Nationals*

The Country Party in Western Australia first won seats at the 1914 state election. During the late 1970s, the party changed its name to the National Party.



### *Greens (WA)*

The Federal Greens formed officially in 1992. The Greens have been represented in the Western Australian Legislative Council since 1993 and in the Legislative Assembly in the 38<sup>th</sup> Parliament.



### *The Shooters and Fishers Party*

The Shooters and Fishers Party first won a seat in 2013 with the election of Rick Mazza in the Agricultural Region.

### *Independent Members of Parliament*

Independent members of Parliament are those who are not members of any political party. Each Independent member has different views and priorities, depending on their personal opinion. It is necessary to examine the current platforms of the various political parties to find out what legislation each party is likely to seek or support in Parliament.

### *Registered Political Parties*

Since 2000, provisions have been made for the registration of political parties in Western Australia. This procedure is administered by the Western Australian Electoral Commission.

Registration requires evidence of 500 members and compliance with certain provisions including satisfying guidelines for the name of the party.

Candidates of unregistered parties are not able to use a political party name on a ballot paper for either House of Parliament. The registration of political parties is not dependent on the platform of the party. Details of the policies of political parties are available on websites created by the parties. Sometimes there are variations in policies between the federal and state branches of parties. Such websites usually contain instructions about how citizens can become a member of the party.

### *Registered Political Parties*

Registered Name	Ballot Paper Abbreviation
Australian Christians (WA)	Australian Christians
Australian Labor Party (Western Australian Branch)	WA Labor
Family First Party WA	Family First
National Party of Australia (WA) Inc	THE NATIONALS
Shooters and Fishers Part (WA) Inc	Shooters and Fishers
The Greens (WA) Inc	The Greens (WA)
The Liberal Party of Australia (Western Australian Division) Inc	Liberal Party

as at 7 October 2013.

### *Cancellation of Political Party Registration*

The Electoral Commissioner may cancel the registration of a political party at the request of its secretary, or for reasons such as:

- the party no longer exists;
- the party is no longer a parliamentary party and does not have 500 members who are electors;
- the party has failed to endorse a candidate in a general election subsequent to registration;
- registration was obtained by fraud; and
- the party has not submitted the required political finance return.

There are provisions for a Supreme Court review of a decision by the Electoral Commissioner to reject or cancel a political party's registration.

### *Public funding*

Although the public funding of political parties was introduced for federal elections in 1983, it did not become law for WA elections until 2006.

To receive public funding, a candidate for a state election or by-election can apply to be reimbursed for electoral expenditure incurred, subject to receiving more than four per cent of the valid first preference votes.

Candidates included in a Legislative Council group can receive payment if the group as a whole polls over four per cent. The amount of the payment is adjusted annually according to the consumer price index (CPI). For the 2008 election, the amount was just over \$1.56 per vote.

According to electoral legislation, there are requirements for political parties, certain groups and entities and candidates to declare expenditures and donations. The WA Electoral Commission has the relevant forms on its website at [www.waec.wa.gov.au](http://www.waec.wa.gov.au).



## About Parliament 35

# Lobbyists

The main goal of a lobbyist is to influence parliamentarians to debate and vote on legislation in a way that advances the interests they represent, and influence the decision-making process.

The supposed origins of the term 'lobbyist' vary. One view is that lobbying comes from the gathering of members of Parliament and their peers in the hallways, or *lobbies*, of Houses of Parliament at Westminster before and after parliamentary debates.

Another source speaks of the appearance of the term as early as 1820 in the American Congress with lobbying said to depict persons who make representations to decision-makers in order to influence public policy.

The opportunity to lobby members of Parliament is widely regarded as a right of citizens in a democratic polity.

Such activity has always been a part of the political scene, and remains so.

As was said by a member in the Legislative Assembly on 17 October 2007:

"Every day constituents, businesses and other organisations lobby their local, state, and federal representatives by email, telephones, and Australia Post.

They sign petitions, demonstrate outside of Parliament, hold meetings and make direct representations and presentations to ensure their personal, professional, economic, and/or ethical interests are understood by the decision makers.

All these activities give individuals and organisations the opportunity to have their say, to press their case, to apply pressure, to influence decision making, to sway opinion and to push, promote and urge decision makers to their point of view.

Indeed, elected representatives often actively canvass the views of their constituents and special interest groups."<sup>1</sup>



In March 2007, a *Contact with Lobbyists Code* and a *Register of Lobbyists* were introduced. These came into effect in August 2007. The code provides rules for contact between lobbyists and ministers, parliamentary secretaries, ministerial staff and public sector employees.

The register provides information on who is engaged in lobbying activities with government and whom lobbyists represent in their dealings with government.

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<sup>1</sup> Dr E. Constable, WA Parliamentary Debates, 17/10/07, p.6342

The director general of the Department of the Premier and Cabinet has the discretion to refuse a lobbyist registration.

It is specified in the code that lobbyists:

- shall not engage in any conduct that is corrupt, dishonest or illegal, or cause or threaten any detriment;
- shall use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided to parties whom they represent, the wider public, governments and agencies;
- shall not make misleading, exaggerated or extravagant claims about, or otherwise misrepresent, the nature or extent of their access to institutions of government or to political parties or to persons in those institutions; and
- shall keep strictly separate from their duties and activities as lobbyists any personal activity or involvement on behalf of a political party.



For more information about the *Contact with Lobbyists Code* or *Register of Lobbyists*, visit [www.lobbyists.wa.gov.au](http://www.lobbyists.wa.gov.au).



## About Parliament 36

# Parliament and the Media

Our knowledge and understanding of Parliament and politics in Western Australia, and beyond to national and international politics, is mostly conveyed by the media.

Both the Legislative Council and Legislative Assembly allocate a section of the public gallery for media representatives and there are media offices located in Parliament House.

The media's role needs to be understood in order to comprehend the ebb and flow of everyday politics.

'Free press or media without government interference' is universally acknowledged to be a vital element of a democratic system.



Some of the main roles of the media include:

- summarising parliamentary and other political, legal and social events;
- describing the actions of parliamentarians, especially the Premier, ministers, the Leader of the Opposition and shadow ministers;
- presenting and investigating a range of political views and opinions, including those expressed in 'Letters to the Editor';
- providing an avenue by which the government, and more broadly the Parliament, can be held accountable to citizens; and
- reinforcing of some pre-existing opinions and values, or shaping opinion when they are not fixed on firmly held values.

The general term 'media' includes all the agencies and products that serve to deliver information, opinion and entertainment. This includes print media, such as newspapers and magazines, and electronic media, such as radio, television and cyberspace.

Community newspapers are very important for parliamentarians in many districts and regions. In addition, many trade magazines often play a political role.

Television and radio, including state and national public broadcasters and commercial stations, are important media channels. Television is frequently regarded as a most important source of political information. The emergence of talkback radio in the last generation has given many citizens the opportunity to engage with their parliamentarians.

More recent, but quite significant, has been the cyberspace 'revolution'. Included under this umbrella is email, which readily enables communication opportunities for citizens to contact their parliamentarians.

The internet provides easy access to search engines and vast online resources from around the globe. Discussion environments such as 'blogs' offer opportunities to be better informed about, and participate in, the policy process.

People can listen to or watch online debates in the Legislative Council and the Legislative Assembly or conduct a 'virtual tour' of Parliament House<sup>1</sup>.



<sup>1</sup> Visit [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au) for more information.

In March 2006, the Parliamentary History Advisory Committee commissioned a community survey aimed at understanding people's attitudes to parliamentarians and the democracy in which Western Australians live.

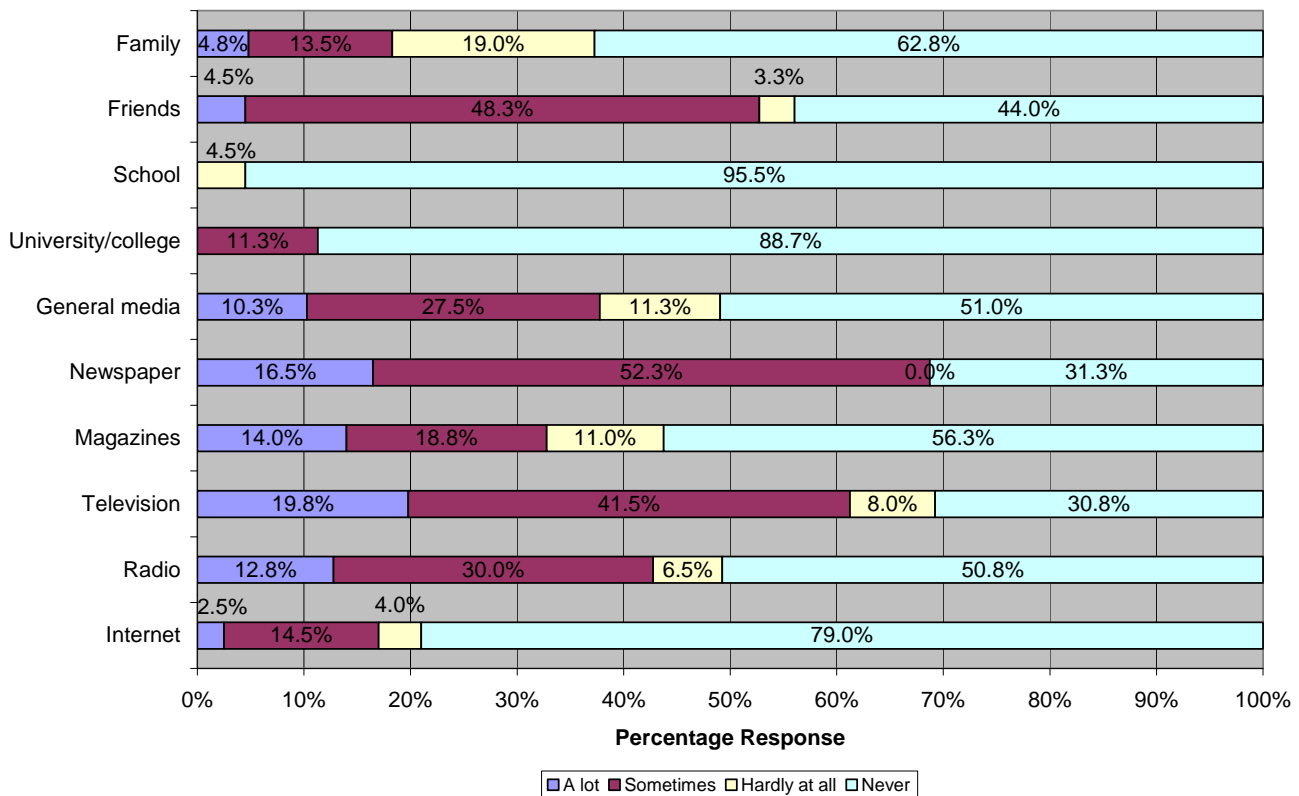
One of the questions was: how often would you use any of these sources to understand the parliamentary system?

The attributes listed were family, friends, school, university/college, media (general), newspaper, magazines, television, radio, and internet. For each attribute, respondents were asked to indicate either a lot, sometimes, hardly at all or never.

When classifying the scores received for 'a lot' and 'sometimes' as being reasonably well used sources of information, it is evident that newspapers are considered to be the primary source (68.8 per cent), followed by television (61.3 per cent).

When classified by the most frequent use ('a lot') scores, television is the primary source of information (19.8 per cent), followed by newspapers (16.5 per cent), magazines (14.0 per cent) and radio (12.8 per cent).

### Survey Results







# About Parliament 37

## History of Parliament House

### *Early Buildings Used by the Government in Western Australia*

The first 'government' meetings were held by Lieutenant Governor Stirling in a tent on Garden Island in 1829 shortly after the arrival of settlers in the new colony.

When the site of Perth was determined as the location of the settlement, (when Mrs Dance chopped the tree down in 1829), the "government" met in a tent at the Stirling Gardens site in Perth (eventually the corner of St Georges Terrace and Barrack Street).

The tent was replaced with a temporary bough (tree branch) building until the Governor took temporary possession of the newly completed officers' barracks in St Georges Terrace (site of the current Council House).

Government moved to that location and remained there until 1870 when, after representative government was established, the Legislative Council held its first meeting on 5 December 1870 in the Legislative Hall, Town of Perth Chambers, located at the eastern end of the Perth Town Hall. The Legislative Council continued to meet there until 1890.

After the establishment of responsible government, the Legislative Assembly used the Legislative Hall, and the Legislative Council returned to its original Chamber located in Council House in St Georges Terrace. Both Houses of Parliament continued to meet in these locations until 1904.

From 1904, the original Council House continued to be used as government offices, until it was demolished and replaced in the early 1960s with the City of Perth Council House structure. The original Town Hall Chamber building from 1904 was also converted for use as government offices and eventually demolished in the early 1960s for the new R & I Bank building (since demolished).

The Executive Council eventually moved from Council House to the first Government House

built in 1829 (eventually demolished in 1886) and shifted to the current Government House in 1863.



An early proposal for Parliament House

### *The New Parliamentary Building*

In 1897, a commission was established to report on the site and plans for the new parliamentary buildings.

A joint parliamentary committee was appointed on 29 November 1900 to select a design for the new parliamentary buildings from designs submitted under a competition. The closing date for the competition for the design of a new Parliament House was Tuesday, 16 April 1901.

The competition specified that the budget for the building was £100,000, with the initial stage to cost £20,000. Seventeen designs were received, but they were all disqualified for exceeding this budget. The best three designs were finally recompensed with prize money of £250, £100 and £50 (half the original prize money offered). Public Works Chief Architect John H. Grainger prepared the new plans (J.H. Grainger was the father of well-known musician Percy Grainger). W.L. Vernon, the Chief Architect of the Government of New South Wales, was brought over to judge the competition.

The foundation stone was laid on 31 July 1902, and after construction of part of the building, it opened for the first parliamentary sitting in 1904 at a cost of £35,623/3s/1d. In addition to the partial completion of the building, a temporary corrugated iron building was constructed between the two Chambers to house parliamentary and Hansard staff, and other amenities (demolished in 1964).

Other evidence of cost-saving measures made during the construction of the first stage were the

non-painting of ceilings, rudimentary mantelpieces in staff offices, basic light fittings and plain light-green painted walls, which did not have any of the decorative friezes and highlighting normally featured in late Victorian–early Edwardian public buildings.

### *Early Problems*

Some early problems encountered with the building included:

- stray horses and cattle grazed in the gardens;
- gunners firing salutes damaged the fence on Harvest Terrace; and
- parking inspectors had to be appointed to prevent unauthorised tying up of horses to trees at the original frontage of the building (Harvest Terrace).<sup>1</sup>

### *1964 Extension*

In 1962, construction commenced on the completion of the 1902 plans, with a modernist 60s façade. A budget of £140,000 was provided for this extension. The opening of the new extensions occurred on Monday, 23 March 1964 and was carried out by the then Governor, Major-General Sir Douglas Kendrew.

### *1978 Extension*

After site works commenced in late 1977, the construction of two levels of the southern wing of the building created 12 new offices for members.

### *2004 Northern Extensions and Other Developments*

The northern extensions to Parliament House commenced in 2002. They provided for members' offices and meeting rooms. Donnybrook sandstone was used to match the existing stone on the southern and eastern façades.

When officially opened in 2004, an Aboriginal People's Room and Aboriginal Foyer became part of the modifications. A new members' library was also opened and redevelopment of the parliamentary courtyard took place.

### *Artwork*

New artworks were sought to enhance upgrading of the building. In 1949 when the Parliamentary Dining Room was renovated, the Perth Society of Artists loaned Parliament a number of watercolours that replaced the group of photographs of members of earlier Parliaments.

In 1951 to mark the Jubilee of Federation, the Art Patron, Claude Hotchin, presented a number of watercolours of south west scenes. When the House was completed in 1964, local government authorities were invited to donate paintings relating to their particular localities. Claude Hotchin advised on their selection and placement around the building.



The Barracks, by Leach Barker (1962)  
from the Claude Hotchin Art Bequest

### *Stained Glass Windows*

The stained glass windows adorning both chambers were commissioned and made in Hay Street, Perth. The following is an extract describing the opening of the Parliament as reported in the *Morning Herald*:

*"The eye alights upon a jarrah gallery, dark stained and varnished. Then comes a sort of inner wood partition, creating a small lobby on each side of the chamber. This too, is of jarrah, brightened with stained glass of elaborate design, into which the emblematic swan is prominently introduced ..."*<sup>2</sup>

For more information about Parliament or to book a free tour of Parliament House, visit [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au) or contact the Parliamentary Education Office on freecall 1800 199 187 or (08) 9222 7429.

<sup>1</sup> Source: *House on the Hill*, 1991

<sup>2</sup> Source: *House on the Hill*, p. 87



# About Parliament 38

## Symbols of Western Australia

### *Western Australian Flag*

As with each of the original states of the Federation, Western Australia's flag retains the Union Jack and the blue ensign background, but replaces the Southern Cross with its own State emblem.

The black swan was confirmed in a dispatch by Governor William Robinson on 27 November 1875 as the emblem of Western Australia.

In the 1830s it had appeared on banknotes when the colony was generally referred to as the Swan River Colony. A design showing the black swan had been selected for Western Australia's first postage stamp in 1854.

It is interesting to note that the direction that the swan faced was changed in 1953 to look towards the Union Jack in accordance with heraldic principles.



### *Western Australian Coat of Arms*

A coat of arms for Western Australia was not recognised until one was granted by Royal Warrant on 17 March 1969. It is used, for instance, on official letters.

Its features include two kangaroos holding two boomerangs, a shield depicting a black swan, the crown and two Mangles' kangaroo paws.



### *Bird Emblem of Western Australia*

The black swan, first recorded by the Dutch navigator Willem De Vlamingh in 1697, was proclaimed as the State's bird emblem on 25 July 1973.

It was already the State's symbol on the flag and was included in the design of the coat of arms.



### *Floral Emblem of Western Australia*

Mangles' kangaroo paw, common in Kings Park, is Western Australia's floral emblem.

This was proclaimed on 9 November 1960.



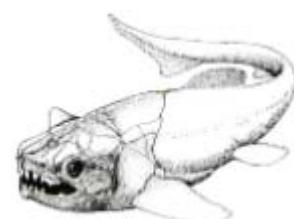
### *Animal Emblem of Western Australia*

The numbat, or banded anteater, one of the State's most attractive marsupials, was proclaimed on 25 July 1973 as the animal emblem of Western Australia.



### *Fossil Emblem of Western Australia*

The gogo fish is the State's fossil emblem. It was proclaimed on 5 December 1995.



### *Marine emblem of Western Australia*

The whale shark, *rhincodron typus*, was selected as the state's marine animal emblem after a state-wide schools competition in December 2013.



### *The Australian Flag*

The Australian flag includes the Union Jack and Southern Cross on a blue ensign.

The large white star with seven points represents the six States and the Territories.



### *The Aboriginal Flag*

Designed by Harold Thomas, an Aboriginal artist, in 1971.

The black represents the Aboriginal people, red for the earth and spiritual relationship to the land, and yellow for the sun, the giver of life.

Proclaimed under the *Flags Act 1953* on 14 July 1995.



### *Governor of Western Australia - flag*

The personal flag of the Governor of Western Australia is the blue ensign, including the black swan State emblem surmounted by the Crown of Saint Edward.



### *Crests of the Western Australian Parliament*

#### *Parliament Crest*

This depicts the black swan, the mace (the symbol of the Legislative Assembly) and the Black Rod (the symbol of the Legislative Council)<sup>1</sup>.



#### *Legislative Council Crest*

This depicts the black swan and the coat of arms of the United Kingdom<sup>2</sup>.



#### *Legislative Assembly Crest*

This depicts the black swan and the mace on a green background.



<sup>1</sup> For more information on the symbols of the Western Australian Parliament, including the Black Rod of the Legislative Council and the Mace of the Legislative Assembly, see About Parliament 27: Sergeant-at-Arms and Usher of the Black Rod.

<sup>2</sup> Visit <http://www.royal.gov.uk/MonarchUK/Symbols/Coatsofarms.aspx> for more information on the coat of arms.



# About Parliament 39

## Citizenship

### *History*

Citizenship is a very old idea from the classical Greek and Roman worlds. The term was based on the Latin *civitas*, meaning people living in a city.

In the Greek city-state or *polis*, citizenship was the privileged status of the ruling group of men who had full and equal rights to decide what measures should be taken to achieve the collective good of all people in the community.

Citizenship was more about responsibilities that had to be met, rather than rights that could be claimed. Women, children, resident foreigners, some labourers and slaves were all excluded.

In the Roman world, citizenship was not restricted to members of any particular ethnic group and citizenship could be conferred in recognition of services.

Full citizenship comprised six privileges. Four of these were public rights: service in the army, voting in the assembly, eligibility to public office and the legal right of action and appeal. The other two were the private rights of intermarriage and trade with other Roman citizens.

Sometimes a distinction has been drawn between the formal or legal status (citizenship) and a broader practical citizenship, based on how a person can act to be a 'good citizen'.

### *Australian Citizenship*

To be a member of the Western Australian Parliament, a person must be an Australian citizen. To be eligible to vote for state (as well as federal or local) elections, it is also necessary to be an Australian citizen.

In Australia, it is compulsory for citizens to enrol to vote and then vote at state and federal elections. Visit [www.waec.wa.gov.au](http://www.waec.wa.gov.au) (W A Electoral Commission) or [www.aec.gov.au](http://www.aec.gov.au) (Australian Electoral Commission) for more information on how to enrol to vote.

Most people born in Australia automatically become citizens with full legal entitlements at 18 years of age.



Flag of Australia

There are many legal provisions for people seeking to gain citizenship. The residence period to be naturalised as a citizen, subject to certain exemptions, is four years.

On 1 July 2007, the *Australian Citizenship Act* replaced the 1948 Act of the same title. From 1 October 2007, persons applying for Australian citizenship must first pass a citizenship test.

The resource book, *Australian Citizenship: Our Common Bond* names a number of Australia's democratic beliefs, rights and liberties, including:

### *Democratic beliefs*

- Parliamentary democracy
- The rule of law
- Living peacefully
- Respect for all individuals regardless of background
- Compassion for those in need

### *Freedoms*

- Freedom of speech and freedom of expression
- Freedom of association
- Freedom of religion and secular government
- Equality in Australia
- Equality of men and women
- Equality of opportunity

Australian citizens enjoy the following rights, again subject to certain exemptions. These include the right to:

- vote in federal and state or territory elections, and in a referendum;
- apply for work in the Australian Public Service or in the Australian Defence Force;
- seek election to Parliament;
- apply for an Australian passport and re-enter Australia freely;
- receive help from an Australian official while overseas; and
- register children born overseas as Australian citizens by descent.

The broad meaning of citizenship carries with it an ideal of participating as a member of society.

One definition of a citizen is 'a person furnished with knowledge of public affairs, instilled with attitudes of civic virtue, and equipped with skills to participate in the political arena'.

Some of the avenues open to be active citizens include:

- being well-informed and often prepared to volunteer your services for a cause;
- obeying the law of the land and having the skills to democratically seek changes to the law;
- when eligible, voting in both Legislative Assembly and Legislative Council elections;
- preparing a petition to be presented by a member of Parliament;
- writing a submission to a parliamentary committee that is investigating a policy matter;
- contacting your MLA or MLC;
- writing, telephoning, faxing or emailing a department, statutory authority or agency about a matter of concern;

- writing to the editor of a major newspaper or community newspaper to express concern or support for a policy;
- telephoning or emailing a talkback radio announcer about a matter of concern;
- organising a public meeting;
- contacting an existing association or union that may be able to assist you;
- joining or forming a political party;
- forming or assisting a pressure or lobby group;
- hiring a professional lobbyist to make representations to government members and parliamentarians as the need arises; and
- conducting research or analysis. A key to success may be a well-researched proposal.



Image courtesy of the Western Australian Electoral Commission

More information about Australian citizenship and an electronic copy of the *Australian Citizenship: Our Common Bond* resource book is available from [www.citizenship.gov.au](http://www.citizenship.gov.au).



## About Parliament 40 Parliamentary Education



### *Parliamentary Education Office*

The Parliamentary Education Office provides an education function on behalf of both houses of Parliament of Western Australia.

The Education Office manages and delivers services for the promotion, awareness, knowledge and understanding of the history, role and function of the Western Australian Parliament.

Programs and resources are also aimed at developing positive and informed attitudes towards parliamentary democracy.



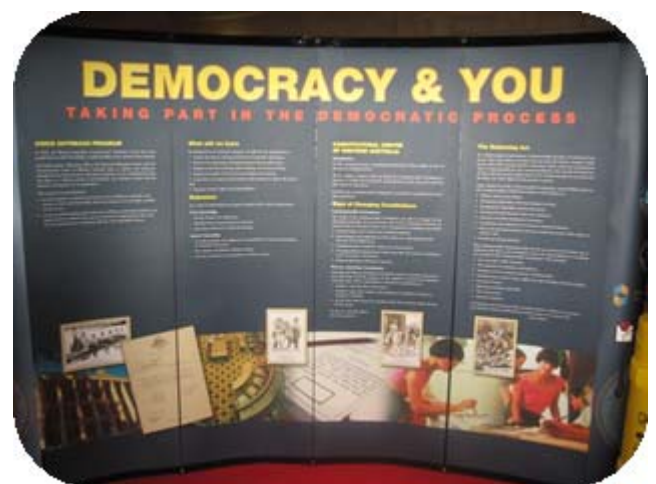
A presentation in the Forrest Foyer of Parliament House

The Parliamentary Education Office works closely with the other education sectors and civic education organisations to support civics

and citizenship education and active citizenship in schools and tertiary institutions, and to support the related professional development needs of teachers.

Tours of Parliament House can be booked by community and education groups for an informative and stimulating insight into the State parliament.

Both sitting day and non-sitting days of Parliament will provide a unique educational program for visiting educational centres and community groups.



### *Internship Program*

The Parliamentary Internship Program is designed primarily for tertiary students of politics, law and journalism.

It is a cooperative arrangement between the Western Australian Parliament and the State universities through which students undertake the research of topics nominated by members of Parliament.

Students assume the role of a research assistant under the guidance of a member of Parliament.

Positive outcomes for Parliament include increased resources and the production of specific research reports covering many complex and demanding issues.

The program is coordinated by the Parliamentary Education Office and is supported by the Parliamentary Library.



### *Student Parliaments*

The Parliamentary Education Office also coordinates student Parliaments, either incorporating students from around the State (Statewide Student Parliament) or from a particular region (Regional Student Parliament).

Statewide Student Parliaments are held at Parliament House in Perth.

Regional Student Parliaments are often held alongside regional sittings of one house of Parliament and sometimes independently of either house.

### *Parliamentary Education Publications*

The Parliamentary Education Office offers the following resources:

*Second Reading: Parliamentary Government in Western Australia.* Harry Phillips, 2009 (Online edition)

*Parliament of Western Australia: Structure and Function*

*Notes on the Parliament in Western Australia: Student Resource Book*

*About Parliament* fact sheet series

### *Other Parliamentary Publications*

*A Citizen's Guide to the Western Australian Parliament.* Harry Phillips, 2013.

*The House on the Hill. A History of the Parliament of Western Australia 1832-1990.* David Black (ed.), 1991.

*Making a Difference: A Frontier of Firsts: Women in the Western Australian Parliament 1921-2012.* David Black and Harry Phillips, 2012.

*The Western Australian Parliamentary Handbook, 23rd edition,* David Black (ed.), 2013

*House to House. The Story of Western Australia's Government and Parliament Houses over 175 years.* Phillip Pental and David Black, 2004.

*Parliament: Mirror of the People? Members of the Parliament of Western Australia 1890 - 2007.* Phillip Pental, David Black, and Harry Phillips, 2007.



### *Contact the Education Office*

For more information about Parliament, parliamentary publications, or to book a free tour of Parliament House, contact the Parliamentary Education Office:

Free call: 1800 199 187

Phone: (08) 9222 7259

Fax: (08) 9222 7865

Email: [education@parliament.wa.gov.au](mailto:education@parliament.wa.gov.au)

Website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)





## About Parliament 41

# Right of Reply

Sometimes people are offended or aggrieved by remarks made by parliamentarians or by the contents of a parliamentary report.

As members of Parliament under *Article 9 of the Bill of Rights 1689* and the *Western Australian Parliamentary Privileges Act 1891* have the freedom to speak their minds without fear of legal action for what they might say, people may sometimes feel adversely affected by some of these statements.

In many Parliaments this has led to the adoption of a procedure known as **'the right of reply'**.

In Western Australia, the *Report of the Parliamentary Standards Committee (1989)* inquired into the desirability of adopting a formal avenue of reply for the Parliament.

The committee examined processes available to citizens at the time, such as asking a member to act on their behalf, presenting a petition or even seeking media focus on the matter.

It was also suggested that an important part of the process of political education by the Parliament should be concerned with improving awareness of the areas of redress already available.

Finally, it was decided not to adopt a right of reply procedure partly because it was thought there may be too many requests to handle.

A few years later the Commission on Government (COG) considered the 'right of response'.

It was informed that the procedure had been adopted by the Senate and some other states.

COG found public support for the protection afforded to parliamentarians by parliamentary privilege, but opinion also showed that this needed to be balanced by an individual's right of reply when an aggrieved person was likely to have suffered 'harm' as a result of a member's comments made under parliamentary privilege.

On 18 November 1997, **Colin Barnett**, a future Premier, moved a motion to adopt 'the right of reply' in the Legislative Assembly. This was after the Legislative Assembly Standing Orders and Procedures Committee had supported the proposal.



This motion was strongly supported by **Dr Geoff Gallop**, another future Premier, who had campaigned for the measure and brought attention to developments in the House of Representatives where it had just been accepted.



Soon the 'right of reply' became part of the Standing Orders of the Legislative Assembly, whereby an approved reply is printed in *Hansard*.

If a person or corporation adversely affected decides to exercise 'the right of reply', they should firstly examine the parliamentary pamphlet titled 'Responses from Persons Adversely Referred to in the House'.

This pamphlet sets out the main steps that need to be followed, some of which are:

- make a written application to the Speaker for a reply to be published in *Hansard*;
- specify your name and contact details;
- include a brief summary stating why you believe that you have been adversely referred to; and
- include the name of the member of Parliament and the date the adverse reference occurred.

If the request appears appropriate, the Speaker will refer the matter to the Procedure and Privileges Committee. The committee will then consider the request in detail and report to the house whether or not a response should be published.

The Procedures and Privileges Committee endeavours to deal quickly with each request, and will suggest changes if it is necessary to comply with Standing Order 114 of the Legislative Assembly.

It is not the role of either the Speaker or the committee to determine whether the original allegations made by the member or the contents of the proposed response are truthful.

There has been a steady stream of 'right of reply' requests published in *Hansard*. However, the prediction that there may be a flood of requests has not transpired.



To date, the 'right of reply' has not been adopted by the Legislative Council.

Instead of creating a new set of rules for aggrieved citizens the Council has chosen to allow citizens to rely on a parliamentary procedure that has existed for centuries – that of the petition.



## About Parliament 42

# Role of the Parliamentary Inspector of the Corruption and Crime Commission

### *OFFICE OF THE PARLIAMENTARY INSPECTOR OF THE CORRUPTION AND CRIME COMMISSION*

The Parliamentary Inspector of the Corruption and Crime Commission (CCC) is an officer of the Western Australian Parliament. In 2003 when the Parliament was debating the establishment of the CCC, it decided to establish the office of parliamentary inspector and a joint parliamentary standing committee to help ensure an accountability framework in Western Australia.

Under section 195 of the *Corruption and Crime Commission Act 2003*, which came into operation on 1 January 2004, the parliamentary inspector's main roles are to:

- audit the operation of the act;
- audit the operations of the commission to ensure compliance with the laws of the state, including allegations of misconduct by officers of the commission;
- audit any operation carried out under the act;
- assess the effectiveness and appropriateness of the commission's procedures;
- make recommendations to the commission, independent agencies and appropriate authorities;
- report and make recommendations to either house of Parliament and the standing committee;
- perform any other function given to the parliamentary inspector under the CCC act or any other act and the joint standing committee.

The audit and recommendation roles may be performed on the parliamentary inspector's own initiative, at the request of the minister, in response to a matter reported to the parliamentary inspector, or in response to a reference by either house from the Joint Standing Committee on the Corruption and Crime Commission.

The first parliamentary inspector, between 2004 and 2008, was Malcolm McCusker, AO, QC, who became the Governor of Western Australia on 1 July 2011. The other parliamentary inspectors have been Christopher Steytler, QC, from 2009 to 2011 and Hon Michael Murray, QC, from 2013. There have also been five acting parliamentary inspectors—namely, Graeme Scott, QC, 2005 to 2008; Ken Martin, QC, 2008 to 2010; Christopher Zelestis, QC, 2009 to 2012; and Robert Meadows, QC, from 2013.

At the commencement of each Parliament, a Joint Standing Committee on the Corruption and Crime Commission is also appointed by resolution of the Legislative Assembly and forwarded to the Legislative Council for its concurrence. Consisting of two members of the Assembly and two members of the Council, the function of the Joint Standing Committee is to:

- monitor and report to Parliament on the exercise of the functions of the CCC and the Parliamentary Inspector of the CCC;
- inquire into and report to Parliament on the means by which corruption prevention practices may be enhanced within the public sector; and
- carry out any other functions conferred on the committee under the CCC act.



*Malcolm McCusker,  
first Parliamentary Inspector*



*Michael Murray,  
Parliamentary Inspector from 2013*

Both the parliamentary inspector and the joint standing committee, regularly table reports relevant to their respective roles in addition to tabling annual reports. These reports are available on their respective websites.

Sometimes the reports focus on the alleged misconduct of individuals, while other reports concern the procedures and timeliness of Investigations.

One report in 2011 was about telecommunication interceptions and legal professional privilege. One issue of public moment that required resolution, which arose early in the history of the parliamentary inspector and the CCC, was linked to a difference of opinion between the inspector and the commission about the audit role of the inspector. The meaning of the term 'audit' was not defined in the CCC act.

Members of the public can provide information that they think may be useful to the parliamentary inspector. If the matter raised is not something that the inspector normally handles, a member of the public may be advised to take alternative action. It is not necessary for a person to supply their name in submitting a complaint, but anonymous information is often difficult to verify and it may not be possible to advise a person of the outcome of the investigation. The parliamentary inspector's website should be consulted when submitting a complaint as it is necessary to undertake the task in a careful and considered manner.





## About Parliament 43

# Federation and Federalism

Each Australian colony gained self government between 1850 and 1890 with Western Australia being the last to gain self and 'responsible government'. The new Western Australian Parliament was then able to pass laws on nearly all matters, except for some limitations regarding international trade and links to the British Crown and Parliament. The Colonial Office in London retained the important right, until 1897, to oversee the treatment of Aboriginal people.

During the 1890s each colony sent representatives to special meetings, called conventions, to attempt to form a new federation. Eventually the delegates agreed upon a draft constitution which was voted upon by the peoples of the colonies in a series of referendums. Western Australia voted yes in a referendum dated 31 July 1900.

A federation is a system of government in which a written constitution distributes power and responsibility between a national government and a number of state or regional governments.

What the new Federal Government could do was written down in document widely known as the Australian Constitution. A key section of this Constitution which provides for the federal division of powers is Section 51. Some of the most important powers include:

- **Defence**-so that Australia can have one army, navy and air force;
- **Interstate and international trade**-so Australia can have trade between the States and able to make laws about trade with all countries;
- **Taxation**-so people will pay taxes at the same rates throughout Australia on wages, salaries and profits;
- **Immigration and emigration**-so there will be the same rules for all States for people coming from overseas and people leaving Australia for other countries; and

- **Currency**-so we have the same bank notes and coins throughout Australia.



**Australian Government**

Other matters listed in s.51 (which has 39 subsections) include external affairs, marriage and divorce, quarantine, weights and measures, bankruptcy, and census and statistics. It should be noted that many of these powers are called concurrent powers, which means that they are areas in which both the Commonwealth and State governments can act. However, under s.109 if there is inconsistency between such laws, the Commonwealth law shall prevail.

### *State Powers*

At Federation the States were left with what were thought to be important **residual** powers, those close to the people. The States would continue to make laws about: public housing; hospitals, the environment, criminal and civil law, school and other education matters, transport, natural resources, including land; public utilities (such as water) and police.



**GOVERNMENT OF  
WESTERN AUSTRALIA**

### *Local Government*

There is no mention of local government in Australia's Constitution. Local governments are bodies created by State Parliaments. Only since 1979 has there been a reference to local government in the Western Australian Constitution. Local governments classified as cities, towns or shires vary greatly in areas and in population. Important local government services include, libraries, rubbish collection, town planning, parking, child health (including immunisation), street lighting and street names, sporting and recreational facilities and seniors services.



### *Changing the Constitution*

The method of formally changing the Constitution was based on the Swiss method of requiring the approval of voters in a referendum. In a referendum, all Australian voters are asked to vote either 'yes' or 'no' to a proposed change through at least one House of the Federal Parliament. However, before a change can be made, a **'double majority'** is needed. This means a majority of all voters in Australia must vote 'yes' and a majority of voters of the States (at least four) must vote 'yes'.

To date 44 amendment proposals (referenda) have been put to the Australian people in addition to three consultative referenda on compulsory military service (1916 and 1917) and the national anthem (1977). Only **eight** referenda have passed the **'double majority'** test.



### *Federalism*

Through constitutional change, High Court decisions and political and economic circumstances, including war, depression and recession the workings of the Australian Federation have changed since 1901. This has meant that the responsibilities of central, state and local governments have altered. The processes of the workings of the federation are often labelled as **federalism**.

### *Two Main Features of Australian Federalism*

**Vertical fiscal imbalance** describes the situation in Australia where revenues do not match expenditures for the different levels of government. Originally it was thought that the States with their own resources of taxation and charges would be able to fund their responsibilities. However, the States (and Territories) have become increasingly reliant on the Commonwealth government for grants.

Australian federalism is also featured by the policy of **horizontal balance** which is overseen by the Commonwealth Grants Commission which recommends the transfers of funds to provide the resident of each State and Territory with similar living standards for similar levels of taxation. For example the Goods and Services Tax (GST) is distributed according to horizontal balance principles.



# About Parliament 44

## Delegated Legislation

### *Delegated Legislation*

An Act of Parliament is often passed in relatively broad terms leaving many of the details of administration to be 'delegated' to perhaps a minister, department, statutory authority or local government body. This delegated power is to make rules, regulations, by-laws and local laws, which have the force of law. These procedures which assist Parliament to pass a volume of legislation, often for complex matters, are collectively known as 'instruments' of delegated legislation. There are many other such 'instruments' including ordinances, and orders in council.

Each year hundreds of 'instruments' of delegated legislation are made which affect the lives of Western Australians. As delegated legislation has the same force in law as primary legislation and creates legal rights, obligations, duties and penalties there is a need for Parliament to ensure oversight and thorough scrutiny.

The Western Australian Parliament since 1987 has had a Joint Standing Committee on Delegated Legislation. After 2001 the Committee was made subject to the same standing orders of the Legislative Council, where motions for disallowance by the Committee are dealt with. The Committee, appointed at the beginning of each Parliament consists of 8 members, four from each House, with the Chairman of the Committee supporting the Governments. Staff members assisting the committee include a Committee Clerk and legal advisors.



### *Role of the Committee*

The main roles of the Committee are to review all delegated legislation. There are specific terms of reference but they are drafted broadly to ensure that the delegated legislation:

- is within power;
- has no unintended effect on any person's existing rights or interests;
- provides an effective mechanism for the review of administrative decisions;
- contains only matter that is appropriate for delegated legislation.

The work of the Committee is exacting and often legalistic. Shortly after its establishment the Committee resolved to only consider instruments of delegated legislation subject to s.42 of the *Interpretation Act 1984* ("the Act"), or another written law, or an instrument noted by an individual member. The Act indicates that the notice of motion to disallow an instrument must be given in either House within 14 sitting days of the instrument being tabled in Parliament.

A major role of the Committee is the review of local laws (for local governments) which, like other instruments of delegated legislation, are published in regular editions of the *Government Gazette*. Where the Committee finds that a local law may offend one or more terms of reference it will usually seek a written undertaking from the local government authority to amend or repeal the instrument in question.

Where a local government does not comply with the Committee's request for an undertaking, the Committee may, as a last resort, resolve to report to the Parliament recommending the disallowance of the instrument in the Parliament.

### *Local laws and disallowance*

A large number of reports tabled by the Committee from 2001 to 2013 dealt with problematic local laws. The subject matters included parking fees and parking facilities, health provisions, egg produce regulations, signs and advertising devices, standing orders of local governments, codes of conduct, disclosure of confidential correspondence, dog laws, the keeping and welfare of cats and the regulation of plastic bags.

One Joint Standing Committee report of great interest to local government bodies, and the wider public, concerned the recommended disallowance of 'Joondalup Cat Local Law 2008'. The Legislative Council recorded a keen debate on the matter in support of the disallowance, not necessarily in opposition to the sterilisation of cats but as an objection to the City moving beyond its jurisdiction. This led to the recommendation that the Minister for Local Government seek to pass a state-wide law.

Parliament eventually passed a state-wide *Cat Act 2011*. The law was implemented in two phases on 1 November 2012 and 1 November 2013, giving cat owners a long lead time to comply with the legislation. The law required all domestic cats six months and older to be sterilised, micro-chipped and registered with the relevant local council, and to wear a tag in a public place.



A more recent example of a local law that attracted a significant amount of public attention was the *City of Fremantle Plastic Bag Reduction Local Law 2012*. It was the first of its kind introduced by a local government in Western Australia, and possibly Australia, regarding the regulation of plastic bags. The Committee had to consider whether the subject matter of this local law could be included within the already broad range of matters on which local governments in Western Australia can make local laws pursuant to the *Local Government Act 1995*.



The local law sought to reduce the use of plastic shopping bags within the City of Fremantle by prohibiting retailers from providing "single use plastic bags" and requiring retailers to charge a minimum fee of 10 cents for each "alternative shopping bag" provided to customers. The City of Fremantle sought to justify the local law on the basis of waste reduction as well as to modify consumer behaviour for this purpose.

In its Report to Parliament, the Committee recognised that its Members had a range of views as to whether the Local Law offended the Committee's Terms of Reference. The report set out those views for the information of the Parliament. The Legislative Council disallowed the local law on 29 October 2013.

It should be observed that while the Legislative Council usually accepts the recommendations of the Committee this is not always the case. For instance in November 2009 the Legislative Council voted to override the same Committee's recommendation that sought to reject the Perth Parking Management Amendment Regulations (No.2) 2009 that had increased parking fees by approximately 200 per cent.





## About Parliament 45

# Divisions, Bells and Pairs

### *Divisions*

A division is a method to determine by voting the majority view of Members of the Legislative Council (MLCs) or Members of the Legislative Assembly (MLAs), in their respective chambers on a bill, amendment, motion or ruling.

All questions before either the Legislative Council or Legislative Assembly are determined by a majority. Most questions are initially decided on the voices when the Chair (President or Speaker) expresses an opinion on the outcome as to whether the 'Ayes' or 'Noes' are said to 'have it'. However, a Member may challenge and call for a division or formal count which then decides the majority view of the Members present. It also means that a public record of the vote by each member in the chamber is recorded.

### *Main Steps in a Division*

- When a division is called by a member, the Chair declares 'Is a Division required?' Any 'strangers' withdraw from the Chamber and the Chair will order the division bells to be rung for two minutes to enable members to return to the Chamber.
- After the time has expired the Chair will order the doors to be locked and no member will enter or leave the Chamber until after the division.
- The Chair will state the question and direct the 'Ayes' to pass to the right of the Chair and 'Noes' to the left.
- The Chair will appoint at least one Teller (a member) to each side.
- After counting the votes the Tellers will sign their respective lists (which for convenience have the names of the members printed in party lists).

- The Chair will declare the result of the Division. In the event of an equality of votes the President or Speaker may give a casting vote.
- In the Legislative Council the official record of the division is printed in the *Minutes of the Legislative Council*. In the Assembly the official record is printed in the *Votes and Proceedings of the Legislative Assembly*. The record of divisions in both Houses are also printed in *Hansard* which also records any 'pairs' arranged for the vote.



### *Pairs*

Pairs, although not officially recognised in parliamentary procedure in the Western Australian Parliament (and most other Parliaments), are published in *Hansard*.

A pair is an arrangement entered into between the Government and Opposition and sometimes between 'minor parties' or Independents, whereby an equal number of members may be absent from a division without altering the anticipated result of the division. For example, a pair arrangement may enable a Minister to be on interstate business, a member to attend a constituency function, or be absent from the Parliament due to sickness, without altering the expected result of a division.

Party whips often keep a pair book to help manage the pair arrangements.

### *Bells for Divisions*

(and other parliamentary procedures)

*Legislative Council (bells ring with red lights illuminated):*

- A division - 2 minutes
- An initial quorum - maximum of 10 minutes
- Absence of quorum – 2 minutes
- Appointment of member to a Committee - 2 minutes
- At time appointed each day for proceedings - 5 minutes intermittently
- For resumption following suspension - 5 minutes

*Legislative Assembly (bells ring with blue lights illuminated):*

- A division - 2 minutes
- A quorum - 2 minutes
- Appointment of member to a Committee - 2 minutes
- At time appointed each day for proceedings - 5 minutes to 1 minute intermittently, and with 1 minute to go another minute.

**Note:** To inform members of an adjournment of proceedings both Houses very briefly ring the bells for their chamber.

Below is an historic example of a Division, recorded in *Hansard*, in the Legislative Council and the Legislative Assembly.

The motion in 1899 was for the provision of women's suffrage (the right to vote) in Western Australia.

#### **Legislative Assembly, 12 July 1899**

<b>Ayes (17)</b>	<b>Noes (6)</b>
<i>Sir John Forrest</i>	<i>Mr Burt</i>
<i>Mr A. Forrest</i>	<i>Mr George</i>
<i>Mr Higham</i>	<i>Mr Illingworth</i>
<i>Mr James</i>	<i>Mr Kingsmill</i>
<i>Mr Kenny</i>	<i>Mr Wallace</i>
<i>Mr Leake</i>	<i>Mr Wilson (Teller)</i>
<i>Mr Mitchell</i>	
<i>Mr Monger</i>	
<i>Mr Oldham</i>	
<i>Mr Pennefather</i>	
<i>Mr Piesse</i>	
<i>Mr Rason</i>	
<i>Mr Solomon</i>	
<i>Mr Throssell</i>	
<i>Mr Vosper</i>	
<i>Mr Wood</i>	
<i>Mr Quinlan (Teller)</i>	

#### **Legislative Council, 17 August 1899**

<b>Ayes (8)</b>	<b>Noes (6)</b>
<i>Hon. H. Briggs</i>	<i>Hon. D.K. Congdon</i>
<i>Hon. J.W. Hackett</i>	<i>Hon. S. J. Haynes</i>
<i>Hon. R.S. Haynes</i>	<i>Hon. D. McKay</i>
<i>Hon. A.B. Kidson</i>	<i>Hon. J.E. Richardson</i>
<i>Hon. W.T. Loton</i>	<i>Hon. H.J. Saunders</i>
<i>Hon. G. Randell</i>	<i>Hon. F.T. Crowther (Teller)</i>
<i>Hon. F.M. Stone</i>	
<i>Hon. E. McLarty (Teller)</i>	