

## What is Parliament

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

### The Parliaments of Australia and Western Australia:

The Parliaments of Australia and Western Australia operate under a two-house or **bi-cameral** system with the House of Representatives [federal] and Legislative Assembly or Lower House [WA] and the Senate [federal] and Legislative Council or Upper House [WA].

Our system of government in Australia and Western Australia is known as parliamentary government. Modelled on the British parliamentary system, it is sometimes called the '**Westminster model**'.

Role of the parliaments:

The parliaments of Australia and Western Australia make laws – or statutes - to regulate the activities of the nation and the State of Western Australia.

In Western Australia, it is charged with making laws for the peace, order and good government of the State as set out in the State's Constitution. It does this by passing legislation that is contained in "Bills", as does the national parliament to govern the nation. The system of government in WA is that of a parliamentary democracy based on the rule of law.

The State Government is responsible for matters that typically affect the lives of all West Australians including: schools, hospitals, roads, railways, electricity, gas and water supply, as well as the maintenance of law and order.

## The Australian Parliament

### The Parliament of Australia consists of:

- The Queen represented by Australia's Governor-General
- The Australian Senate
- The Australian House of Representatives.

The Parliament of Australia (formally named the Parliament of the Commonwealth) is made up of a total of 226 people popularly elected to the Senate and House of Representatives to represent the interests of Australians and to 'make laws for the peace, order and good government of the nation' (section 51 Australian Constitution).

### What does the Parliament of Australia do?

The Australian Parliament has four main functions:

#### 1. Law-making

- o The Parliament makes national laws on behalf of the Australian people.

#### 2. Representation

- o The Parliament represents the views and interests of Australian citizens, parties and other groups.

#### 3. Formation of government

- o The Parliament forms government from the party (or coalition of parties) which achieve a majority in the House of Representatives following a federal election.

#### 4. Scrutiny

- o The Parliament scrutinises the work of executive government; especially its spending of public money.
- Where is the Parliament of Australia?

The Parliament of Australia meets at Parliament House Canberra in the Australian Capital Territory. Canberra is the capital of Australia and the centre of Australian governance.

### Role of the Senate

### Role of the House of Representatives

### What happens in the two chambers?

The Senate and the House of Representatives follow a daily agenda respectively called the Order of Business and Daily Program. During sitting weeks chamber routine usually includes:

#### 1. Prayers

#### 2. Government business

- o Government business usually involves the introduction of bills and/or debating and voting on bills.
- o Time is set aside on Mondays in the House of Representatives for the introduction of private members' bills. (Private senators' bills are treated as government business)

#### 3. Question Time.

- o Question Time usually occurs at 2pm each sitting day.
- o Question Time gives members and senators the opportunity to question and scrutinise the performance of executive government.

#### 4. Matters of Public Importance (MPI)

- o The MPI session is usually initiated by a non-government party on a current issue.

#### 5. Adjournment debate

## **Role of the Senate**

The Senate is made up of men and women elected to represent the people in one of Australia's six states or two territories. These parliamentarians are known as senators. There are currently 76 senators. This is made up from 12 representatives from each State and 2 from each Territory.

The Senate is also known as the upper house, the states' house and the red chamber. Historically, the Senate has been regarded as a State's House: the States enjoy equal representation in the Senate, regardless of their population, and State matters are still important to Senators.

## **Role of the House of Representatives**

The House of Representatives is made up of men and women elected to represent the people in one of Australia's 150 electorates. These parliamentarians are also called members. There are currently 150 members of the House of Representatives. The House of Representatives is also known as the lower house, the people's house and the green chamber.

The House of Representatives is one of the two chambers of the Parliament of Australia; the other is the Senate. The most distinctive feature of the House is that the party or group with majority support in the House forms the Government.

## **The Western Australian Parliament**

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 the other four members.

In 1850, Western Australia was denied a two-thirds elected Legislative Council because the convict system required the British Government to provide the bulk of expenses for the Colony. As a compromise, in 1867 the Governor agreed to nominate to the Legislative Council those persons elected by all free adult males who owned property.

In 1870, Western Australia was granted representative Government with a Legislative Council consisting of 12 elected members and 6 members nominated by the Governor.

### **Responsible Government**

Western Australia was granted responsible government in 1890 when Parliament was formed with a Legislative Assembly of 30 elected members and a Legislative Council of 15 members who initially were nominated by the Governor.

During this evolutionary period in Western Australia, the British system of government, the Westminster system, also was developing. The franchise – or the right to vote – was being expanded as the notion of government representing all the people, not just certain classes of people, was gaining acceptance.

When Western Australia was granted self – or responsible – government in 1890, the system established was based on the Westminster tradition. However, unlike the Westminster system where the members of the Upper House [the house of Lords] were not elected but appointed by hereditary right, the Upper House in WA was, from 1893, elected.

In 1893, when the Colony's population reached 60,000, the Legislative Council became an elected body of 21 members with three members elected from each of the seven provinces.

Until 1964, only those people who owned property were entitled to vote in Legislative Council elections. Women were not entitled to vote until 1899; however, few were able to vote because most did not own property.

In 1920, women became eligible for election. In 1921, Edith Cowan became the first Australian woman to be elected as a Member of Parliament. The only other female Member of Parliament to be elected before her in the British Empire was Lady Astor, who took her seat in the House of Commons in 1919.

### **Role of the Legislative Assembly**

### **Role of the Legislative Council**

## **Role of the Legislative Assembly**

The Legislative Assembly is traditionally referred to as the Lower House of Parliament. The Western Australian 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.

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 the Government.

### **2. Provision of Finance for Government Operations**

The monies required for the operation of Government are provided by legislation (bills) passed by the Parliament. All bills which appropriate public monies ('Money Bills') must commence their passage through the Parliament in the Legislative Assembly.

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

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

### **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.

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

The Parliament provides members with a forum for the examination and debate of matters of public concern and importance to the people of Western Australia.

### **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.

## **Role of the Legislative Council**

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 has 36 seats - divided into 6 regions, with each region being allocated 6 elected representatives.

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.

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

## Other Australian Parliaments

State Parliament consists of the Queen of Australia represented by the Governor. Each State has a Governor appointed by The Queen on the advice of the State Premier.

The Parliaments in all States, except Queensland, consist of two houses – an upper and lower house. This is called a bicameral parliament. Queensland's parliament is unicameral, i.e. it has only one chamber. The Northern Territory and the Australian Capital Territory are also unicameral.

Members of Parliament are directly elected by all Australian Citizens over the age of 18 resident in that State.

The major role of the Lower House is to pass or reject laws which are introduced.

The Legislative Council or Upper House is called the House of Review and its main job is to check and review the bills that have been passed by the lower house.

### The two most important differences between the Lower House and the Upper Houses

- The government is formed from the party that has the majority in the Legislative Assembly'
- Money bills, to impose taxes or spend public money may only be introduced in the Legislative Assembly.

### Responsibilities of State Parliaments include:

- To make laws in the areas of not covered by the Federal government under the Constitution.
- To represent the people of their State
- To approve the provision of money to enable the government to carry out its responsibilities
- To scrutinise the way in which the government and government departments operate and spend government money.

### Some areas of responsibility for States

- Agriculture
- Education
- Electricity
- Emergency Services
- Gas
- Health
- Housing
- Courts
- Police
- Local Government
- Main Roads
- Public transport
- Water

For further information visit the parliaments at:

NEW SOUTH WALES [www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au)

VICTORIA [www.parliament.vic.gov.au](http://www.parliament.vic.gov.au)

QUEENSLAND [www.parliament.qld.gov.au](http://www.parliament.qld.gov.au)

TASMANIA [www.parliament.tas.gov.au](http://www.parliament.tas.gov.au)

SOUTH AUSTRALIA [www.parliament.sa.gov.au](http://www.parliament.sa.gov.au)

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

NORTHERN TERRITORY [www.nt.gov.au](http://www.nt.gov.au)

AUSTRALIAN CAPITAL TERRITORY [www.legassembly.act.gov.au](http://www.legassembly.act.gov.au)



## **The Role of the High Court**

The interpretation of the Constitution through the decisions of the High Court is one of the main means by which important changes can be made to the way the Constitution operates.

The High Court was established in 1903. The first sitting of the High Court took place in Melbourne on 6 October 1903. It was a distinguished Bench, comprising three people who had been prominent in the Federal movement:

- The Chief Justice, Sir Samuel Griffith, former Premier and former Chief Justice of Queensland
- Sir Edmund Barton, the first Prime Minister of Australia and Leader of the Constitutional Conventions that led to Australia becoming a Federation in 1901.
- Richard Edward O'Connor, a former Minister of Justice and Solicitor General of New South Wales, and the first Leader of the Government in the Senate.

In 1912, the High Court Bench was further increased to seven Justices. In its history, only three West Australians have been appointed to the High Court Bench. They are Sir Ronald Wilson and John Toohey and the current Chief Justice Robert French.

Up until 1920, the Court interpreted Commonwealth powers narrowly, seeing the Commonwealth and States as separate and equal. This view was overturned by the Engineer's Case in 1920, which is seen as a turning point in Australian federalism. The High Court gave a much broader interpretation to Commonwealth industrial powers under section 51 of the Constitution by ruling that Commonwealth industrial law could apply to Western Australian State agencies.

Not all High Court decisions have expanded the power of the Commonwealth. Two examples of cases where the High Court ruled against the Commonwealth are:

### **1948 The Bank Nationalisation Case**

During the war, using the defence power of Section 51(vi), the Chifley Labor government legislated to allow the Commonwealth Bank to purchase or nationalise the private banks. After the war, it sought to continue control over the private banking system. This prompted the High Court challenge that found that Chifley's Act was invalid.

### **The 1951 Communist Party**

In 1950, the Menzies government passed a Bill to outlaw the Communist Party. The Communist Party immediately challenged this in the High Court. The High Court ruled against the Commonwealth. Menzies then held a referendum seeking to give the Commonwealth powers to make laws in respect of communists and Communism. The proposal was not successful.

## **What is Executive Government**

Australia's system of government is based on 'representative democracy'. This means that instead of making decisions ourselves about every issue, or having an individual vote on every law, we elect representatives as Members of Parliament to make the important decisions for us. For example, only Parliament can make or change the law, or require us to pay taxes.

However, Parliament can't look after all the details, which go into the day-to-day running of the country. As a result we also have what is called the 'executive' branch of government (usually referred to as 'the Executive' or just 'the government'), which runs the country, enforces the laws and develops policy.

### **Where does it come from?**

In Australia, because of our system of responsible government, the Executive is drawn from Parliament. Members of the executive also are Members of Parliament. They become the government because they have the 'confidence' (the majority of seats) of the Lower House of Parliament. The government keeps office as long as it has the confidence of Parliament. But if it loses the confidence of Parliament, in an election or during its term, the government must resign.

The Executive branch of government runs the country on a day-to-day basis, develops policy and enforces the law. It is often just called 'the government'. The Executive is drawn from the party which has the majority in the House of Representatives. The key players in the Executive are the Prime Minister, the Ministers and the Cabinet; government departments; bodies established by statute; and various watchdogs.