



# **SECOND READING**

## **Parliamentary Government in Western Australia**

(Revised Internet Edition)

Harry CJ Phillips

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## PREFACE

Since the publication of *Second Reading: Parliamentary Government in Western Australia* in 1991 there has been a substantial growth in political and civic education programs. The *Whereas the People Report* (1994), which emanated from the Prime Minister's Civics Experts Panel, made a series of recommendations that helped stimulate the drive for civic education. A comprehensive package of resources labelled under the rubric of 'Discovering Democracy' was published and distributed to schools throughout Australia. Understandably, though, the valuable 'Discovering Democracy' materials did not focus on the State tier of government. However, there were calls for this vacuum to be filled. The Royal Commission into the Commercial Affairs and Other Matters (1992) specifically called on Parliament to play a role in education programs. The Western Australian Report of the Constitutional Committee (1995) then canvassed a range of strategies to enhance civic and political education, including a recommendation 'that the State Government support the establishment of a Constitutional Centre, incorporating a museum and with community education functions, ideally to be situated near Parliament House'. Later the Commission on Government (COG) (1996) made a recommendation that the government should make a much greater effort to 'promote and fund civics education'. In response to these recommendations the government ratified the building of the Constitutional Centre of Western Australia, which was opened in October 1997.

Meanwhile, in 1998, Western Australia adopted a new curriculum framework which incorporated an Active Citizenship strand in the Society and Environment Outcomes. Active Citizenship encompassed democratic processes, social justice and economic sustainability. Agencies in Western Australia such as Parliament, the Western Australian Electoral Commission, the Francis Burt Law Centres, as well as the Constitutional Centre, have continued to make their contributions to civic and citizenship education.

In 2005 a National project was undertaken which focused on the development of *Statements of Learning* in the domains of Civics and Citizenship and other subjects. The *Statements of Learning* describe the essential skills, knowledge, understandings and capacities that all young Australians should have the opportunity to learn by the end of Years 3,5,7 and 9. National Testing of Civics and Citizenship began in 2004. It has been continued with periodic reports being published.

Each chapter of *Second Reading* contains informational material and a number of exercises relevant to the interests of upper primary and lower secondary students. The Challenge exercises provide more difficult material as useful background for teachers; that may also be used for the more capable students. The Terms section highlights some of the key political terms used in each chapter. A separate chapter lists the additional materials on Western Australian Government which are currently available.

The flexible A4 format of the resource has been adopted to allow teachers to photocopy those pages and exercises which they consider useful. For this edition a set of answers has been prepared for each exercise included in the resource. An index has also been prepared for the assistance of educators. An alphabetical tabulation of the terms defined in the resource has also been included in the final chapter.

## ACKNOWLEDGEMENTS

For the first edition of *Second Reading: Parliamentary Democracy in Western Australia (1991)*, a range of organisations and individuals were recognised for their contributions to the production of the resource. The project was supported financially by the Public Endowment Trust Fund, the Parliament of Western Australia and the Commonwealth Parliament Education Office. In addition, the Ministry of Education (now Department of Education) provided consultative assistance and editorial, design, illustration, typesetting and printing management services through West Ed Media. The electoral maps were reproduced by courtesy of the Western Australian Electoral Commission and originally appeared in the *Government Gazette* of 29 April 1988. Photographs were generously supplied by the Parliament of Western Australia. Electoral maps have not been included in the revised edition although some other Western Australian Electoral Commission information has been retained or modified. However, as much of the material from the first edition has been retained in the revised edition, acknowledgment of the aforementioned organisations is again recorded.

For the first edition the following persons were thanked for their various contributions to the publication of *Second Reading*. Dr Geoff Gallop, in his capacity as then Minister for Education; Mr Peter McHugh (Clerk of the Legislative Assembly); Mr John Mandy (Clerk Assistant and Sergeant-at-Arms of the Legislative Assembly); Mr Rod Wahl (Clerk Assistant of the Legislative Council); Dr Richard Gilbert and Ms Mirrillee Chignell (Commonwealth Parliament Education Office); Mr Les Smith (Electoral Commissioner for Western Australia); Professor David Black; Mrs Pat Roach and Mrs Catherine Leech (Legislative Assembly Annexe); Ms Kathy Cook and Mr Glen Bennett (Consultants, Curriculum Studies Branch, Ministry of Education); Mrs Jan Phillips (Penrhos College); Mr Rod Lewis (Senior Graphic Designer) and Mr Cam Rielly (Senior Consultant), Curriculum Services Branch, Ministry of Education. Again these persons are recognised for their contributions.

For the revised internet edition valuable additional support and advice has been offered by Jane Gray, the Education Officer of the Parliament of Western Australia. Helen Lünsmann, from the Legislative Assembly Committee Office, has also been integrally involved in the preparation of the resource. A sincere vote of appreciation is recorded to both Jane and Helen. Through their respective efforts it has been possible to present an updated version of *Second Reading* for educators in Western Australia.

Special appreciation for the second revised internet edition (2009) is again directed to the Parliamentary Education Office led by Jane Gray, assisted by Deputy James Sollis and Education Officers Cherie Toovey and Michael Loney. Alice Murphy also contributed to the revision. Particular appreciation is afforded to Erin Grace for formatting the text in such a proficient manner. Many thanks Erin.

Dr Harry Phillips FACE

Parliamentary Fellow (Education)

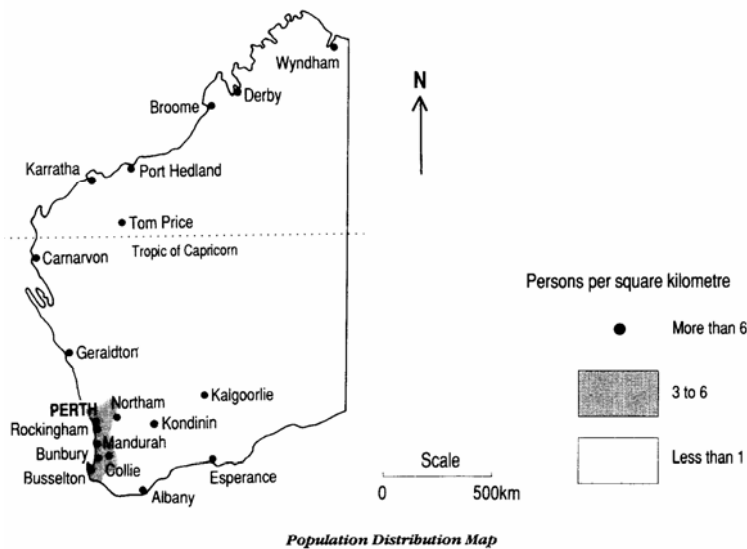
Honorary Professor, Edith Cowan University

Adjunct Professor, Curtin University of Technology, November 2009

## 1. Citizens of Western Australia: Government and Politics

In 2001, the people of Western Australia (W.A.) joined in the celebration of Australia's centenary of federation. The population of W.A. at 30 September 2008 was estimated to be 2,188,500 persons. This was nearly ten per cent of the nation's population which was estimated to be 21,542,500 persons. The geographic area of the State is 2,525,500 square kilometres which covers one third of Australia's land mass.

With many people living in our State, especially in the Perth metropolitan area, you will realise that if we do not have a government to make and carry out laws for our safety, protection, education, health and many other matters, our lives could be "*solitary, poor, nasty, brutish, and short.*"



This claim was made by the famous philosopher, Thomas Hobbes, who lived in the seventeenth century. He believed that people in states needed governments, if they were to survive and enjoy certain rights and freedoms. Over the centuries, many people have written about the need for governments and how systems of government can be improved to build better societies.

In Western Australia, as in many parts of the world, people agree that government should be democratic. The word *democracy* simply means *rule by the people*. In a famous speech, the American President Abraham Lincoln once said that democracy was *government of the people, by the people, for the people*. As an Australian citizen, you need to consider your rights and responsibilities in our democracy.

### **Citizenship**

During the period 2005 to 2010, under our democratic system of government and with our standard of living, Australian men were expected to live to nearly 79 years and women to 84 years. What do you think the life expectancy was for Aboriginal men and women when Captain Arthur Phillip hoisted the Union flag at Sydney Cove on 26 January (Australia Day) in 1788? Would it have been different when Captain Charles Fremantle, on 2 May 1829, anchored in Cockburn Sound? What do you think it is today?

## Exercise 1.1

Write down your name, age and life expectancy. For how many extra years is it expected that you and governments in your community will have to consider aspects of your welfare? Remember that there will be differences in your answers, depending upon whether you are a male or female.

Name : \_\_\_\_\_

Age : \_\_\_\_\_

Life Expectancy : \_\_\_\_\_

Expected years of community life : \_\_\_\_\_

## Exercise 1.2

As an Australian citizen, it can generally be said you have a right to:

- Speak freely;
- Think for yourself;
- Equality before the law;
- Trial by jury, if required;
- Primary and secondary education;
- Personal protection;
- Protection of your property;
- The right to join (or not to join) a political party;
- The right to join (or not to join) a trade union;
- The right to elect members of parliament when you are 18;
- The right to a secret vote.

Can you think of other rights that you have, such as being able to travel anywhere in Australia without a passport (e.g. some choice of diet, dress and literature)?

(a) \_\_\_\_\_

(b) \_\_\_\_\_

The ancient Greeks were the first civilisation to explore the idea and practice of citizenship. Their society was based on a type of community known as 'polis' or city state. The philosopher Aristotle believed man was a 'zoon politicon', or political being. He considered political activity to be an essential part of human behaviour, as a man could not reach his full potential without participating in the community.

In fact, citizens who neglected their civic duties such as attending assemblies or serving on juries were labelled as 'idions', the term from which the modern word 'idiot' is derived. However, the opportunity to participate in politics did not extend to everyone. Women, children, resident foreigners, some labourers and slaves were not regarded as citizens and were excluded from the 'privileges of rule'. Later on, many philosophers revisited the idea of citizenship, and retained many of Aristotle's ideas. Fortunately, though, citizenship has been extended to apply to nearly all members of modern communities.

After an historical examination of citizenship one writer, David Heater (1990, p. 365) said, ‘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’. The same author was keen to emphasise that developing the attributes of citizenship was a lifelong undertaking but a firm foundation must be laid in schools to ensure their early and systematic learning.

With particular reference to Western Australia a consortium of educators developed a working definition of citizenship. It included the following aspects and encouraged students to be:

- *interested* (motivated to want to know more about citizenship issues).
- *informed* (recognise the importance of a sound knowledge of formal and informal decision making structures that exist in our democracy).
- *critical* (develop an awareness of different ways in which the concept of democracy may be interpreted); and
- *active* (participate in [and reflect] on community decisions).

Underlying these aspects are certain values. In particular, values such as tolerance, fairness, respect for individual rights and recognition of the responsibilities are recognised.

### Exercise 1.3

Several surveys have been conducted about what special qualities a ‘good’ citizen should display. One survey conducted in Western Australian schools, with Year 7 and Year 11 students, produced the following ranking of the characteristics of a ‘good citizen’.

- |   |  |
|---|--|
| • Respects the rights of others.                      | • Works hard.  |
| • Respects the property of others.                    | • Respects the Australian flag.                        |
| • Treats people equally regardless of gender.         | • Buys Australian made goods where possible.           |
| • Is honest.  | • Contributions to charity organisations.              |
| • Treats people equally regardless of disabilities.   | • Is patriotic about Australia.                        |
| • Treats people equally regardless of race.           | • Keeps fit and healthy.                               |
| • Drives and rides safely.                            | • Is well informed about Australia’s history.          |
| • Acts to protect the environment.                    | • Is well informed about Australia’s geography.        |
| • Treats people equally regardless of their age.      | • Is committed to their religion or faith.             |
| • Treats people equally regardless of their religion. | • Knows all words of Australia’s national anthem.      |
| • Obeys the community’s laws and rules.               | • Is well informed about Australia’s Constitution.     |
| • Meets their responsibilities towards their family.  | • Is well informed about Australia’s political system. |
| • Is prepared to help neighbours.                     | • Is successful in their career.                       |

Indicate five characteristics of a good citizen that you think are important. You may choose to list characteristics that have not been mentioned in the above table.

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_
- (e) \_\_\_\_\_



## Government, Politics and Power

As an Australian citizen, you are expected to obey all the laws of Australia. At present, this means that, at eighteen years of age, you must enrol as an elector and then vote in State and Commonwealth government elections. The Commonwealth may also be called the Federal, National, or Australian government. Apart from the State and Commonwealth governments, there is also a third level or tier of government, called local government. All three levels of government are expected to provide for the needs and wants of all people. This includes young people who have not yet reached the voting age. It is sometimes difficult to know which level of government is responsible for a particular matter. More information is contained in Chapter Two, 'Australia's Federal System.'

Recent surveys of young Australian girls and boys show they want to know more about their governments. There is strong evidence they think more should be taught about the main features of our system of making and carrying out community decisions. They see our Prime Minister, State Premier, or even the local Mayor on television. Many pages in the newspapers are about politics and government and the proceedings of Parliament. There are many talkback radio programs, which often discuss political problems. The internet offers news of political events around the world. Young people realise that decisions made by governments affect themselves, their family, school, community, state and nation.

Sometimes, people - regardless of their age do not learn much about their government. They think politics is a kind of game and the rules are too hard to understand. However, while we are not all involved in government we all take part in politics. It is about making decisions (or types of rules) to overcome disagreements among people. Mostly discussion and debate are enough to settle disagreements, but force is sometimes needed. Power, the ability to impose your will over someone else, is often exercised.

### Exercise 1.4

In your opinion, what makes a person powerful, allowing her or him to get you to do something you would not otherwise do (*mark your selection in the boxes below*)? Some listings include the following attributes. Attempt to add two attributes to the list.

Age (seniority)	<input type="checkbox"/>	Personality	<input type="checkbox"/>
Beliefs	<input type="checkbox"/>	Physical Appearance	<input type="checkbox"/>
Dress	<input type="checkbox"/>	Respect	<input type="checkbox"/>
Knowledge	<input type="checkbox"/>	Voice	<input type="checkbox"/>
Occupation (position/job)	<input type="checkbox"/>	Wealth	<input type="checkbox"/>

(a) \_\_\_\_\_

(b) \_\_\_\_\_

We all have different likes and dislikes, tastes, and preferences. We can't always have what we want or always have our own way, so decisions have to be made and rules formed to enable us to live together. Even simple rules are useful, because people then know what they are expected to do and what they cannot do. As you know, there are even rules about how we should behave when we eat, when we speak and when we play. Of course rules, or expected patterns of behaviour, are not always the concern of governments. Politics, as you realise, takes place in groups such as the family, friends, clubs and schools, as well as at the local, state, and federal levels of government. This will lead us to a study of Parliament, because the making of community rules which become laws takes place in our Parliament(s).

Although it is necessary to make rules, it is also important to regularly check how rules can be improved. Obeying rules which you think are silly may not seem sensible to you but, until a rule has been changed it nearly always should be obeyed

### Exercise 1.5

Group	The Rule	Why was the rule made?	How could the rule be improved?
Family			
Sport. Team			
Local Govt.			
State Govt.			
Federal Govt.			

## Challenge Exercise 1

In a book called *Democracy* (Batsford, 1970) Dorothy Pickles wrote some very clear ideas about that subject. She said democracy is both a set of ideals and a system of power or government. The ideals, with some additions, included :

- (i) Freedom of speech and expression.
- (ii) Freedom of the press (newspapers, internet, radio and television).
- (iii) Freedom to join clubs, unions and political parties.
- (iv) Freedom of religion and conscience.
- (v) Freedom to hold meetings in public.
- (vi) Freedom of information.
- (vii) Equality of all citizens before the law.
- (viii) A right to a basic education.
- (ix) A right to basic health care.
- (x) A right to leisure hours (and employment).

The features of a democratic system of government included :

- (i) Voting rights for all adults.
- (ii) Regular elections.
- (iii) Rule by the majority (with minority rights).
- (iv) Political parties competing for power.
- (v) Opportunities to oppose the Government.
- (vi) An independent court system (judiciary).

Other writers have spoken of a 'democratic' kind of person. There have been attempts to indicate how democratic type people behave.

Think of a friend whom you consider is a democratic type of person. Then list the features of your friend's behaviour (personality) .

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_
- (e) \_\_\_\_\_

(e.g. the person listens to other people's ideas)

## Terms 1.0

<b>Citizen:</b>	from the Anglo-Norman word <i>citezein</i> . This is based on the Latin <i>civitas</i> , meaning 'city'. A citizen is an inhabitant of a State or country who has certain rights and responsibilities.
<b>Democracy:</b>	from two Greek words, <i>demos</i> - the people, and <i>kratein</i> - to rule. Democracy is a way of governing a country in which the people elect representatives to form a government on their behalf.
<b>Nation:</b>	a body of people with a common territory, similar beliefs and ways of living.
<b>Government:</b>	is based on the Latin word <i>gubernare</i> 'to steer'. The term 'government' is a general one, which is used to describe both the group and body that has power, and the system for making and enforcing decisions. In other words, it means the whole system for ruling part or all of a country.
<b>Philosopher:</b>	a person who searches for wisdom and truth to improve humankind.
<b>Politics:</b>	from the Greek word <i>polis</i> , meaning city-state Politics is a human activity concerned with making rules or decisions which will reduce the conflict that arise from the differences in people's interests and beliefs.
<b>Polity:</b>	meaning the whole political system or political fabric, comes from the same Greek word.
<b>Power:</b>	can be traced from the Latin <i>posse</i> , which means 'to be able'. Power is what some people have that allows them to make others do as they are told.
<b>Rules:</b>	describe the required behaviour of members of a particular group.
<b>State:</b>	the word is sometimes used as a short way of referring to a 'nation-state', which is a group of people, living in a defined territory, with a system of government. Sometimes too, a State is one of the regions of a nation with a government for its own affairs. It may well have started out as a colony of another country, as did the State of Western Australia.

## 2. Australia's Federal System

Each Australian colony gained self-government between 1850 and 1890. Western Australia was not granted self-government until 1890. The new Western Australian Parliament was then able to pass laws on nearly all matters except for some limitations about 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. However, after the gold rushes in the eastern colonies the move for Federation began. A federation is a system of government in which power and responsibility is divided between a national government and the State governments. There was a need for one set of laws and policies about defence, trading goods between one 'State' and another, immigration, weights and measures, the mail system and transport for such a large continent. Eventually on 1 January 1901, the first day of the new century, Australia became a nation with a federal system of government. A new level of government, the Commonwealth was created, and the existing colonial governments became the States. His Royal Highness, the Duke of Cornwall and York opened the first Federal Parliament in Melbourne, on 9 May 1901.

Canberra is the capital city of Australia.

The Commonwealth Parliament is in Canberra.

Canberra itself is in the Australian Capital Territory (ACT).

The Northern Territory (NT) is another territory.



### Exercise 2.1

(a) How far is it from Perth to:

Adelaide \_\_\_\_\_ km

Canberra \_\_\_\_\_ km

Brisbane \_\_\_\_\_ km

Darwin \_\_\_\_\_ km

Melbourne \_\_\_\_\_ km

Sydney \_\_\_\_\_ km

Hobart \_\_\_\_\_ km

(b) If a plane flies at 800km/hr, how long does it take to get from Perth to Sydney?

\_\_\_\_\_ hrs

## The Commonwealth (Australian) Federal Constitution

At Federation, the colonies became States and kept control over their own territories. What the new Federal government could do was written down in a document widely known as the Australian Constitution. A constitution is a set of special rules by which a country is governed. Most constitutions, including Australia's, are harder to change (or 'amend'), than are ordinary laws. This is because the Constitution is regarded as being separate from other laws of the land.

You should remember that most organisations, such as clubs and associations, of which you may be a member, also have constitutions. These constitutions tell you about who can be a member of a club and how the club is to be governed. Once again, changing a club's constitution usually requires a special procedure.

When drawing up the Australian Constitution the founders were able to adopt features of their own colonial constitutions, which contained many similar features to the 'Westminster Model' in London. They also closely examined the constitutions from the federations of the United States of America, Canada and Switzerland. Canada, in the British North America Act (1867) had combined the Westminster Model and the federal model from the United States of America. These constitutions were mostly difficult to change.

### Exercise 2.2

Which other modern federation do you think is probably the most similar to Australia?  
If possible give one brief reason to support your claim.

- a) Similar federation: \_\_\_\_\_
- b) Reason for claim: \_\_\_\_\_
- \_\_\_\_\_

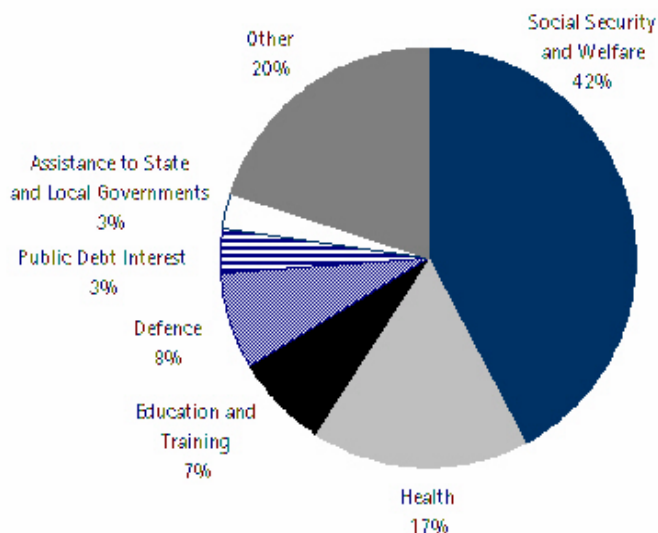
A key section of Australia's Constitution, which provides for the federal division of powers between the Federal and State government, is Section 51 (see Challenge Exercise 2 - p 19). Some of the most important of these powers include:

- (i) Defence: so Australia can have one army, navy and air force for Australia.
- (ii) Interstate and international trade: so Australia can have trade between the States and be able to make laws about trade with all countries.
- (iii) Taxation: so people will pay taxes at the same rates throughout Australia on wages, salaries and business profits.
- (iv) 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.
- (v) Currency: so we have the same bank notes and coins throughout Australia.

Other matters listed in Section 51 (which has 39 sub-sections) include external affairs, marriage and divorce, quarantine, weights and measures, bankruptcy and census and statistics. (See pages 19 to 21 of this resource for more information.) It should be noted that many of these powers are called concurrent powers which means they are areas in which both the Commonwealth and States can act.

## Commonwealth Budget Expenditures 2007/2008 (see [www.budget.gov.au](http://www.budget.gov.au))

Some idea of the main items of Commonwealth government expenditure can be gauged from the federal budget outlays. After over one hundred years of federation the budget outlay percentages have the following pattern.

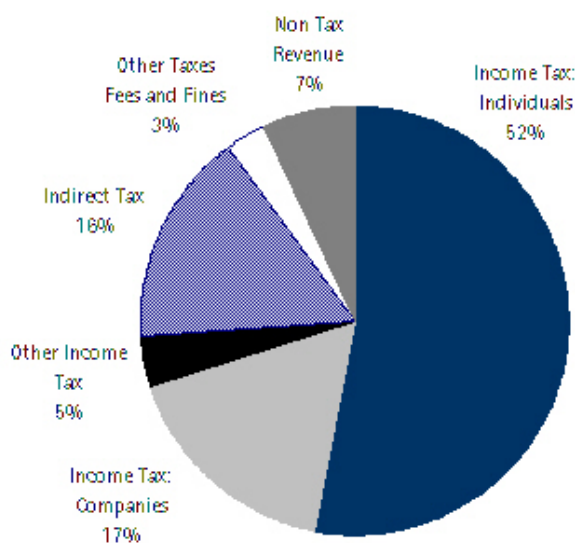


### Exercise 2.3

What percentage of the Commonwealth budget is spent on social security, health and education? \_\_\_\_\_

## Commonwealth Budget Revenues 2007/2008 (see [www.budget.gov.au](http://www.budget.gov.au))

Over the century of federation there have also been changes in the revenue sources for the Commonwealth Government. It should be noted the pie graph does not include the GST (Goods and Services Tax) which is collected by the Commonwealth Government on behalf of the States



## Exercise 2.4

Which taxation measure do you think has grown most significantly since federation?

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The Commonwealth Government is financially dominant. One of the constitutional founders, second Prime Minister Alfred Deakin, predicted that the States 'would be financially bound to the chariot wheels of the Federal government.'

## Changing the Constitution

Changing the revenue arrangements would be very difficult, as it would require an amendment to Australia's Constitution. The method of 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 to the Constitution after passage through at least one House of the Federal Parliament. However, before the change can be made a 'double majority' is necessary. This means:

- (i) the majority of all voters in Australia must vote 'yes'.
- (ii) the voters in a majority (4) of the States must also vote 'yes'.

Very few changes have been made including only two amendments to Section 51, which is the main division of federal powers section of the Constitution (see Challenge Exercise 2). To date, 44 amendment proposals (referenda) have been put to the Australian people, in addition to the three consultative referenda on compulsory military service (1916 and 1917) and the national anthem (1977). Only eight referendums have passed the double majority test.

## Exercise 2.5

The eight successful Commonwealth Referenda

Date	Subject Matter	WA (% Yes)	Australia (% Yes)	# States (% Yes)
12/12/1906	Senate Elections	78.9	82.6	6
13/4/1910	State debts	72.8	54.9	5
17/11/1928	Financial Agreement	57.5	74.3	6
28/9/1946	Social Services	62.3	54.5	6
27/5/1967	Aborigines	80.9	90.8	6
21/5/1977	Senate Vacancies	57.1	73.3	6
21/5/1977	Referendums	72.6	77.7	6
21/5/1977	Judges retirement	78.4	80.1	6

On what subject matter was greatest difference recorded between the Western Australian approval vote and the nationwide approval vote?

---



## The High Court

Sometimes disputes arise over the meanings of sections of the Constitution and which Parliament (Federal or State) has the power to make a law. The Constitution provides for a special court, called the 'High Court' to decide these disputes. Sometimes, the High Court has to make a judgement, but often debate and discussion between governments take place to avoid a High Court case. On some occasions doubts about the constitutional validity of legislation is not tested because it is not challenged in the High Court.

As the Constitution was drawn up in 'horse and buggy' days, this has also meant that the High Court has had to decide the modern meaning of some parts of it. Section 51(V) gave the Commonwealth parliament power to make laws with respect to 'postal, telegraphic, telephonic and other like services'. The High Court has ruled that 'other like services' also means 'radio' and 'television'. This has allowed the Commonwealth Parliament to make laws about the radio and television industries. It is a reminder that the High Court makes judgements about everyday matters.

### Exercise 2.6

(a) What are your two favourite shows on television?

(i) \_\_\_\_\_

(ii) \_\_\_\_\_

(b) If you were responsible for making laws about television, what changes would you suggest?

(i) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(ii) \_\_\_\_\_

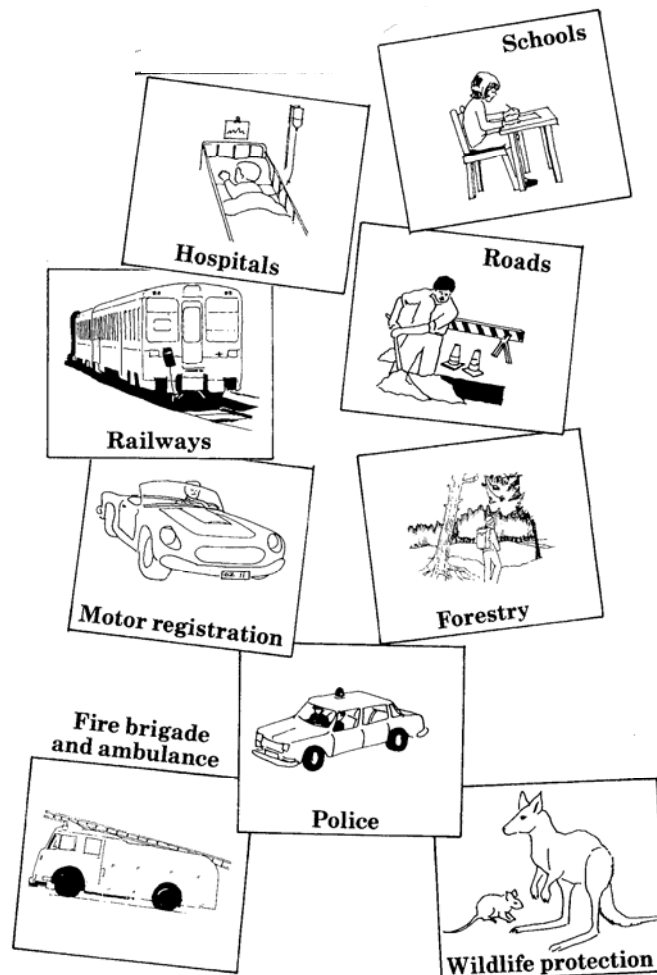
\_\_\_\_\_

\_\_\_\_\_

## State Powers

At Federation the States were left with what were thought to be important powers ‘close’ to the people. The States would continue to make laws about:

- public housing
- hospitals
- development
- the environment
- criminal law
- schools and other education matters
- transport
- natural resources, including land
- civil law
- police

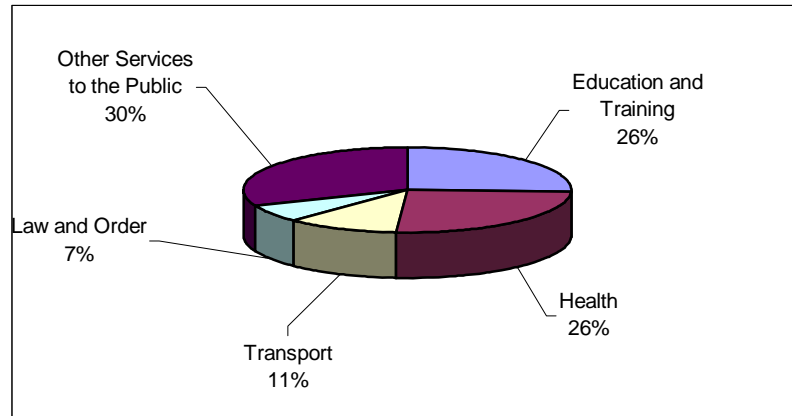


(Courtesy: Parliamentary Education Office (PEO), Commonwealth Parliament)

## Western Australian State Budget Expenditures 2007-2008

2007-08 Economic and Fiscal Outlook (Budget Paper No. 3, Page 6)

The present day pattern of State expenditure estimates is revealed in the table below.

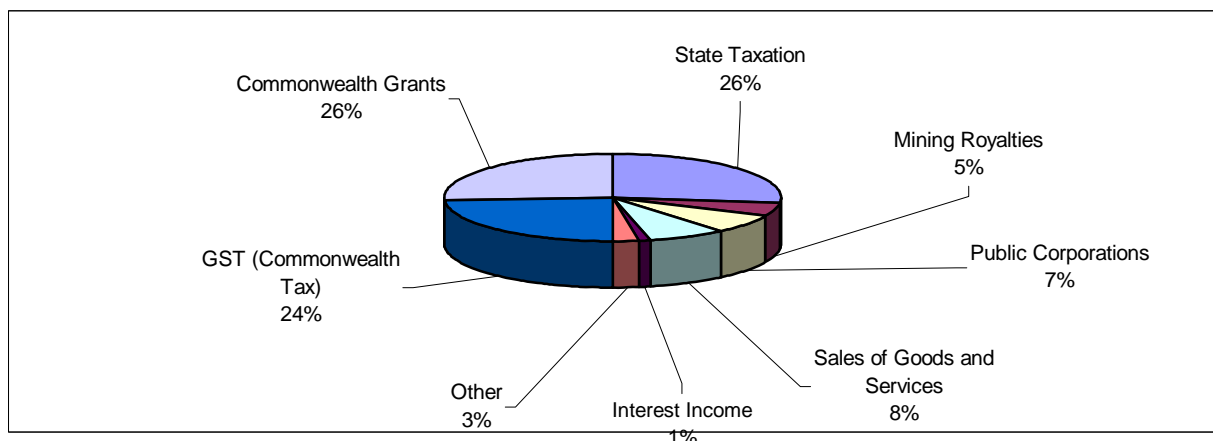


### Exercise 2.7

What percentage of State Budget outlay is devoted to health and education? \_\_\_\_\_

## Western Australian State Budget Revenues 2007-2008

2007-08 Budget (Budget Paper No. 3, Page 4)



The present day pattern of State revenue estimates is revealed in the above table.

### Exercise 2.8

What is the Goods and Services Tax (GST) percentage of revenue? \_\_\_\_\_

## Local Government

There is no mention of local government in Australia's Constitution. Local government bodies are created by State Parliaments. Only since 1979 has there been a reference to local government in the Western Australian Constitution:

### CONSTITUTION ACT 1889-1980

#### WESTERN AUSTRALIA Part IIIB – Local Government (Inserted 1979)

52.(1) Legislature shall maintain a system of local governing bodies elected and constituted in such manner as the legislature may from time to time provide being such powers as the legislature considers necessary for the better government of the area in respect of where the body is constituted.

In Western Australia there are 142 local government authorities covering the total mainland area of the State, except Kings Park. The Botanic Gardens and Parks Authority manages this beautiful park. Local governments classified as cities, towns or shires vary greatly in area and in population. The Shire Council of East Pilbara has an area of nearly 38 million hectares (greater than the area of Victoria). The shire with the smallest area is Peppermint Grove, which covers only 114 hectares!

The City of Stirling has the biggest local government population, with over 180 000 people. This contrasts with the Shire of Murchison, which has a population of some 200 people, of whom only about 50 are ratepayers.

### Exercise 2.9

In which suburb do you live? \_\_\_\_\_ What is the postcode? \_\_\_\_\_

What is the local government authority called? \_\_\_\_\_

In Australia's Federal system, it is important to know what services local government provide. Local government services include:

- libraries
- rubbish collection
- parks and gardens
- health inspection
- town planning
- noise control
- local roads
- aged care – senior citizens
- recreation facilities (included swimming pools)
- child health (including immunisation)
- ranger services
- control of farm animals
- dog registration
- building regulations
- community arts
- street lighting and street names



(Courtesy: Parliamentary Education Office (PEO), Commonwealth Parliament)

Much of the money for local government services comes from 'rates', which are payments for property or land-owned within a local government area. Some funds are also provided by the State Government and the Federal Government or raised by charging for services provided for the community by the local council, such as rubbish collection. Local government councils may also borrow money from banks.

The pattern of raising and spending each dollar varies from one authority to another. The pattern is usually different for metropolitan authorities and country authorities. Rates are the major source of revenue for local government bodies. Properties are valued either by a council or a state government valuer on a periodic basis. The rate is actually a tax on property. There are two main methods of valuation:

- Unimproved Value; and
- Gross Rental Value.

## Unimproved Value

Unimproved value means the site value that the land might reasonably be expected to realise upon sale, assuming no improvements other than merged improvements such as drainage, filling, levelling, clearing of timber, have been made.

Example

Value of land	= \$100, 000
Rate in dollar	= 0.75 (set by Council)
Amount of rates	= \$750.00

This method of raising rates is viable for Councils where there is a large portion of vacant land. It should be noted that not all land is rateable. Non-rateable land includes land used by governments or land defined as non-rateable by Act of Parliament (such as church and educational institutional properties).

## Gross Rental Value

Gross rental value means the gross annual rental value that the land might reasonably be expected to realise if rented, assuming the landlord is liable for all rates, taxes and other outgoings necessary to maintain the value of the land.

Example

Gross annual rate	\$7800 (\$150 week)
Rate in the dollar	6.61995 cents
Amount of rates	$\$7800 \times 6.61995$ \$516.35

In practice, many local government authorities use both the unimproved value and gross rental approach. By setting different rates for residential, commercial, industrial, rural and other zones, the various councils can maximise income and minimise the impact, as necessary, on certain categories of rate-payers.

## Challenge Exercise 2

Section 51 of the Commonwealth of Australia Constitution (see next page) lists the subjects upon which the Commonwealth Parliament may pass legislation. This section is necessary because Australia is a Federation, with two tiers of government, the Commonwealth and the States (and a third tier, local government, which is set up under State constitutions and laws).

The opening words of Section 51 are important. In particular, they make any laws passed under that section subject to the rest of the Constitution. For instance this means that the Commonwealth cannot use its Section 51 powers to infringe the guarantee of religious freedom in section 116; or to alter the Constitution itself without a referendum under section 128.

The reference in the opening words to laws being made for “peace, order, and good government” is not a limitation on what Parliament can do. These are the words traditionally used to describe parliamentary powers in most common law systems. The same words are used in the Western Australian Constitutional documents.

Examine Section 51 of the Commonwealth of Australia Constitution under the sub-heading ‘Powers of the Parliament’.

- (a) Which two subsections of Section 51 have been altered by referendum?

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- (b) List two sub-sections of Section 51, which require the Commonwealth Parliament to treat the States equally with its legislation?

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- (c) Which sub-section of Section 51 gives the State Parliaments the authority to refer powers to the Commonwealth Parliament?

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- (d) If a new Section 51 was formulated which matter(s) do you believe would be included in the list of Commonwealth Powers?

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## THE CONSTITUTION

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Legislative  
powers of the  
Parliament.

### PART V. – POWERS OF THE PARLIAMENT.

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the commonwealth with respect to: -
- (i) Trade and commerce with other countries, and among the States;
  - (ii) Taxation; but so as not to discriminate between States or parts of States;
  - (iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth;
  - (iv) Borrowing money on the public credit of the Commonwealth;
  - (v) Postal, telegraphic, telephonic and other like services;
  - (vi) The naval and military defence of the Commonwealth and of the several States and the control of the forces to execute and maintain the laws of the Commonwealth;
  - (vii) Lighthouses, lightships, beacons and buoys;
  - (viii) Astronomical and meteorological observations;
  - (ix) Quarantine;
  - (x) Fisheries in Australian waters beyond territorial limits;
  - (xi) Census and statistics;
  - (xii) Currency, coinage, and legal tender;
  - (xiii) Banking, other than State banking: also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money;
  - (xiv) Insurance, other than State insurance: also State insurance extending beyond the limits of the State concerned;
  - (xv) Weights and measures;
  - (xvi) Bills of exchange and promissory notes;
  - (xvii) Bankruptcy and insolvency;
  - (xviii) Copyrights, patents of inventions and designs, and trade marks;
  - (xix) Naturalization and aliens;
  - (xx) Foreign corporations and trading or financial corporations formed within the limits of the Commonwealth;
  - (xxi) Marriage;
  - (xxii) Divorce and matrimonial causes: and in relation thereto, parental rights, and the custody and guardianship of infants;
  - (xxiii) Invalid and old-age pensions;
  - (xxiiiA) The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances;
  - (xxiv) The service and execution throughout the commonwealth of the civil and criminal process and the judicial proceedings of the States;
  - (xxv) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States;
  - (xxvi) The people of any race, for whom it is deemed necessary to make special laws;
  - (xxvii) Immigration and emigration;
  - (xxviii) The influx of criminals;
  - (xxix) External affairs;
  - (xxx) The relations of the Commonwealth with the islands of the Pacific;
  - (xxxi) The acquisition of property on jus terms from any State or person for any purpose in respect of which the Parliament has power to make laws;
  - (xxxii) The control of railways with respect to transport for the naval and military purposes of the Commonwealth;
  - (xxxiii) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State;
  - (xxxiv) Railway construction and extension in any State with the consent of that State;
  - (xxxv) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one state;



PART V. – POWERS OF THE PARLIAMENT.

- (xxxvi) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides;
- (xxxvii) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:
- (xxxviii) The exercise within the Commonwealth, at the request of with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia;
- (xxxix) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth.

## Terms 2.0

<b>Budget:</b>	from the French <i>bougette</i> , meaning a ‘small pouch for money’. A budget is a plan placed before Parliament every year with the assistance of Treasury which shows what money the government expects to receive and how the government expects money to be spent.
<b>City:</b>	from the Latin <i>citivas</i> , meaning ‘city’. A city in Western Australia must have a population of more than 30 000 people for three years, more than half of whom must live in an urban area. If the district is not in the metropolitan area, a city needs more than 20,000 inhabitants, more than half of whom must be living in an urban area. Before 1995 an Act of Parliament required a city to have a civic centre with adequate halls and cultural facilities. It also had to have sufficient residential, commercial and industrial areas to justify the use of the word city.
<b>Colony:</b>	a settlement in a new country politically connected with its parent state.
<b>Constitution:</b>	from the Latin <i>constitutio</i> , meaning ‘arrangement’ or ‘order’. A constitution is a basic set of rules by which a country or state is governed.
<b>Federal:</b>	from the Latin <i>foedus</i> , meaning a ‘treaty’, ‘agreement’, ‘alliance’ or ‘league’.
<b>Federation:</b>	the forming of a nation by the joining of a number of States (colonies) which give up some of their powers and responsibilities to a national government.
<b>Federalism:</b>	a system of government in which a written constitution distributes formal authority between a central government and regional (states, provinces, cantons) governments as well as the process of this system. In Australia the process has always been controversial.
<b>Referendum:</b>	from the Latin <i>referre</i> , meaning to ‘carry back’, report or ‘refer for consideration’. A referendum is a method of referring a question or set of questions to the people. In Australia, a referendum is usually a public vote on a proposed plan to change Australia’s Constitution.
<b>Shire:</b> (in WA)	a district requires at least 20 persons who are ratepayers before it can apply to be called a shire.
<b>Town</b> (in WA)	a town requires at least 50 persons who are ratepayers before it can apply to be called a town.

### 3. Parliament's History in Western Australia

The system of government in Australia is often referred to as 'parliamentary government'. It tells us that we have a system of government, which works through an assembly– a group of persons who meet to discuss public affairs.

The idea of a parliament is very old. The word comes from the old French word *parlement*. The word *parley*, from a Latin word meaning 'to discuss' or 'speak', is related. The term 'parliament' has been used in England at least since 1275, when Edward I used it to describe a council meeting with the most powerful nobles of the kingdom. Later, Edward I summoned this parliament to appeal for money because England was in danger. It worked and the parliament of 1295 became known as the 'Model Parliament'. It set the pattern for future parliaments and established the regular attendance of the nobles.

#### **Events in the history of the British Parliament**

- 1050** Edward the Confessor.  
Construction of the Palace of Westminster and Westminster Abbey.
- 1215** Magna Carta
- 1295** Edward I – Model Parliament
- 1512** Henry VIII - King and Parliament become partners in law making
- 1689** Bill of Rights
- 1714** Sir Robert Walpole begins to perform the role of Prime Minister
- 1832** First Reform Bill  
Beginning of the extension of the right to vote.
- 1911** Parliament Act. Supremacy of the House of Commons (Lower House)  
over the House of Lords (Upper House)

As Australia was originally made up of British colonies, it was understandable that when the separate colonies gained self-government, their parliaments would be modelled on the British Parliament, which is located at the Palace of Westminster in London. Sometimes the British parliamentary system is called the 'Westminster model'.

As each Australian colony had a different history, the movement to self-government and the setting up of parliaments took different paths after the British Parliament passed the Australian Colonies Government Act in 1850. This Act gave the Australian colonies the right to rule themselves.

This Westminster model of self-government is also widely known as ‘responsible’ government. However, in Western Australia self-government (or responsible government) was delayed until 1890. This was despite the fact that when Captain James Stirling arrived off the Swan River in the *Parmelia* on 2 June 1829, he was about to set up a colony of free settlers.

## The First Legislative Council

Captain Stirling, whose enthusiasm had played such an important role in the decision to establish a colony of free settlers, was made Governor in February 1832. He was also given the title ‘Commander in Chief’. A small Executive Council and a Legislative Council were set up. These two Councils had the same members. The Governor usually convened the Legislative Council, which first met on 7 February 1832, about twice a month. A record of its decisions was sent to the British Government in London. Instructions from London were sent to the Governor.

### Structure of Government - 1832 Colonial Office – London



*The First WA Legislative Council 1832*

#### Executive Council

Capt. James Stirling	Commander in Chief
F. C. Irwin	Commandant
Peter Broun	Colonial Secretary
W.H. Mackie	Attorney General
J.S. Roe	Surveyor General

#### Legislative Council

His Excellency Captain James Stirling  
Hon. F. C. Irwin  
Hon. Peter Broun  
Hon. W.H. Mackie  
Hon. J. S. Roe

The Council was not permitted to make laws about:

- the granting of land to foreigners;
- the naturalisation of citizens;
- divorce; or
- the Governor's salary.

The Legislative Council had to depend on Stirling to introduce all laws. Furthermore, Stirling could, if he chose, ignore Council's advice. The Council was not particularly effective at representing the opinions of the colonists, but it is regarded as the forerunner of today's State Parliament, particularly as the meetings were conducted with much pomp and ceremony. Likewise, the Executive Council is regarded as the forerunner of today's State Cabinet (or Ministry).

One major problem was the treatment of the Aboriginal people. They had no elected leaders, no chiefs, no permanent headmen with whom the newly-arrived Europeans could discuss treaties and decide upon acceptable laws. It was not understood that, over thousands of years, the Aboriginal communities had developed their own political systems, which gave much power to elder men. Aboriginal law bore little resemblance to the Westminster or British model, except that Aboriginal groups did have a system of rules, their own 'law and order' and ways of punishment. This was not in a written form like Acts of Parliament. Instead, the knowledge was handed down by the spoken word, often in the form of rituals, myths and legends.

### Exercise 3.1

Aboriginal rules

List two rules you think an elder would teach a younger Aborigine about their political systems:

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_

Stirling had many problems. For instance, in 1835, the Governor was required by the new settlers to send a petition to London which listed some of their grievances. However, there was no immediate change in the system of government in Western Australia. Until 1870, Governors tended to take their orders from London. Neither the Executive Council nor the Legislative Council was elected by the people, so it was difficult for settlers to have their demands considered.

During the 1860s, there was much talk about the need for changes in government. Public meetings were held and petitions signed. However, in 1850 Western Australia had become a penal colony, receiving convict labour, so it was not possible to take advantage of the Australian Colonies Government Act. Only after 10 January 1868, when the last British convict landed in Western Australia, was the way clear for a representative system of government, with elections to the Legislative Council.

### Exercise 3.2

Examine the diagram of the Perth Town Hall Clock. Note that the structure was built by convict labour.

List evidence of convict labour:

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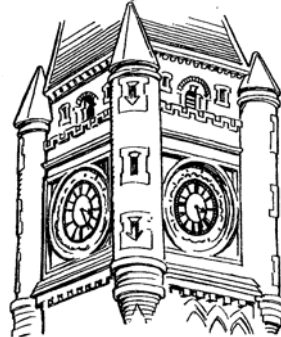
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**Diagram of Perth Town Hall Clock**

## Representative Government

From 1870, the Legislative Council was to have 18 members:

- three officials;
- three colonists nominated by the Governor; and
- twelve elected members.

Elections were to be held every five years and the colony was divided into ten electorates, with Fremantle and Perth each being given two representatives. Only men who owned property could vote. This new form of constitution was often called ‘representative government’. This is when people trust their ‘power’ to a group of elected persons who make laws for their community.

At first, very few of the adult men owned or lived on enough land to vote or stand for election. Although these qualifications were gradually eased and the size of the Council increased, there were still complaints that the colony did not have full representative government.

The Governor still had the power to override the Legislative Council (and the Executive Council). However, the Governor’s position was less straightforward than in the years before 1870. Many of the disputes tended to become more public. Disagreements were common about such matters as customs duties, land regulations and the kind of public works best suited to the colony’s limited budget.

In 1879, the secret ballot (once widely known as the ‘Australian ballot’) was introduced for Legislative Council elections. The previous year, a newly-elected member of the Council, Stephen Henry Parker, unsuccessfully attempted to have the idea of self-government

supported by the Council. Parker, the champion of self-government (as well as a champion amateur jockey) was a popular local hero. Later, in 1889, he was one of the three leading colonists who left by ship to sail to England (where Queen Victoria was still on the throne) to present to the British Parliament a Legislative Council request for the granting of self government.

People from eastern Australia, many of whom came to Western Australia to seek gold in the 1880s, had experienced self-government. They swelled the population and helped increase the demand for change. Four candidates supporting self-government won by-elections during the first half of 1887. In July of that year, the Legislative Council agreed (by 13 votes to 4) to support this system. A Constitution Bill was drafted by Governor Broome and was debated in 1888. After an election in early 1889 showed strong public support for self-government, it was finally achieved in the following year.

## **Self (responsible) Government**

Self-government meant that the British system of responsible government had been achieved. Firstly, the members of the new lower house, the Legislative Assembly, were all elected. Secondly, the Executive or Ministry (including the Premier) were members of the Parliament and answerable (or responsible) to Parliament.

The new Constitution was similar to those adopted by the other Australian colonies. However, the Colonial Office in London retained the right (until 1897) to direct the treatment of Aboriginal people because colonists were said to have a poor record in this regard. In fact Aboriginal peoples did not fully gain the right to vote until 1962. Ernie Bridge was the first indigenous person elected to the Western Australian Parliament. He first won his Legislative Assembly seat of Kimberley in 1980. Six years later, in 1986, Ernie Bridge became a government Minister. In 2001, Carol Martin, also won the seat of Kimberley to become the first indigenous women to be elected to an Australian Parliament.

In 1899, a 'universal franchise' was granted. This meant nearly all women and men (21 years and over) could vote in Legislative Assembly elections. Although women gained the vote at the turn of the century, it was not until 1920 that legislation was passed to permit women to sit in the Western Australian Parliament. One year later, Edith Cowan won election to the Legislative Assembly to become the first women elected to an Australian Parliament.

The Legislative Council, after 1893, was changed from being chosen by nomination to being chosen by election. From 1900 it had 30 members and the Legislative Assembly had 50 members.

In 1900, an Act was passed which provided for the payment of members of Parliament. John Forrest, as Premier, had strongly opposed this measure in 1892, 1896, 1897 and 1899. But in 1900 Forrest was outvoted and forced to accept that parliamentarians should be paid for their work.

### **Exercise 3.3**

Suggest one reason why John Forrest opposed the payment of parliamentary salaries.

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In summary, by 1900 the parliamentary framework of government in Western Australia was established. Under self-government, the Governor accepted the advice of Premier John Forrest and his Ministers. There were two houses of Parliament: the Legislative Assembly and the Legislative Council. The Premier, and most of the Ministers were members of the 'lower house', the Legislative Assembly. As mentioned, with some exceptions, all women and men over 21 years could vote in Legislative Assembly elections and parliamentarians were paid for their work.

## Federation

During the 1890s there was a keen debate about whether the self-governing colony of Western Australia should join the proposed federation of Australia. It was a debate that helped weaken John Forrest's dominance over Western Australian politics. Forrest, one of Western Australia's most famous explorers, had been Premier for ten years while Western Australia was a self-governing colony. At first Forrest had not strongly supported the idea of federation. However, many t'othersiders (mostly prospectors from the eastern colonies) who were living on the goldfields helped convince John Forrest to work for federation.

The *West Australian* newspaper, with Winthrop Hackett (a member of the Legislative Council) as one of its editors, strongly supported federation. However, the *Sunday Times* newspaper was opposed to federation. Alexander Forrest, a brother of John Forrest, who had also been a famous explorer, was one who believed Western Australia should remain a self-governing colony. Eventually a referendum was held on 31 July 1900, with the electors of Western Australia accepting entry into the federation from 1 January 1901 by a strong majority of 44 800 'for' to 19 691 'against'. The support for the 'yes' vote in the Goldfields was overwhelming in favour of federation. Records indicate that 67.7 per cent of the 96,065 qualified electors cast a vote in the referendum. The promise of a transcontinental railway across the Nullarbor Plain to Perth and some special arrangements for customs duties helped the 'yes' vote. Forrest, too, was to accept a ministry in the first Commonwealth Government headed by Prime Minister Sir Edmund Barton.

### Exercise 3.4

Give two main reasons why you think Western Australians voted 'yes' in the federation referendum with nearly 70 per cent supporting the yes case.

- (a) \_\_\_\_\_  
\_\_\_\_\_
- (b) \_\_\_\_\_  
\_\_\_\_\_

Those who voted against federation later prepared lists of grievances. A number of reports continued to be tabled in the Western Australian Parliament claiming that Western Australia had suffered as a result of federation.

Eventually, in 1933, in the midst of the worst effects of economic depression, a referendum was held to decide if Western Australia should secede (or withdraw) from the federation. In the 1933 referendum, electors of the State voted 138 653 to 70 706 to secede (or withdraw) from the commonwealth.



### Exercise 3.5

Give two main reasons why you think Western Australians voted 'yes' to secede in 1933.

- (a) \_\_\_\_\_  
\_\_\_\_\_
- (b) \_\_\_\_\_  
\_\_\_\_\_

Gradually the 'sting' went out of moves for Western Australia to become a 'nation state'. Most 'sandgroppers' are Australian in outlook. In World War I (1914-1918) and World War II (1939-1945) and other conflicts Western Australians have played their shared part in the national effort.

Neither had there been any strong suggestion that Western Australia should develop a system of government very different from the parliamentary system in Australia's other States. In 1933 the Commonwealth Government set up a Grants Commission to help make sure that government services and taxation levels in Western Australia, and in other States, were about equal.

Western Australia, though, was the second last State (in 1936) to introduce compulsory voting. Not until 1962 were Aborigines in Western Australia granted the right to vote in all State and Federal elections.

Only in 1964 were all adults (over 21 years) given the right to vote in upper house (Legislative Council) elections. Five years later, in 1970, the minimum voting age for women and men was lowered to 18 years.

### The Coat of Arms of Western Australia

The Western Australian Parliament was not quick to adopt symbols or emblems for the State. As concern for the environment has increased, floral and animal emblems for Western Australia have become recognised. On 17 March 1969, a coat of arms for Western Australia, to be used on official letters, shields and banners, was granted by Royal Warrant.



### Exercise 3.6

What are the main features of Western Australia's coat of arms?

- (i) \_\_\_\_\_
- (ii) \_\_\_\_\_
- (iii) \_\_\_\_\_
- (iv) \_\_\_\_\_
- (v) \_\_\_\_\_

### The Floral emblem of Western Australia

Mangles' Kangaroo Paw, common in Kings Park, is Western Australia's floral emblem. Its flowering usually commences in August and extends through to early October. The stem may reach over one metre in height and bears a number of large flowers at its summit. The stem is clothed with woolly hairs of a deep red or purple colour, while the hairs on the flowers are green, with the exception of the swollen base, where they are of the same red or purple as the stem. Occasionally, the base of the flower may be yellowish in colour.



### The Animal Emblem of Western Australia

The Numbat, or Banded Anteater, one of the State's most attractive marsupials, is the animal emblem of Western Australia. Its range may once have extended as far as Kings Park, but today it lives in very few parts of the South-West of the State. Great care must be taken, as the Numbat is an endangered species.

The Numbat is easy to recognise: its general colour is reddish-brown with a sprinkling of white hairs, and across the rump are several white bars, between which the hair is dark. Through the eye there is a dark stripe, which is framed above or below by long white streaks.

An adult Numbat is generally about 40 centimetres long, of which slightly less than half is its tail.



## Challenge Exercise 3

### Population of Western Australia and Australia : Census Dates, 1848-2006

Western Australia (WA)			WA	Australia		
Census			Persons	Persons	Proportion	Masculinity
Year	Males	Females	(a)	(b)	Australia (WA %)	WA ratio (c)
1848	2 818	1 804	4 622	326 500	1.42	156.21
1854	7 779	3 964	11 743	671 500	1.75	196.24
1859	9 522	5 315	14 837	1 097 000	1.35	179.15
1870	15 375	9 410	24 785	1 606 000	1.54	163.39
1881	71 062	12 646	29 708	2 250 194	1.32	134.92
1891	29 807	19 975	39 782	3 177 823	1.57	149.22
1901	112 875	71 249	184 124	3 773 801	4.88	158.42
1911	161 565	120 349	282 114	4 455 005	6.33	134.02
1921	177 278	155 454	332 732	5 435 734	6.12	114.04
1933	233 937	204 915	438 852	6 629 839	6.62	114.16
1947	258 076	244 404	502 480	7 579 358	6.63	105.59
1954	330 358	309 413	639 771	8 986 530	7.42	106.77
1961	375 542	361 177	736 629	10 508 186	7.01	103.95
1966	432 569	415 531	848 100	11 599 498	7.31	104.10
1971	539 332	514 502	1 053 834	13 067 265	8.06	104.83
1976	599 959	578 383	1 178 342	14 033 083	8.40	103.73
1981	657 249	642 807	1 300 056	14 923 260	8.71	102.25
1986	736 110	722 888	1 459 019	16 018 350	9.11	101.83
1991	810 116	823 780	1 633 896	17 284 036	9.47	101.20
1996	862 645	863.562	1 726 207	17 892 423	9.75	99.89
2001	922.342	929 309	1 851 651	19 386 663	9.64	99.27
2006	976 122	982 966	1 959 088	19 855 288	9.86	99.30

Note:

- (a) Figures for 1961 and earlier do not include most Aborigines. After 1966, Aborigines are included.
- (b) Figures for dates before 1881 are estimates.
- (c) Number of males to each 100 females.

### Challenge Exercise 3 - *continued*

- (a) What was the population when Western Australia began its period of representative government? \_\_\_\_\_
- (b) What was the population of Western Australia when it commenced as a self-governing colony? \_\_\_\_\_
- (c) At federation, what proportion of Australia's population lived in Western Australia? \_\_\_\_\_
- (d) What proportion of Australia's population lived in Western Australia when it commenced as a self-governing colony? \_\_\_\_\_
- (e) In what year was the masculinity ratio highest in Western Australia? \_\_\_\_\_
- (f) By 2006, what proportion of Australia's population lived in Western Australia? \_\_\_\_\_
- (g) By 2006, how many more females lived in Western Australia than males? \_\_\_\_\_
- (h) If the statistics were available, do you believe the Aboriginal population would have risen, remained steady or fallen between the 1848 and 1901 census? \_\_\_\_\_
- (i) What percentage of Australia's population lived in Western Australia when the electors of the State voted to secede from the Federation? \_\_\_\_\_
- (j) By 1901 there were 50 seats in the Legislative Assembly. This meant that each seat represented, on average, about \_\_\_\_\_ persons. Of course, there were wide variations from this average.

## Terms 3.0

<b>Customs duties:</b>	taxes or charges placed on imported goods.
<b>Environment:</b>	from the old French word <i>environer</i> , meaning ‘surroundings’. In Latin <i>en</i> meant ‘in’ and <i>viron</i> meant ‘circle’.
<b>Franchise:</b>	a word of French origin, meaning ‘free’. Today it means a citizen’s right to vote.
<b>Magna Carta:</b>	Latin words meaning ‘Great Charter’. In the Charter, King John was forced to grant many rights to the nobles in England in 1215.
<b>Suffrage:</b>	from the Latin <i>suffragium</i> , which means vote or the right to vote.
<b>Premier:</b>	the chief minister in the government of an Australian State. At first the term ‘premier’ was used as a courtesy title.
<b>Grants Commission</b>	(Commonwealth): established in 1933 to examine the finances of the States and to recommend levels of assistance to States to ensure a comparable standard of living across Australia.
<b>Representative government:</b>	a form of government in which people trust their ‘power’ to a group of elected persons who made laws for their colony. In colonial days it meant that more than half the members of the Legislative Council were elected.
<b>‘Sandgroper’:</b>	the word is often used to describe a Western Australian person, whether young or old. About 70 per cent of Western Australians live on the sandy soils of the Perth metropolitan area.
<b>Secede:</b>	to withdraw or break away from a federation. Sometimes the word ‘secession’ is used.
<b>Self-government:</b>	a form of government under which all members of parliament are elected.

## 4. The Western Australian Constitutional Framework

Although most constitutions are single documents which set out the principles, procedures and processes for the 'government' of a state (nation or club) there is no single document containing all of the constitutional laws of Western Australia.

Although the origins of Western Australia's parliamentary system can be historically traced, there is no single document which contains Western Australia's Constitution. The main statutes containing the State's Constitution are the *Constitution Act 1889*, the *Constitution Acts Amendment Act 1899* and several amendments. Other possible sources of state constitutional law include:

- other Western Australian legislation (e.g. *Electoral Act 1907*, *Electoral Amendment and Repeal Act 2005*, *Constitutional and Electoral Act 2005*, *Supreme Court Act 1935*, *Parliamentary Privileges Act 1891*, *Financial Management Act 2006* Auditor General Act 2006);
- the Commonwealth of Australia *Constitution*;
- the *Australia Act 1986* (UK), *Australia Act 1986* (Commonwealth), *Australia Acts (Request) 1985* (collectively known as 'the Australia Acts');
- United Kingdom statutes, such as the *Bill of Rights 1689*;
- Letters Patent (a source of constitutional authority for the Governor as the representative of the Crown as Head of State);
- 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'.

According to the constitutional documents the 'Parliament of Western Australia' consists of the Queen, the Legislative Council and the Legislative Assembly. The Parliament was given the power 'to make laws for the peace, order and good government' of Western Australia. The constitutional laws of Western Australia also provided for the Governor to represent the Monarch or Sovereign as Head of State.

### **The Governor's Gallery**

Captain James Stirling, RN (Lieutenant-Governor)	1828-1832
Captain James Stirling, RN.(Governor)	1832-1839
John Hutt	1839-1846
Lieut.-Colonel Andrew Clarke, KH	1846-1847
Lieut-Colonel Frederick Irwin	1847-1848
Captain Charles Fitzgerald, RN	1848-1855
Arthur Edward Kennedy (afterwards Sir Arthur)	1855-1862
John Stephen Hampton	1862-1868
Frederick Aloysius Weld	1869-1875

William Cleaver Robinson, CMG	1875-1877
Major-General Sir Harry St George Ord, RE, KCMG, CB	1878-1880
Sir William Cleaver Robinson, KCMG	1880-1883
Sir Frederick Napier Broome, KCMG	1883-1889
Sir William Cleaver Robinson, GCMG	1890-1895
Lieut.-Colonel Sir Gerard Smith, KCMG	1895-1900
Captain Sir Arthur Lawley, KCMG	1901-1902
Admiral Sir Frederick Bedford, GCB	1903-1909
Sir Gerald Strickland, KCMG	1909-1913
Major-General Sir Harry Barron, KCMG	1913-1917
Sir William Grey Ellison-MacCartney, PC, KCMG	1917-1920
Sir Francis Alexander Newdigate Newdegate, KCMG	1920-1924
Colonel Sir William Robert Campion, KCMG, DSO	1924-1931
Hon Sir James Mitchell, GCMG (Lieutenant Governor)	1933-1948
Sir James Mitchell, GCMG (Governor)	1948-1951
Lieutenant-General Sir Charles Henry Gardiner, KCMG KCVO, GBE, CB	1951-1963
Major-General Sir Douglas Kendrew, KCMG, CB, CBE, DSO	1963-1973
Air Commodore Sir Hughie Edwards, VC, KCMG, CB DSO, OBE, DFC	1974-1975
Air Chief Marshall Sir Wallace Kyle, GCB, KCVO, CBE, DSO, DFC.	1975-1980
Rear-Admiral Sir Richard Trowbridge, KCVO	1980-1983
Professor Gordon Stanley Reid, AC	1984-1989
Sir Francis Theodore Page Burt, AC, KCMG	1990-1993
Major General Philip Michael Jeffery, AO, MC, (now AC,CVO)	1993-2000
Lieutenant General John M. Sanderson, AC	2000-2005
Dr Kenneth Comminos Michael, AC	2006-

### Exercise 4.1

Sometimes, in naming streets, schools, roads, buildings, rivers, hospitals and other community organisations, State Governors are remembered. Can you think of three examples apart from Sir Charles Gairdner Hospital?

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

## The Role of the Governor and the Executive Council

In the *Constitution Act 1889* (section 50) the Office of Governor was established although 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 modern roles include:

- Opening, proroguing (suspending) and dissolving (ending) parliament's sittings.
- Signing and giving assent to the Bills passed by Parliament so they become Acts.
- Presiding over Executive Council.
- Appointing Premiers and Ministers.
- Appointing judges, magistrates and Justices of the Peace.
- Administering, or authorising some person to take, the oath or affirmation of allegiance from Members of the Houses of Parliament.
- Issuing writs for general elections.
- Making selected speeches to community audiences. Receiving visiting Heads of State and other VIPs (very important persons) from other countries, including Ambassadors, High Commissioners and other diplomatic and military representatives.
- Travelling throughout Western Australia to meet people in regional areas and to keep abreast of developments within the State.
- Supporting community and charitable causes.

### Exercise 4.2

The Governor, apart from performing many formal duties, supports many voluntary and service groups in the community. Quite frequently the Governor becomes the Patron, or respected supporter, of such service groups. Name two service groups or organisations for which the Governor may hold the position of Patron.

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*(There are dozens including: The National Heart Foundation, Royal Flying Doctor Service, Royal Automobile Club and TennisWest)*

## Executive Council

The Executive Council, which is mentioned in the Constitutional documents, is a very important part of the government decision making and approval process. Its main purpose is to advise the Governor on matters relating to the government of the State and to formalise decisions made by the State Government. In most cases a reference to the Governor in any Act means the Governor in Executive Council. It is chaired by the Governor, and includes at least two members of the Ministry and has as its secretary the Director General of the Ministry of the Premier and Cabinet. The Executive Council meets at least fortnightly and for special meetings requested by the Premier.



Some of the matters considered by Executive Council include:

- allocation to Ministers of responsibilities for Acts, 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 orders, regulations, by-laws and local laws.

## **The Appointment of the Governor**

Before the granting of self-government to Western Australia, Governors were appointed by the Sovereign on the advice of the United Kingdom government. However, a tradition developed whereby the Premier of Western Australia suggested who should serve as the Governor of the State. Since the Australia Acts were passed by the Commonwealth Parliament (1985) and the Parliament of the United Kingdom (1986) at the request of all State Parliaments, the Governor acts on the advice of the Premier, together with his or her Ministers and Executive Council.

The Governor is expected to act in a manner, which is seen to fair and 'above' politics. No favours can be deliberately shown towards any of the political parties or Independent Members of Parliament. However, the Governor retains the right to be consulted, 'to encourage and to warn' the Premier and Ministers of the day. The Monarch or Sovereign (king or queen) is not involved in the affairs of Parliament.

## **Reserve Powers of Governor**

In virtually all instances the wide powers of the Governor are exercised on the advice of Western Australian Ministers, mainly the Premier, who can command the support, or confidence, of a majority of the Legislative Assembly. Of course there may be rare occasions, as have occurred in other States of Australia (and in 1975 in Canberra when Governor General Sir John Kerr dismissed the Prime Minister Gough Whitlam), where the Governor may act independently or without the advice of the Premier, Ministers or Executive Council. In such cases the Governor is said to be exercising the reserve powers. It is expected that such powers would only be exercised in extraordinary circumstance and within the limits of constitutional convention. Such occasions, leading to the dismissal of a Premier and his or her Government, may be one of the following situations which are often complex:

- When the Premier is doing something which is regarded as illegal or criminal. In 1932 the Governor of New South Wales, Sir Phillip Game, dismissed Premier Jack Lang on the grounds that he acted unlawfully. There has been no comparable event in W.A. history.
- When the Premier may be advising a dissolution of Parliament but where an alternative Government may be formed and the circumstances justify the Governor following that course of action.
- When the Government led by the Premier refuses to resign when the Government has lost the support of the majority in the Legislative Assembly as indicated in a no confidence motion in the Legislative Assembly.
- When the Government refuses to resign even though it is unable to secure the passage of its budget.

## Government House

Since 1838 the Governor has resided at the site of the historic government House in St George's Terrace. Successive governors have occupied the present Government House since its completion in 1863. This is also known as the Governor's Establishment. The House, Ballroom and grounds are regularly opened to the public. 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. Further information about the Governor and Government House is available on the Government House Website at [www.gov.house.wa.gov.au](http://www.gov.house.wa.gov.au)

### Exercise 4.3

Indicate two awards or medal ceremonies, which are likely to be conducted at Government House Ballroom.

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## The Constitutional Roles of the Western Australian Parliament

The constitutional roles of Parliament in Western Australia can be traced back to its historical origins. Over centuries in Britain two houses of parliament evolved. The House of Lords (the upper house) met at the Royal Palace of Westminster, one of the King's houses. The House of Commons (the lower house) usually met at Charter House at Westminster Abbey. In modern times the two houses have become known as the Westminster Parliament (or British Parliament). When a parliament has two houses, as at Westminster, it is known as a bicameral parliament. Sometimes, too, the Parliament is also called the legislature.

Western Australia has a bicameral (two house) parliament which has adopted many of the traditions and practices of the Westminster Parliament. The upper house is known as the Legislative Council. Each Member is known as an MLC (Member of the Legislative Council). An MLC is today elected for a four year fixed term. The lower house is known as the Legislative Assembly. Each Member is known as an 'MLA' (Member of the Legislative Assembly). An MLA is today elected for up to four years at a time.

As mentioned, according to the constitutional documents, the Parliament may make laws for 'the peace, order and good government' of Western Australia. The main roles of the Parliament are listed as:

- the provision of 'responsible government' under the traditions of Westminster. This means that the Ministers (or Cabinet) who are Members of Parliament are responsible to the Parliament for the administration of their portfolios.
- Approval of finance for government operations. Only the Western Australian Parliament can give permission for the Government to collect taxes.
- Monitoring and scrutiny of government administration and expenditure.

- Passage of legislation which must be agreed to by both the Legislative Assembly and the Legislative Council in identical form. (see Chapter 6).
- Representation of the people of Western Australia.

## Representation

Representing the people of Western Australia is major role of the Parliament. Members of Parliament are elected to represent the interests of their constituents. This is the principle of representative government. The different electoral systems used to elect members to both the Legislative Assembly and Legislative Council are discussed in Chapter 10.

Members of Parliament have three main roles as a:

- Representative** - They listen to problems, questions, opinions and ideas of people who elected them. This can involve asking questions in Parliament, presenting petitions, contacting Ministers or public servants, or directing electors to the most qualified persons or organisations to deal with particular concerns.
- Legislator** - When Parliament is sitting Members are expected to speak in debates giving consideration to the interests of their electors. They may serve on Committees and vote on various issues and Bills (proposed laws).
- Party Member** - Only rarely do people become Members of Parliament without the support of a political party (an Independent). Members therefore often support the party's interests by attending meetings of the party, by publicising the party's policies and ideals or by voting along party lines in the Parliament.

Surveys indicate that Members of Parliament work long hours. In 1999 when the Salaries and Allowances Tribunal was attempting to determine appropriate remuneration levels for Members it was found they worked some 70 hours per week. In Parliament members are expected to speak in debates, ask questions, present petitions and take part in divisions (votes). They may be actively seeking changes to legislation. In addition they are expected to attend meetings of their own political party.

### An MPs Diary

*The West Australian* newspaper on 30 April 2001 published a diary for Phillip Pandal, who was the Independent MLA for South Perth. According to Mr Pandal a typical day involves meetings with constituents and local groups in his electorate on issues from graffiti problems to social security. He said "the number one priority is to give electors a safety valve...We are often the last port of call after a build-up of frustration and anger. Our role is to lend an ear even if that doesn't end in an outcome". Of course the diary has been recorded on a day when the Legislative Assembly was not sitting:

- 8.00: Office work, including signing 300 "welcome to the electorate" letters for new residents.
- 9.15: Visit a constituent to discuss Melville Parade overpass controversy.
- 10.00: Visit a constituent to discuss accessing superannuation due to hardship.

- 11.15: Meeting to discuss the St John of God's AIDS Pastoral Care Centre.
- 11.30: Office Work.
- Noon: Meet Australian conservation foundation re: "Sustainability".
- 1.45: Discuss graffiti problem with a local business owner.
- 2.00: Meeting concerning the May Gibbs Trust and the marketing a new book (Mr Pendal has a long standing involvement with the trust).
- 4.15: Meet a constituent to discuss the Manning Church's "Rainbow Project".
- 5.30: Discuss plans for new parliamentary session with fellow Independent Liz Constable.
- 7.00: Meet constituent to discuss video for Ombudsman matter.
- 7.30: Visit a constituent at Braemar Lodge to discuss social security.

One person who examined the work of a Member of Parliament found that in one month the Member received over one hundred requests for assistance. Twenty of these are listed here:

- |   |  |
|---|--|
| • Request for a pedestrian access way                   | • Pension cheque not received                    |
| • Information concerning the Dog Act                    | • Bus shelter wanted                             |
| • Matter for Consumer Affairs Department                | • Request to speak at a business lunch           |
| • Assistance with the preparation of a will             | • Blinds wanted in the school canteen            |
| • Complaint - building by-laws have been broken         | • Translation for war claims forms               |
| • Hot water system at Homeswest rented home not working | • Fence problem with uncooperative neighbour     |
| • Girl from Qld seeking tennis club information         | • School transport for disabled child            |
| • Request to know doctors who 'bulk-bill' Medicare      | • Paraplegic in car accident. Insurance problem. |
| • Assistance in a worker's compensation case            | • Arrange visits to Parliament House             |

### Exercise 4.4

Can you think of two other matters about which your local Member of Parliament might be asked to help?

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_

## Constitutional Powers

As mentioned, the Western Australian State Constitution is a collection of documents, including the *Constitution Act 1889* and the *Constitution Acts Amendment Act 1899*, together with their various amendments. There have been many calls for the Western Australian Constitution to be consolidated or grouped into one Act or document.

Although the Parliament was given powers ‘to make laws for the peace, order and good government’ of the State of Western Australia the scope of this provision was limited by the Federation agreement from 1 January 1901. From that date the States were prevented from making some laws such as the imposition of customs duties (with some special concessions for five years for Western Australia) and excise and having their own defence forces without the consent of the Federal Parliament. Western Australia, as with the other States, was left instead with the ‘residual’ powers for matters such as education, health, transport, land, police, criminal law, industrial safety, prices and incomes and the environment.

On many subjects (for instance marriage, divorce and bankruptcy, the States share law making powers with the Commonwealth Parliament. However, when a Federal law, which is constitutionally within the powers of the Commonwealth Parliament, is in conflict with a State law, the Federal law operates and the State law, to the extent of the inconsistency, is invalid. At the same time the Federal Constitution expressly guarantees the continued existence of the States

## The Legislature

For the passage of State laws, the upper house (the Legislative Council) was given equal power with the lower house (the Legislative Assembly), except that various money or taxation bills cannot be formally introduced or amended in the Legislative Council and even then it can request amendments to such bills and chose to insist on those amendments. Although the Legislative Council has the power to reject money bills (such as the budget), to date it has not done so in accordance with the Westminster convention.

The Legislative Council consists of 36 members who represent six different multi-member constituencies known as electoral regions. Representatives for each of the regions are elected by the proportional representation voting system. The term for each member (MLC) is for four years, beginning on 22 May of the relevant year, making the Western Australian Legislative Council the only Australian upper house where all the members are elected for terms expiring on the same date.

- The MLCs are required to elect one of their members to the office of President. All questions that arise in the Legislative Council are determined by a majority of votes of the members present, other than the President, and when the votes are equal, the President has a casting vote.
- The Legislative Assembly consists of 59 members each known as an MLA. Each MLA is returned from a single member district by the preferential (alternative vote) voting system. The term of the Legislative Assembly is for a maximum of four years, although it may be dissolved earlier by the Governor, usually on the advice of the Premier.
- When the Legislative Assembly first meets after a general election, the members are required to elect one of their members to the office of Speaker. All questions that arise in the Legislative Assembly must be determined by a majority of votes of the members present, other than the Speaker, and when the votes are equal the Speaker has a casting vote.

- Each House adopts standing orders and rules for the conduct of its debates and proceedings. For Bills (proposed Acts) to become statutes, they must be passed in identical form by both Houses after the required stages (introduction, first reading, second reading, committee stage, third reading) and then be assented to and proclaimed by the Governor.
- The Parliament makes laws defining the privileges, immunities and powers of each House, and its members.
- Any person who has lived in Western Australia for twelve months and who is qualified to be an elector of the Parliament, can be member of Parliament providing they are at least 18 years of age and have not been convicted of an offence for which the penalty specified by a law is or includes imprisonment for life or imprisonment for a period that may exceed five years. No member of the Legislative Council or Legislative Assembly can sit or vote in Parliament without taking a prescribed oath or affirmation or allegiance.

## The Judiciary

- There is a Supreme Court of Western Australia and other courts as Parliament, from time to time, provides.
- The offices of all Judges of the Supreme Court shall continue during their good behaviour until they reach statutory retiring age, subject to a removal by the Governor on the address of both Houses of Parliament.

## Local Government

- Parliament maintains a system of local governing bodies elected and constituted in such a manner as Parliament provides. Each elected local governing body has powers provided by the Parliament.

## Amendment of the Constitution

- To formally amend the State Constitution it is necessary to secure an absolute majority of the whole numbers of both the Legislative Council and Legislative Assembly. However, approval by referendum is additionally required for amendments to abolish or alter the office of Governor; abolish or reduce the number of Members of the Legislative Council or Legislative Assembly; or provide that either House be composed of members other than members chosen directly by the people.

### Challenge Exercise 4

*Check the box for the correct answer.*

1) The Governor of Western Australia is the Monarch's:

- |                    |                          |              |                          |             |                          |
|--------------------|--------------------------|--------------|--------------------------|-------------|--------------------------|
| (a) Secretary      | <input type="checkbox"/> | (b) Delegate | <input type="checkbox"/> | (c) Adviser | <input type="checkbox"/> |
| (d) Representative | <input type="checkbox"/> | (e) Agent    | <input type="checkbox"/> |             |                          |

2) Under the *Constitution Act of 1889* W.A. first became a self governing colony in:

- |          |                          |          |                          |          |                          |
|----------|--------------------------|----------|--------------------------|----------|--------------------------|
| (a) 1890 | <input type="checkbox"/> | (b) 1893 | <input type="checkbox"/> | (c) 1896 | <input type="checkbox"/> |
| (d) 1900 | <input type="checkbox"/> | (e) 1901 | <input type="checkbox"/> |          |                          |

## Challenge Exercise 4 - *continued*

- 3) The Parliament of Western Australia shall make laws for the :
- (a) peace, welfare and good government of Western Australia. ☐
  - (b) welfare, stability and good government of Western Australia. ☐
  - (c) welfare, order and good government of Western Australia. ☐
  - (d) peace, stability and good government of Western Australia. ☐
  - (e) peace, order and good government of Western Australia. ☐
- 4) Members the Legislative Council, known as MLCs, are elected to represent:
- (a) divisions ☐ (b) districts ☐ (c) provinces ☐
  - (d) areas ☐ (e) regions ☐
- 5) After a general election for the Legislative Council, known as the upper house, the period of office for MLCs beginning on 22 May, shall be for a period of:
- (a) 2 years ☐ (b) 3 years ☐ (c) 4 years ☐
  - (d) 5 years ☐ (e) 8 years ☐
- 6) The Legislative Assembly, known as the MLA's, are elected to represent:
- (a) divisions ☐ (b) districts ☐ (c) provinces ☐
  - (d) areas ☐ (e) regions ☐
- 7) The maximum term for every Legislative Assembly, providing it is not prorogued or dissolved earlier, is:
- (a) 2 years ☐ (b) 3 years ☐ (c) 4 years ☐
  - (d) 5 years ☐ (e) 6 years ☐
- 8) According to the 'Western Australian Constitution' the Legislative Council is denied power to:
- (a) reject money bills ☐
  - (b) introduce money bills ☐
  - (c) amend non-financial legislation ☐
  - (d) introduce new non-money bills ☐
  - (e) table petitions ☐
- 9) Which one of the following provisions is not included in the Constitution?
- (a) at least one Minister of State shall be member of the Legislative Assembly ☐
  - (b) at least one Minister of State shall be a member of the Legislative Council ☐
  - (c) The Parliament must maintain a system of local governing bodies ☐
  - (d) Justices of the Supreme Court may only be removed by the Governor upon address of both Houses of the Legislature of the State ☐
  - (e) The Parliament may make laws defining the privileges, immunities and powers of its members ☐

### **Challenge Exercise 4 - *continued***

10) Proposals to amend the 'Western Australian Constitution' to reduce the numbers, or abolish the Legislative Council or Legislative Assembly, and change the powers of the Governor, require the approval of:

- (a) an absolute majority of members of the Legislative Assembly and approval by the people in a referendum ☐
- (b) An absolute majority of members of both Houses of Parliament and approval by the people in a referendum ☐
- (c) Passage of both Houses of Parliament and approval by the people in a referendum ☐
- (d) Passage of the legislation by both Houses ☐
- (e) The people in a referendum ☐



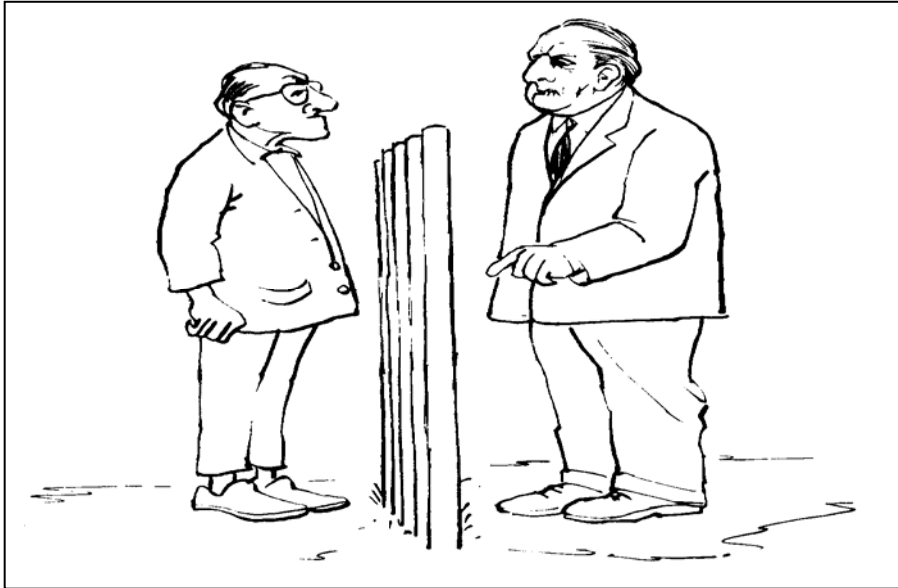
## Terms 4.0

<b>Bicameral:</b>	from the Latin 'bi', meaning 'two' and 'camera' meaning chambers or rooms. So 'bicameral' means having two houses or chambers.
<b>Dissolution:</b>	action taken by the Governor, on the advice of the Premier, to bring the term of the Legislative Assembly to an end, making a general election for a new House necessary.
<b>Governor:</b>	from the Latin word <i>gubernare</i> , to steer. The representative of the Monarch who has wide formal powers under the Western Australian Constitution as head of the Executive Council.
<b>Letters Patent</b> <i>(of the Governor)</i>	an official royal document giving the Governor authority to perform certain acts or duties.
<b>Monarch:</b>	a king, queen, emperor or ruler. Sometimes, too, a monarch is also called a sovereign. Monarchy originally meant 'the rule of one' though the word has now become to be attached to a constitution with an hereditary head of state with the title of king, queen or emperor.
<b>Oath:</b>	The <i>Constitution Act 1889</i> provides that no Member may sit or vote in the parliament until that Member has taken either the oath or affirmation of allegiance as set out in the Act.
<b>Preamble:</b>	an opening introductory statement or series of statements to a constitution or to an Act of Parliament. It may include: certain facts necessary to bring the constitution into effect; sources of authority for the constitution and a mission statement.
<b>Prerogative Powers</b> (of the Crown):	the rights and powers, apart from those conferred by Statute, which are recognised as belonging to the Crown. If the Governor was to make a choice between alternative Premier following an election the Governor would be exercising the prerogative of the crown.
<b>Prorogue:</b>	(the Parliament): from the Latin words meaning 'to prolong', means to suspend a session of Parliament and discontinue the meeting of the Houses until the next session without holding an election.
<b>Reserve Power:</b>	a power that may be exercised by the Governor to restrict, refuse or override the authority of the elected government.

## 5. How a Law is made in Western Australia

The law is a set of special rules that protect people and their property and ensure that people live peacefully with one another. A law is a rule that can be enforced by a court. There are two kinds of laws, called common law and statute law. They are made in different ways.

Common law comes from habits and behaviour of people living in society. Some call it 'the law of the beaten track', because it relies on how things have been done in the past, how they are done by 'ordinary people'.



Common law rules are made by judges in courts. They are based on the customs of the community, as the judge understands them. When a judge in a court decides that a rule is 'just' and 'reasonable' that court and other courts in the State then follow this rule. A precedent is set. This is why common law is also called judge-made law. As this kind of law is not made by Parliament, it is sometimes called unenacted law.

Common law is important in disputes between people and wrongdoings that are often not very serious but are important for citizens' safety and wellbeing. If you were to be charged by the police with disturbing the peace in your street, trespassing on a neighbour's property or simply being a nuisance at your local shopping centre, the judge would be guided by what had happened in similar cases. Your case would add to the common law.

Aboriginal people sometimes have a different perspective on common law because Aboriginal customary law, which developed before European settlers arrived, is different in many ways. Australian judges and courts do not always take Aboriginal customary law into account. A question for the future is how Aboriginal customs can be made part of our States' unenacted law, so that Aboriginal people can be sure they will be treated fairly by the law.

Statute law is law that is printed in an Act. Some Acts of Parliament only set out the main parts of a law. The details are given in regulations. Regulations are also called subordinate or delegated laws.

In Western Australia, many laws made by cities, towns and shires are made under the Local Government Act; they are called local laws. Although local governments can make their own policies on many matters these local laws, once called by-laws, are really delegated laws.

## EXERCISE 5.1

- (a) Give an example of a local law at your local park or beach.

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- (b) Give an example of some parking local laws in your suburb or town.

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- (c) Give an example of a local government fire local law in your city, town or shire.

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## Steps in Making a Statute Law

### Step 1 – The Idea

Cabinet usually decides what new measures are to be introduced into the Parliament. The ideas behind a new law may come from:

- (i) A Member of Parliament
- (ii) A Minister
- (iii) Parliamentary Select and Standing Committees
- (iv) Political Parties
- (v) Public servants and ministerial advisers
- (vi) Community interest groups
- (vii) Citizens in the community
- (viii) Court decisions
- (ix) Research from perhaps Universities or CSIRO (Commonwealth Science and Industrial Research Organisation)
- (x) The media including radio, television, newspapers, magazines and the internet

### Step 2 – Drafting the Bill

When the government (that is, the Cabinet or Ministry) decides to introduce a proposed law into Parliament, it asks parliamentary counsel, who are people with legal knowledge, to write a proposal in the form of a Bill. When the draft Bill has been accepted by the Cabinet (and the party of government), it can then be introduced into Parliament. Most Bills are introduced in the Legislative Assembly but it should be remembered that some Bills are introduced in the Legislative Council.

## **Steps 3 – 14 : Parliament; Assent and Proclamation**

### **Legislative Assembly**

3. FIRST READING: the title of the Bill is read by the Clerk of the Legislative Assembly.
4. Copies of the Bill are sent to all members of the Legislative Assembly.
5. SECOND READING: the purpose of the Bill is explained. This is usually considered to be the most important stage in a Bill's passage. Members may speak in support of or in opposition to the Bill. The Bill may be referred to a Standing or Select Committee any time prior to the commencement of the Third Reading stage.
6. CONSIDERATION IN DETAIL; the Bill is discussed in detail (often clause by clause). Amendments may be suggested. Sometimes this stage is not included in the steps for the passage of a Bill.
7. THIRD READING: further debate may take place. If the Bill is agreed to, it is sent to the Legislative Council.

### **Legislative Council**

8. FIRST READING: the title of the Bill is read by the Clerk of the Legislative Council.
9. Copies of the Bill are sent to all members for their consideration.
10. SECOND READING: the purpose of the Bill is explained. Members may speak in support or in opposition to the Bill. In the Council this is also considered to be the most important stage of the Bill. The Bill may be referred to a Standing Committee at any time prior to the Committee stage.
11. COMMITTEE OF THE WHOLE: the Bill is discussed in details (often clause by clause); amendments may be suggested. The convenor of a Committee or a member presiding over the Committee of the Whole may be referred to as a 'Chair', 'Chairperson', or 'Chairman', as he or she so chooses.
12. THIRD READING: if the Bill is approved by the Legislative Council, it is sent to the Governor for signature. Sometimes the two Houses cannot agree. When this occurs a Conference of Managers selected from the Members of each House may meet and discuss the problem. In fact the Conference of Managers step is rarely taken. If a solution cannot be found, the Bill is defeated. Often, though, the other House accepts the amendments so the Bill can become an Act.
13. ASSENT: the Governor signs the Bill, showing assent (approval).
14. PROCLAMATION: the commencement date for the statute is specified. Public announcement of the commencement date of the Act. (see Terms 5.0).

### **Recording the Passage of a Bill in Parliament**

The passage of each Bill through Parliament is recorded by the Clerks of each House (and their assistants) in a journal called *Votes and Proceedings* in the Legislative Assembly and *Minutes* in the Legislative Council. These journals are really the minutes and official records of Parliament. Details of each reading, all amendments and divisions are recorded in the *Votes and Minutes*.

The full record of what is said in Parliament is printed in *Hansard*. To follow a debate on a Bill it is necessary to read *Hansard*.

For example, if you wanted to trace the passage of Statute No. 13, 2001 *Sport Drug Testing* Bill, you should look up the *Hansard* under the *Short Title of the Bill*.

## Sports Drug Testing Bill 2001

Hansard Index 2001		Votes and Proceedings entries
Assembly	Page No.	Date
Intro. and First Reading	152	3/5/2001
Second Reading	152; 1053;	3/5/2001; 13/6/2001
Assent	2417	21/8/2001
Council		Minutes
Intro. and First Reading	1023	13/6/2001; 28/6/2001
Second Reading	1024; 1930; 1566	13/6/2001; 28/6/2001; 2/8/2001
Committee	1937; 1946	2/8/2001; 2/8/2001
Third Reading	1947; 2049	2/8/2001; 7/8/2001
Assent	2365	21/8/2001

### Exercise 5.2

- (a) If you wanted to find out about the **main arguments** for the 2001 Sports Drug Testing Bill in the Legislative Assembly, what pages of *Hansard* would you begin reading?

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- (b) If you wanted to find out about the main arguments for the 2001 Sports Drug Testing Bill, as delivered in the Legislative Council, which dates would *Hansard* list as the record of **debate**?

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A reading of *Hansard's* record of the *Sports Drug Testing Bill 2001* is a reminder that the respective houses often adopt a different approach to the passage of a Bill. For the *Sports Drug Testing Bill* the Legislative Council conducted further consideration of the proposed legislation in the Committee Stage and the Third Reading Stage.

Quotes from the *Hansard* record in the Legislative Assembly and Legislative Council of the Introduction, First Reading and the Minister's Second Reading Speech for the Sports Drug Testing Bill 2001 are recorded below.

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## SPORTS DRUG TESTING BILL 2001

### *Introduction and First Reading*

Bill introduced, on motion by Mr Carpenter (Minister for Sport and Recreation), and read a first time

### *Second Reading*

**MR CARPENTER** (Willagee – Minister for Sport and Recreation) [9.11 am]{ 3 May 2001 }: I move –

That the Bill now be read a second time.

The State Government condemns the use of banned performance-enhancing substances and other doping and drug-taking practices in sport because both are dangerous to the health of competitors and contrary to the ethics of sport. It recognises the need to take strong and positive action to eliminate sports doping and other drug-taking practices to ensure that participation in sport by Western Australian competitors is free of performance-enhancing drugs and methods.

The purpose of the legislation is to confer functions and powers on the Australian Sports Drug Agency to allow drug testing of state competitors. The legislation will provide for the collection of samples from state competitors and the testing of those samples for the presence of scheduled drugs or doping methods, and it will confer functions and powers for that purpose on ASDA.

This legislation is based on the Australian Sports Drug Agency (Amendment) Act 1999 and complementary legislation enacted in the Australian Capital Territory in 1999 and South Australia in 2000. It is a key element of the State Government's comprehensive strategy towards drugs in sport that includes a legislative base, education programs and policy development.

The State Government, through its agencies of Sport and Recreation WA, Healthway and the WA Drug Abuse Strategy Office has funded the Sports Medicine Australia WA branch to conduct a comprehensive education program over three years, involving broad community awareness and targeted programs for athletes, coaches and sports administrators.

This state legislation, complementary to commonwealth law, is consistent with the national drugs in sport framework. This is to ensure a coordinated and consistent approach across all jurisdictions in Australia.

Debate adjourned, on motion by Mr Bradshaw.

As indicated the main features of a Bill are usually discussed or debated at the second reading. A few additional short extracts from Hansard's record of the second reading debate in each House for the Sport Drug Testing Bill 2001 are recorded below.

**MR MARSHALL** (Dawesville) [3.20pm] 13 June 2001, p. 1053. Legislative Assembly

In short, the Bill allows a Western Australian competitor, other than an Australian competitor who is selected to represent Western Australia in sporting competition as an individual or as part of a team, to be subjected to a performance enhancing drug test. The cost of each test is \$550 and is expected to be absorbed by the sporting associations connected to the athlete or athletes. That is the only contentious issue in this Bill, because some people believe that the test is expensive and that the Government should reduce the cost of the test to pick up some of the tab for the associations. However, others believe that, when the education programs are conducted it will be the responsibility of the associations to ensure that the athletes they have accredited are clean.

**MR WALDRON** (Wagin) [3.27pm] 13 June 2001, p. 1054. Legislative Assembly

Hopefully, the testing will uncover very few drug cheats. Education needs to be directed at the participants and at the state sporting bodies and administrators who can ensure that information is disseminated through their sports. Participants need to be fully aware that they can be tested at any time and, if caught, they will have to face the consequences. A lot of sports already provide educational programs to their associations, clubs and participants. I seek the minister's assurance that the education programs will be implemented across all sports and will continue.

**MRS HODSON-THOMAS** (Carine) [3.38pm] 13 June 2001, p.1050. Legislative Assembly

One of my concerns is that our athletes are made fully aware of the consequences of using medication to treat an illness; for example, cold and influenza and hay fever medication, pain-killers, etc. Athletes must be made aware of the consequences and that these drugs may contain banned substances. I am pleased that an education program will be developed over the next three years targeting those involved in sport to ensure that these situations do not occur.

**HON. N.F. MOORE** (Mining and Pastoral) [4.46 pm] 28 June 2001. Legislative Council

We must spend a few moments contemplating the issue of drugs in sport at state, national and international levels. It concerns me, as it concerns most fair people, that the results being achieved by some athletes are unfair. Athletes who take performance-enhancing drugs are cheating – it is as simple and as straightforward as that. Regrettably, large numbers of athletes around the world are cheats and take drugs to enhance their performance. One of the worries for administrators around the world is the ability of various chemical laboratories to create drugs which are ahead of the play and which are difficult to detect.

**MRS SCOTT** (South Metropolitan) [2.03pm], 2 August 2001, p.1931. Legislative Council

We also know that hormone-based drugs are often used by young women gymnasts for the simple reason that the natural development that occurs as a result of changing hormones can have a negative effect on their performance. I find that response most disconcerting because young women should be able to develop naturally. Some countries will go to great lengths to evade detection of performance-enhancing drugs because sport is so political and they gauge their political status against their sporting achievements. State selection processes should involve the very careful compilation of case histories. The information should be well documented so that any various can be noted if drug testing takes place. Case histories provide a benchmark or record against which we can measure changes.

**HON. BARRY HOUSE** (South West) [2.23pm], 2 August 2001, p. 1935. Legislative Council

The legislation is important for our national identity and our national focus on sport. It is important for us as a drug-clean country, where the attitude taken is to compete hard but fairly and that anybody who resorts to performance-enhancing drugs is a cheat. Those cheats need to be exposed and taken out of the sport. I am sure we all have some doubts about whether technology can keep up. We have seen it on the international stage. Drug companies seem to be able to stay one step ahead in many cases. However, we should never give up the fight. It is important that we put into prevention as many resources as the drug companies put into the creation of these drugs.

## **THIRD READING STAGE: Legislative Council**

An important issue was raised in the Third Reading of the Bill in the Legislative Council.

**HON PETER FOSS** (East Metropolitan) [5.58pm], 7 August 2001, p.2050.

We all agree on the philosophy, the policy and the content of this Bill, but the serious problem now is whether the Bill should continue without a provision for young people participating in elite sport to be treated the same as adults. The easiest way to do this is to target those participating in sport at an open level. People participating in an under-age competition could be exempt from this regime, but those participating at an open level should be subject to the same regime as adults.

I do not know why this Bill did not go the Legislation Committee, under the provisions of Standing Order 230(c). It involves an agreement with the Commonwealth, and uniform schemes appear to be in existence throughout Australia. The Legislation Committee might have picked up this problem.

### **Exercise 5.3**

What do you think about Western Australian State competitors under 18 years of age being exempt from drug testing unless their parents or guardians give permission for testing?

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## Challenge Exercise 5

A copy of the Sport Drug Testing Bill 2001 is printed below. The preamble briefly sets out the purpose of the legislation, being to provide for drug testing for persons representing Western Australia. The copy of the Bill is followed by an 'Explanatory Memorandum'.

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Western Australia

## **LEGISLATIVE ASSEMBLY**

Sports Drug Testing Bill 2001

A Bill for

**An Act to provide for drug testing of persons representing Western Australia in sport and certain other persons participating in sport in Western Australia, and for related purposes.**

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Sports Drug Testing Act 2001*.

page 1

s. 2

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**2. Commencement**

This Act comes into operation on a day fixed by proclamation.

**3. Interpretation**

In this Act -

“**ASDA**” means the Australian Sports Drug Agency established by the Commonwealth Act;

“**Australian competitor**” means a person who is a competitor within the meaning of the Commonwealth Act;

10 “**Commonwealth Act**” means the *Australian Sports Drug Agency Act 1990* of the Commonwealth;

“**sample**” has the same meaning as it has in the Commonwealth Act;

“**sporting competition**” has the same meaning as it has in the Commonwealth Act;

15 “**WA competitor**” means a person, other than an Australian competitor, who -

(a) represents, is selected to represent, or purports to represent, Western Australia in sporting competition, whether as an individual or as part of a team;

20 (b) is in a squad formed for the purpose of selecting a person or team to represent Western Australia in sporting competition;

(c) who receives support (as defined in the Commonwealth Act) from the Government for the purposes of enabling or assisting the person to participate in, or train for participation in, sporting competition; or

25 (d) whose name is entered on a register under the Commonwealth Act.

**4. Functions of ASDA and Administrative Appeals Tribunal**

- (1) ASDA has the same functions in relation to WA competitors as are conferred on it by the Commonwealth Act in relation to Australian competitors.
- 5 (2) Without limiting subsection (1) it is a function of ASDA to disseminate information about the use of drugs in sport including -
- 10 (a) the possibility of WA competitors being requested to provide samples for testing and the procedures involved in providing and testing samples; and
- (b) the likely consequences for WA competitors who fail to comply with requests to provide samples or who record positive test results.
- 15 (3) The Administrative Appeals Tribunal, and members and officers of that tribunal, have the same functions in relation to WA competitors as they have under the Commonwealth Act in relation to Australian competitors.
- (4) For the purposes of this section the Commonwealth Act is to be read as if -
- 20 (a) references to a competitor or an Australian competitor were references to a WA competitor;
- (b) references to international sporting competition were references to national sporting competition;
- 25 (c) references to representing Australia were references to representing Western Australia;
- (d) references to a national team were references to a Western Australian team;
- 30 (e) references to something occurring within and outside Australia were references to it occurring within or outside Western Australia; and
- (f) any prescribed changes, and any other necessary changes, had been made.

**5. Competitors under 18**

- (1) Despite section 4, ASDA must not request a WA competitor who is under 18 to provide a sample unless it has first obtained the written consent of the competitor's parent or guardian.
- 5 (2) A refusal by the parent or guardian to give consent -
- (a) is not a failure by the competitor to provide a sample;  
and
- (b) is not grounds on which the competitor's name may be entered on a register under the Commonwealth Act.
- 10 (3) A consent for the purposes of this section may be given, or refused, either generally or in relation to a particular request.

**6. Agreement about performance of functions**

- (1) Despite section 4, ASDA must not exercise any functions conferred by this Act unless there is in force an agreement between ASDA and the Minister about the performance of those functions.
- 15 (2) An agreement between the Minister and ASDA may require ASDA to perform those functions in the manner, or subject to the conditions, provided in the agreement.

**20 7. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

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# **SPORTS DRUG TESTING BILL 2001**

## **Explanatory Memorandum**

**Clause 1:**        **Short title and citation.**

**Clause 2:**        **This clause sets out the commencement provisions.**

**Clause 3:**        **Interpretation**

A testing ‘sample’ may include a urine or blood sample.

**Clause 4:**        **Functions of ASDA and Administrative Appeals Tribunal**

The purpose of the legislation is to confer functions and powers on the Australian Sports Drug Agency (ASDA) to allow drug testing of State competitors.

WA Competitors will have similar access to appeals processes as those under the Commonwealth Act.

**Clause 5:**        **Competitors under 18**

ASDA must not request a WA competitor under 18 years to provide a sample unless it has first obtained the written consent of the parent/guardian.

This is consistent with legislation enacted in other jurisdictions.

**Clause 6:**        **Agreement about Performance of Functions**

Any drug testing program initiated by the State Government, or State Sporting Association (SSA) will be subject to a written agreement between ASDA and the State Government or SSA. The initiating agency will be responsible for costs of the testing program.

Prior to any testing program being undertaken in WA an education program amongst the sporting community will be implemented.

Current costs for an individual drug test is approximately \$550.

## Challenge Exercise 5

- (a) What was the Short Title of the Statute?  
\_\_\_\_\_
- (b) The Act received the Governor's Assent on 21 August 2001. However, was a separate provision made for the Proclamation (starting date) for the Act?  
\_\_\_\_\_
- (c) What is the Commonwealth Act specified in the legislation?  
\_\_\_\_\_
- (d) Provide one description of a "WA competitor".  
\_\_\_\_\_
- (e) What is meant by the initials ASDA?  
\_\_\_\_\_
- (f) According to the 'Explanatory Memorandum' a testing sample may include:  
\_\_\_\_\_
- (g) What was the estimated cost of an individual blood test when the legislation was passed?  
\_\_\_\_\_
- (h) If a "WA competitor" is under 18 years of age, from whom must written permission be obtained before a sample can be taken?  
\_\_\_\_\_
- (i) May the Minister, through the office of the Governor, make regulations for giving effect to the purposes of the Act?  
\_\_\_\_\_
- (j) Name several sports (perhaps five) in which under 18 youths would represent Western Australia at the top level of competition for that sport.

_____	_____
_____	_____
_____	_____

## Terms 5.0

<b>Act (of Parliament):</b>	a bill, which has passed through Parliament and has been assented to by the Governor.
<b>Amendment:</b>	an alteration or change to a bill, or an act, or the Constitution.
<b>Assent:</b>	the State Governor giving Royal approval by signing a bill to become an Act.
<b>Bill:</b>	A proposal for a new legislation which has been presented to Parliament.
<b>Clause:</b>	One of the numbered (in order in bold print) parts of a Bill. After a Bill has become an Act its clauses are referred to as 'sections'.
<b>Delegated 'laws':</b>	Most Acts of Parliament are passed in broad terms leaving many details of the process of legislation to be decided. Regulations, rules, orders, warrants and ordinances, having the force of law, can often be made within the terms of an Act of Parliament. They must be tabled for scrutiny in Parliament, with each House having the power to reject or amend them. In the Western Australian Parliament, a Joint Standing Committee on Delegated Legislation reviews the delegated legislation tabled in the Parliament.
<b>Legislature:</b>	the institution of government invested with the power of making, amending and repealing laws for the 'peace, order and good government of society.
<b>Proclamation:</b>	a public announcement of the commencement date of an Act made by the Governor in Council. Some Acts of Parliament do not come into operation until they have been proclaimed. If this is the situation this is found in the second section of the Act.
<b>Repeal:</b>	a previous Act of Parliament is removed from the statute books.
<b>Statute:</b>	an Act of Parliament, which has been assented and proclaimed.

## 6. People in Western Australia's Parliament

Passing legislation in the Western Australian Parliament requires a great deal of teamwork between the elected members, (both in Government and Opposition, minor parties and Independents), and the permanent officers of the Parliament.

Following the Constitution and the traditions of Parliament, the Legislative Council “team” is listed first.

### **The Legislative Council Team**

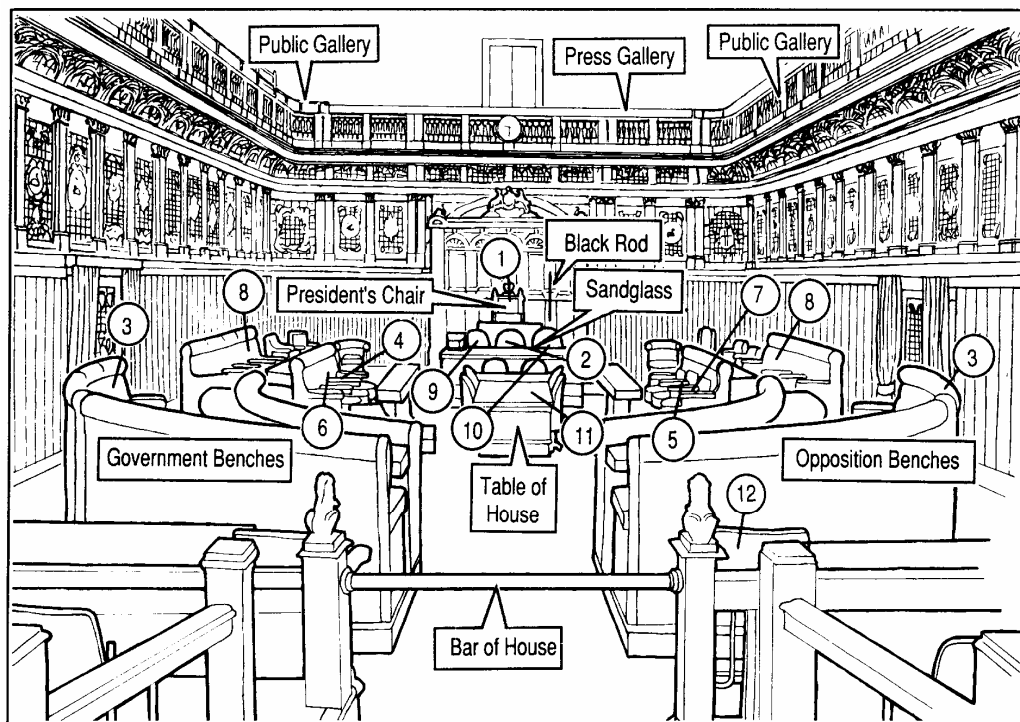
1. President of the Council (an elected MLC): chairs debate and ensures that the rules (Standing Orders) are followed. The President does not normally make speeches during debates. Chosen by members of the Legislative Council, the President upholds the traditions of the Council. Important tasks for the President are to represent the Council at official functions and exercise overall responsibility, with the Speaker of the Legislative Assembly, for the running of Parliament House.
2. Chairman of Committees (an elected MLC): is also the Deputy President of the Legislative Council. Helps the President to chair debates and keeps order in the Committee stage when bills are considered in detail.
3. Members of the Legislative Council (elected MLCs): represent regions for four-year terms.
4. Leader of the Government in the Legislative Council (an elected MLC): leads the Government in the Council and takes a major part in debates.
5. Leader of the Opposition in the Legislative Council (an elected MLC): leads the main Opposition Party in the Council and takes a major part in debates.
6. Ministers (elected MLCs): members of the Government with responsibility for particular Government departments and activities. These responsibilities are called ‘portfolios’. Under the State Constitution at least one Minister must be an MLC.
7. Shadow Ministers (elected MLCs): the leading members of the Opposition each have a responsibility for ‘keeping watch’ on a Government Minister and questioning him or her about Government departments and activities.
8. Party Whips (elected MLCs): count the MLCs who vote in a division for or against a motion and give the numbers to the President.
9. Clerk of the Legislative Council (Parliamentary Staff): gives advice to the President and other MLCs on the application of laws and proceedings of the Council, is responsible for its day-to-day running and records decisions of the Legislative Council. This person is also responsible for sending all bills passed by the two Houses to the Governor for assent. Is assisted by a Deputy Clerk and Clerk’s Assistant.
10. Usher of the Black Rod (Parliamentary Staff): traditionally the officer responsible for maintaining order in the Legislative Council. This person acts on the direction of the President and carries the Black Rod, which is the symbol of the Usher of the Black Rod. Again, clerical duties are involved in this office.
11. *Hansard* Reporters (Parliamentary Staff): record debates in the Council.
12. Other important people include librarians, attendants, secretarial and computing staff, security officers and dining staff.



## The Legislative Council Seating Arrangements

All the team members have their own special seat in the Parliament. The Legislative Council seating plan is as follows:

- |    |  |     |                                  |
|----|--|-----|----------------------------------|
| 1. | President  | 7.  | Shadow Ministers                 |
| 2. | Chairman of Committees                                 | 8.  | Party Whips                      |
| 3. | Members of the Legislative Council                     | 9.  | Clerk of the Legislative Council |
| 4. | Leader of the Government in the<br>Legislative Council | 10. | Black Rod                        |
| 5. | Leader of the Opposition in the<br>Legislative Council | 11. | Hansard reporters                |
| 6. | Ministers  | 12. | Parliamentary Officers           |



*Legislative Council (red furnishings)*

### Exercise 6.1

Each *Hansard* reporter, takes turns of ten minutes during debates, writing down every word that the members of the Council say. Experienced *Hansard* reporters can take down more than 240 words per minute! If you were a member of the *Hansard* staff, list ten political words you think you would be continuously recording. Try to find out the correct spelling.

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## The Legislative Assembly Team

1. Speaker of the House (an elected MLA): chairs debates and ensures that the rules (Standing Orders) are followed. The Speaker does not normally take part in debates. Chosen by members of the Legislative Assembly, the Speaker upholds the traditions of the Assembly. The Speaker represents the Assembly at official functions and, with the President of the Legislative Council, has responsibility for the running of Parliament House.
2. Deputy Speaker (an elected MLA): helps the speaker to chair debates in the Assembly, involving the Consideration in Detail stage when Bills are considered clause by clause.
3. Members of the Legislative Assembly (elected MLAs): represent districts for a maximum term of four years between elections.
4. Premier (an elected MLA): leads the Government and takes a major part in debates. Allocates portfolios to Ministers.
5. Leader of the Opposition (an elected MLA): leads the Opposition and takes a major part in the debates. Organises the Shadow Ministers to keep a check on what the Government is doing.
6. Ministers (elected MLAs): members of the Government with responsibility for particular portfolios as well as 'Leader of the House'. Most Ministers are MLAs.
7. Shadow Ministers (elected MLAs): the leading members of the Opposition, each having responsibility for 'keeping watch' on a Government Minister and questioning him or her about Government departments and activities.
8. Party Whips (elected MLAs): count the MLAs who vote in a division for or against a motion and give the numbers to the Speaker.
9. Clerk of the Legislative Assembly (Parliamentary Staff): gives advice to the Speaker and other MLAs and records decisions of the Legislative Assembly. Is assisted by a Deputy Clerk and Clerk's Assistant. The Clerk also has an administrative role in relation to Legislative Assembly matters.
10. Sergeant-At-Arms (Parliamentary Staff): helps the Speaker keep order and is known as the 'Constable of the House'. This officer is the guardian of the Mace, which is the symbol of the authority of the Legislative Assembly.
11. *Hansard* Reporters (Parliamentary Staff): record debates in the Legislative Assembly.
12. Other important people include librarians, attendants, secretarial and computing staff, security officers and dining staff.

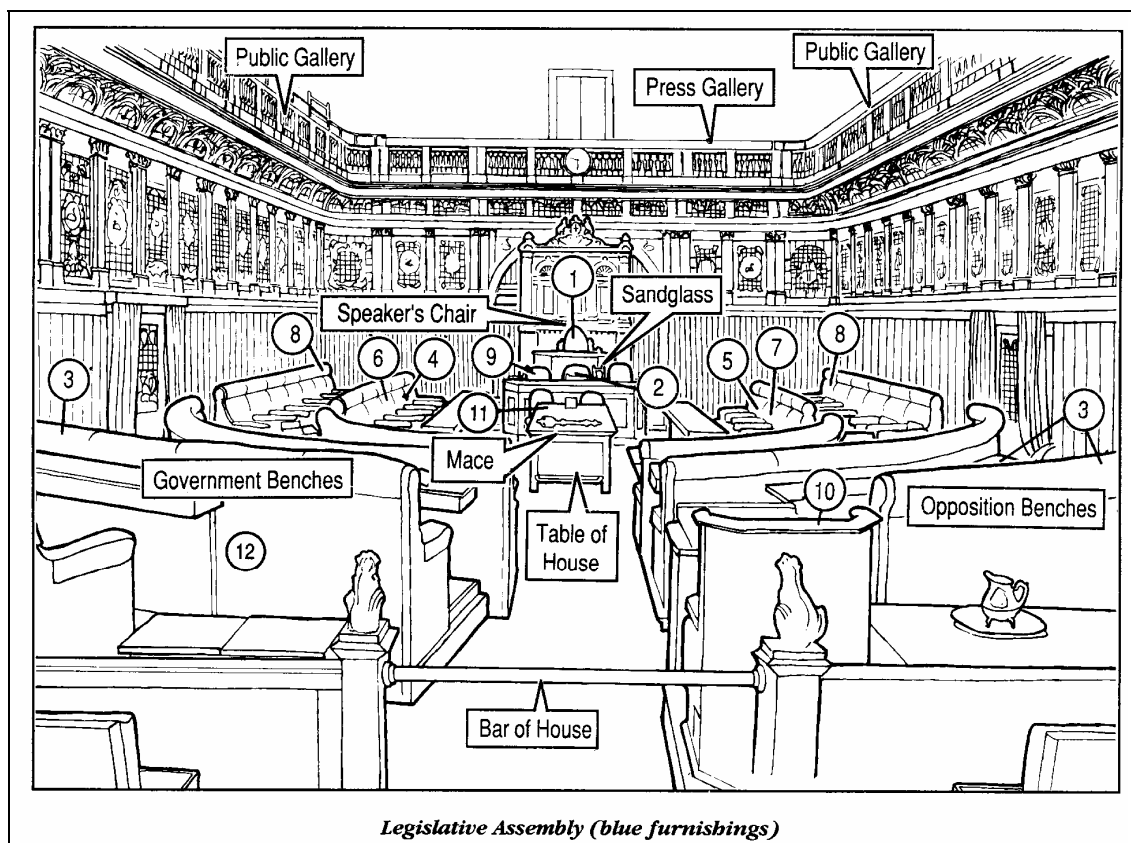
See <http://www.parliament.wa.gov.au>

Select the Members title to the right of the screen to display an alphabetical list of current members of both houses of parliament.

## Legislative Assembly Seating Requirements

All the team members have their own special seats in the Parliament. The Legislative Assembly seating arrangements are as follows:

- |    |   |     |                                   |
|----|---|-----|-----------------------------------|
| 1. | Speaker   | 7.  | Shadow Ministers                  |
| 2. | Deputy Speaker  | 8.  | Party Whips                       |
| 3. | Members of the Legislative Assembly                                       | 9.  | Clerk of the Legislative Assembly |
| 4. | Premier   | 10. | Sergeant-at-Arms                  |
| 5. | Leader of the Opposition in the Legislative Assembly                      | 11. | Hansard reporters                 |
| 6. | Ministers (including the Leader of the House in the Legislative Assembly) | 12. | Parliamentary Officers            |



*Note: Leader of Government Business in the House*

## The President

The President of the Legislative Council exercises a number of roles similar to the Speaker of the Legislative Assembly. The office, like that of the Speakership is exercised in an impartial manner. Unlike the Speaker's office, which has many inherited traditions from Westminster, the President's office differs from the Lord Chancellor in the House of Lords. The Lord Chancellor, as Speaker of the House, sits on the Woolsack (a cushion filled with wool and covered with red cloth with no back or arms, upon which the Lord Chancellor perches). The Lord Chancellor presides over the deliberations of the House of Lords, but he is not given any special powers either to maintain order or to act as the representative or spokesperson for the House unless the House confers the necessary authority. The President in the Legislative Council does not normally give speeches in debates and does not vote, except to give a casting vote. Other important tasks for the President are to represent the Council at official functions and exercise overall responsibility with the Speaker of the Legislative Assembly, for the running of Parliament House.

## The Speaker

In our modern parliamentary system the Speaker must serve all MLAs equally, no matter what party they belong to. This means that in the Assembly Chamber, the Speaker:

- ensures all MLA's follow parliamentary rules as they ask or answer questions, debate or vote;
- gives all MLAs a fair chance to speak;
- ensures special rights and privileges of members of the Assembly as a whole are protected;
- does not normally take part in debate, ask or answer Questions during question time, or vote except to break a tie; and
- represents the Assembly at official functions and, with the President of the Legislative Council, has responsibility for the administration of Parliament House.

Because the Speaker represents the Assembly, Members of the Legislative Assembly must show the Speaker respect. Therefore, Members:

- do not question the Speaker's rulings on parliamentary procedure except by formal motion of non-confidence, although they may ask the Speaker to explain a ruling;
- do not enter or leave the Chamber while the Speaker is standing;
- do not interrupt the Speaker; and
- address all comments in the Chamber to the Speaker.

### Exercise 6.2

A Member is not permitted to use unparliamentary language, which may be offensive or disorderly. The decision as to whether words used in the House are unparliamentary rests with the Chair (Speaker or President or their Deputies). List four words (not swear words) which you think would be ruled as being unparliamentary language.

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

(d) \_\_\_\_\_

## Some Restrictions of Debate

There are certain types of criticism which the Standing Orders broadly prevent although they may sometimes be made in a motion being debated before the House. The types of matters upon which there are limitations include:

- criticism of Speaker, Chairman of Committees, Deputy Speaker, or officers of the House;
- criticism of the Monarch or the Governor;
- criticisms of governments of friendly countries; and
- criticisms of judges.

There is a convention that Parliament does not discuss matters before the courts. The main purpose of this convention is to make sure that Parliament does not prevent the ‘fair trial’ of the accused. This practice, known as *sub-judice*, is a convention or practice and not a rule. It is a complex subject with rulings from the Chair being important. *Sub-judice* does not provide a strict bar against the discussion of all matters before the courts.

It may surprise some citizens that the Standing Orders require Members of Parliament not to digress from the subject matter of debate. From time to time Members rise “on a point of order” to draw the attention of the Chair that the Member who is speaking has possibly strayed from the topic or subject of the debate. However, there are exceptions to the strict rules of relevancy. The Members can speak on a wide range of subjects in:

- the Address-in-Reply debate (mostly a speech in response to the Governor’s Speech when opening a session of the Parliament); and
- Budget debates.

The general rule is that no member may speak twice to any question although the mover of a motion has the right of reply and the mover of the second or third reading of a Bill is entitled to reply to the debate. Generally, too, the reading of speeches is not permitted and sometimes there have been rulings against lengthy quotes.

With the development of the internet it is now possible to follow ‘live’ the parliamentary debates. The website address is [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au).

## Challenge Exercise 6

### Standing Orders

Parliament has its own rules, which members must know. These rules are written in booklets for each House called *Standing Orders*. In the Legislative Council, the President, often acting on the advice of the Clerk of the Legislative Council, ensures that the rules are obeyed. In the Legislative Assembly, the Speaker, often acting on the advice of the Clerk of the Legislative Assembly, ensures that the rules are kept. Sometimes an action is ruled out of order. This means it is not in accordance with the Standing Orders. The Standing Orders suggest members should:

#### Never

- walk between the person who is speaking and the President or Speaker.
- make a personal attack on another MLC or MLA.
- use rude words in your speeches - if you do, the President or Speaker will ask you to withdraw them.
- walk around when the President or Speaker is saying something.
- interject when someone is speaking, as this may interrupt the person speaking and make it harder for others to hear what is being said.

#### Always

- bow before entering the chamber. This is a sign of respect for the President or Speaker.
- stand up for prayers and to speak in Parliament.
- refer to members by the name of their electorate (for example, 'the Honourable Member for Carine' or 'the Honourable Member for South Metropolitan'.) Sometimes you can say 'the Member opposite'.
- address your remarks through the person in the Chair (for example, 'Madam' or 'Mr Speaker' or 'President').
- listen carefully to what the President or Speaker is saying, so that you know what is happening.
- refer to Ministers by their portfolio. Say 'The Minister for Sport and Recreation'.

1. List four other rules, which you think, may be in the Standing Orders for either the Legislative Council or Legislative Assembly:

- |          |          |
|----------|----------|
| a) _____ | b) _____ |
| c) _____ | d) _____ |

## Terms 6.0

<b>Adjournment of the Debate:</b>	The decision of the House to postpone further debate on the subject immediately before it.
<b>Hansard:</b>	The name comes from that of a man called Thomas Hansard. He owned a printing firm which was given the right to publish summaries of debates in the British House of Commons. Nowadays, Hansard is the name given to the full printed records of the speeches and proceedings of the Parliament. The people who write the present record of the Parliamentary debates are called ' <i>Hansard</i> reporters'.
<b>Leader of the House:</b>	The Government member who arranges and manages the Government business in the Legislative Assembly. In modern parliaments, this person has taken over some of the duties once performed by the Whip.
<b>Parliamentary Procedure:</b>	The unwritten traditions and written rules for conducting parliamentary business.
<b>Point of Order:</b>	The action by a Member seeking a decision by the Chair as to whether or not the House is following its Standing orders and established practices.
<b>Session:</b>	A series of meetings of the Parliament, commencing with the formal opening and closing at prorogation (when the Parliament is terminated).
<b>Sitting:</b>	Daily meetings of the Legislative Assembly and the Legislative Council.
<b>Standing Orders:</b>	The printed rules which control the business in each House of the Parliament. The Standing Orders of the Western Australian Parliament were first based on those of the British House of Commons; they have since been modified to suit the needs of the Legislative Assembly and Legislative Council.
<b>Unparliamentary Language:</b>	Language which in the opinion of the Chair (Speaker, President or Chairman of Committees) is not appropriate for use in debate.
<b>Whip:</b>	A 'whipper-in' was a person who rounded up the hounds in an English fox hunt. Today in Parliament, a 'Whip' is member whose duty it is to ensure that party members are readily available to vote and speak and help maintain the quorum. A whip helps organise the order of speakers and arranges 'pairs'. The position attracts extra parliamentary allowances.

## 7. Parliament at Work

Visitors to the Western Australian Parliament sometimes find it hard to follow what is going on in the Legislative Council or Legislative Assembly although each Chamber has a daily timetable (see pages 78 & 79)

When Parliament is sitting the public see Members making speeches, asking questions, often listening in a reflective manner but sometimes interjecting when a Member is speaking. Members regularly come into or leave the Chambers. In this instance they always follow custom by bowing slightly to the President or Speaker.

Well known faces may be seen on the front benches, with generally lesser known Members on the back benches.

Officers of Parliament, such as the Clerk of each House, sit at the table below the presiding officers of each chamber. There are constant changes among *Hansard* reporters, who take notes and record the speeches and decisions of each House.

The President in the Council and the Speaker in the Assembly are seen to be regularly making rulings. Attendants are constantly moving to and from the Chambers. Bells ring and votes are taken. To record the vote of Members a *division* is called. When Members vote in a division the bells are rung for two minutes to call them to their Chamber.

### Exercise 7.1

When the division bells are rung coloured lights also flash in the Parliament building.

(a) If red lights are flashing in which Chamber has the division been called?

\_\_\_\_\_

(b) If blue lights are flashing in which Chamber has the division been called?

\_\_\_\_\_

(Hint-colour tone of each House)

In both Chambers Members have time limits placed on their speeches during a debate. If MLCs are discussing new matters the length of the speech is 45 minutes but if they are debating an amendment the maximum time is 15 minutes. In the Legislative Assembly Members also have time limits on most of their speeches. It ranges from unlimited time on budget Bills to 90 seconds for Member's Statements. Sometimes Members are given 'Leave of the House' to extend their speeches. On rare occasions debates may be *guillotined* (given a time limit) or *gagged* (stopped). Before the introduction of time limits there were some instances in both Houses of Members delivering prolonged speeches as a delaying tactic known as a *filibuster*.

Sometimes to save time, by special leave, a decision is made at the second reading stage of a Bill to have a *cognate* debate. If this occurs the subject matter of a Bill can include topics from similar or complementary Bills.

On some days visitors may observe some extra hustle and bustle. Members may have appointments with members of the public (their constituents) or organised interest groups (or pressure groups). Nowadays, however, many of these meetings take place in the Members'



electorate offices. The offices are located in the Member's electoral districts or regions.

Cabinet Ministers also have offices, in the main business district in Perth. Most Ministers and Members are usually collectively present for the opening of each day's proceedings and, later, for Question Time. Members are more selective with their attendance for other proceedings but generally sit for many hours. They must be available for any division which may be called. Sometimes a Quorum is called if the numbers in attendance has fallen.

## Quorum

A Quorum in the Legislative Assembly is at least one third of Members, not counting the Speaker. In the Legislative Council, a quorum is also one third of Members exclusive of the President.

### Exercise 7.2

(a) What is a quorum in the present Legislative Assembly of 59 MLA's?

\_\_\_\_\_

(b) What is a quorum in the present Legislative Council of 36 MLC's?

\_\_\_\_\_

## Pairs

One of the duties of political party whips is to ensure a quorum is maintained. Of course the party whips must monitor the presence of Members for divisions. In recent times the number of divisions, in both the Legislative Assembly and Legislative Council has increased. To help overcome the Members of each House being absent for a division the political party whips sometimes arrange pairs. As this is an unofficial arrangement the pairs are not recorded in the Votes and Proceedings but they are recorded in *Hansard*.

A pair is an arrangement between the between the political party whips whereby two members (or more) from opposing sides of a House do not vote on a particular division, so that the 'pairs' may be absent from the vote without affecting the result of the division.

### Exercise 7.3

Provide two reasons why an MLA or MLC may find it necessary to arrange a pair.

(a) \_\_\_\_\_

(b) \_\_\_\_\_

## Prayers

Both the Legislative Council and Legislative Assembly commence proceedings with Prayers. The 'Lords Prayer' is said in both Houses. However, the additional 'Form of Prayer' is different in each House.

In the Legislative Council the President reads as follows:

Almighty God, creator of the universe, giver of life, who has ordained that man should live as a social being, seeking the fulfilment of his own true purpose within the society and sanctions of his fellow man; bless this Legislative Council now assembled to deliberate upon affairs affecting the well-being and good order of society in Western Australia, that all members give honour, wisdom and integrity to the role for which they have been chosen, and the decisions and decorum of this council be always to the advancement of Thy glory, the honour of Her Majesty and the continued benefit of the people of this State. Amen

In the Legislative Assembly the Speaker reads as follows:

Almighty God we humbly beseech Thee to vouchsafe Thy special blessing upon this Parliament now assembled, and that Thou wouldst be pleased to direct and prosper all our consultations to the advancement of Thy glory and the true welfare of the people of Western Australia.

### Exercise 7.4

- (a) Apart from the same Lord's Prayer mention one similarity in the 'Form of Prayer' for both Houses:
- 
- (b) Mention one difference in the 'Form of Prayer' for both Houses:
- 

## Petitions

Another item of Business in both Chambers is the provision for the presentation of petitions. While the right to petition the Crown and Parliament dates back to Edward 1, the inherent right of citizens to petition the Parliament was confirmed by the House of Commons in 1669. The same right has been adopted by the Western Australian Parliament as part of our Westminster system of Parliament.

A petition is a request for action. It is open to any citizen or resident, or group of citizens or residents to petition either the Legislative Council or Legislative Assembly. However, a petition may not make an application for a direct grant of money to be made to the petitioner or another individual.

Some observers believe petitions are a barometer of community concerns while others question this view. Nevertheless the number of petitions in both the Legislative Council and Legislative Assembly have greatly increased in recent years. Each House has prepared a pamphlet to assist people in the proper preparation of a petition, which can only be tabled by a Member of Parliament. In the Legislative Council the Standing Committee on Legislation examines all petitions and recommends what action, if any, can be taken.

## Exercise 7.5

Specify the action you wish each House to take in your petition.

- (a) Petition to the Legislative Council-‘Your petitioners, therefore humbly pray [respectfully request] that the Legislative Council ...’

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- (b) Petition to the Legislative Assembly-‘We the undermentioned petitioners... ‘  
[here follows the text of the petition]

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‘Your petitioners humbly pray that you will give this matter earnest consideration and your petitioners as in duty bound will ever humbly pray’.

*You may choose to fully prepare a petition.*

## Parliamentary Questions

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

Questions are used by Members on both sides of the House to ask, on behalf of the constituents they represent, a Minister about matters of concern relating to Government policy within a Minister’s portfolio.

Questions must conform to the rules or the Standing Orders of each House. Questions asked of a Minister must be brief, not contain a long preamble (introduction) and must relate to the Minister’s portfolio or area of responsibility. In the Legislative Assembly, a Member may at the discretion of the Speaker, ask a supplementary question providing it relates strictly to the original question.

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

Parliamentary Questions are categorized into two groups, namely 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 each House. The Presiding Officer of each House, the Speaker and President, decide which Member has the call to ask a question. By convention the Leader of the Opposition in the Legislative Assembly and the Leader of Opposition Business in the Legislative Council have the first call.

In the Legislative Assembly, Ministers are asked questions for approximately 40 minutes every sitting day starting at 2.00 p.m. (or shortly thereafter).

In the Legislative Council, Question Time takes place for approximately 30 minutes starting at 5.00 pm on Tuesday and Wednesday, and 4.00 pm on Thursday.

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.

If a Minister's answer is prolonged, the Presiding Officer may intervene to ensure the answer is brought to a prompt conclusion.

Oral question time is sometimes characterised by what are known as '*Dorothy Dixer*' questions. This is a prearranged question asked of a Minister by a Member of Parliament, usually a 'backbencher' from the same political party, designed to reflect favourably on the Minister or his or her Department's performance. The term derives from an American question and answer social column, whose author Dorothy Dix, purported to solve readers' problems.

## **Questions on Notice**

Questions on Notice are submitted in writing, and are responded to by the Minister on a subsequent day. These 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. It should be noted, though, that in the Legislative Council it is common for some notice to be given for Questions Without Notice.

Questions on Notice are lodged with the Clerk of the House, checked and edited in accordance with the Presiding Officer's direction, and sent electronically to the relevant Ministerial office. Following advice from departmental and ministerial advisors, the Minister's answer is returned electronically to the Parliament for circulation to the Member who asked the question, and for publication in *Hansard*.

Questions without Notice are an important procedure of modern parliaments. In number they greatly exceed the more publicized Questions Without Notice. For several decades after the granting of responsible government in 1890 it was quite rare for such questions to be

presented. However, since the 1980s the frequency of ‘Questions With Notice’ has risen to hundreds per annum. So huge have become the scale of such questions that cost considerations are sometimes voiced by governments.

## **Other Business of the House Procedures (Legislative Council and Legislative Assembly)**

### **Ministerial Statements**

A Statement made by a Minister in either House pursuant to the Standing Orders. Sometimes the Statements indicate policy directions of the Government and sometimes they are about community events.

### **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 to the Speaker before 12 noon on any given day. Only one MPI may be debated on each sitting week.

### **Private Member’s Business**

Private Member’s Business refers to business which is initiated by a member who is not a Minister.

### **Grievances**

Grievances are debated in the Legislative Assembly 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 each sitting week in the Legislative Assembly, 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. This procedure was introduced in the Legislative Assembly in 1997.

#### **Exercise 7.6**

- (a) Nominate one topic about which you would like to make a 90 Second Statement to the Legislative Assembly.

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- (b) Nominate one topic about which you would like to make a Grievance address to the Legislative Assembly.

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If you have time you may prepare a Statement, but make sure it does not take longer than 90 seconds to deliver. Likewise, you may draft a Grievance Address.

## **Adjournment Debate**

In the Legislative Council at 10.00 pm on Tuesday and Wednesday and at 5.00 pm on Thursday debate on any business before the House is interrupted. The Leader of the House will move 'that the House do now adjourn'. The motion facilitates the Adjournment Debate during which a Member may speak on any matter for not more than 10 minutes. Total time allocated for the Adjournment Debate is 40 minutes at which time, if not sooner adjourned, the House stands adjourned until the next sitting.

## **Parliamentary Committees**

Parliament has a range of domestic or internal committees as well as many legislative committees. In recent years the Parliamentary Services Committee has taken over responsibility for the library, publications and matters affecting the facilities and running of Parliament. The President and Speaker have automatic membership of this Committee. They also chair the Procedure and Privileges Committees for their respective Houses. These committees are important for the efficient running of Parliament but they rarely involve the public. More relevant to the public are legislation committees which are concerned with legislation, public policy and the administration of government. The legislation committees are of two main types known as standing committees and select committees. Both types of committees provide valuable opportunities for Members to be engaged in important policy work away from the debating chamber.

### **Select Committees**

A Select Committee is established for a specific inquiry or purpose. The Legislative Assembly has been the home of most select committees. The inquiries are conducted according to the terms of reference, or instructions, by the House setting up the Committee. In recent times some of the Select Committees in the Legislative Assembly have examined issues such as youth affairs, road safety, petrol prices, drug use and crime prevention. In the Legislative Council some of the topics for Select Committee examination have been native title rights and immunisation and vaccination rates.

### **Standing Committees**

Standing Committees are permanent committees established for a session, or more commonly the life of the full four year term of the Parliament. They have gradually developed an important presence in the modern Parliament. They conduct research, monitor legislation and often call for submissions from the public. The Legislative Council was the first House to establish several Standing Committees. Later, the Legislative Assembly added several Standing Committees to its Public Accounts Committee. Some joint standing committees, which have Members from both Houses, have also been created in recent Parliaments. For the 37<sup>th</sup> Parliament beginning in 2005 there was a Joint Standing Committee on Delegation and Uniform Legislation and a Joint Standing Committee on the Corruption and Crime Commission. For the 38<sup>th</sup> Parliament an additional Joint Standing Committee on the Commissioner for Children and Young People was established as was the Joint Standing Committee for Review of the Racing and Wagering Western Australian Acts.

Legislation Standing Committees for the Legislative Council at the beginning of the 38<sup>th</sup> Parliament in 2008 were:

- Standing Committee on Environment and Public Affairs;
- Standing Committee on Legislation; and
- Standing Committee on Estimates and Financial Relations; and
- Standing Committee on Uniform Legislation and Statutes Review.

Legislation Standing Committees for the Legislative Assembly at the beginning of the 38<sup>th</sup> Parliament in 2008 were:

- Community Development and Justice Standing Committee;
- Economics and Industry Standing Committee;
- Education and Health Standing Committee; and
- Public Accounts Committee.

Both the Legislative Council and the Legislative Assembly have produced a pamphlet to guide citizens in making a submission to a Committee. If a Committee is seeking submissions advertisements are usually placed in the major State daily newspaper and appropriate local newspapers. This advertisement usually contains:

- the terms of reference (what the Committee is asked to report upon);
- the report date;
- the members of the Committee;
- when submissions should be made; and
- where submissions should be forwarded.

It is important for you to indicate your name and, if relevant, the name of your organisation. You should also indicate if you are prepared to appear before the Committee.

If you are making a submission to an investigative or research inquiry you should indicate your general attitude towards the issues under inquiry. In addition you should indicate the main reasoning behind your comments. You should also list your recommendations or comments.

For Bills-

- indicate whether you are for or against measures in the Bill;
- indicate why you are for or against main sections of the Bill;
- provide a summary of the changes you want and indicate why;
- where you believe changes to clauses are necessary, suggest wording.

## **Parliamentary Privilege**

As mentioned, each House has a Standing Committee on Procedure and Privilege. The committees, as well as Parliament, are covered by parliamentary privilege. Parliamentarians have a special range of rights and immunities, known as parliamentary privilege, to enable them to freely speak their minds in the Legislative Council and Legislative Assembly as was the *Joint Standing Committee for Review of the Racing and Wagering Western Australian Acts*. The main basis of parliamentary privilege dates back to Article 9 of the 1689 Bill of

Rights for the British House of Commons, which declares:

That the freedom of speech, and the debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

While parliamentary privilege has been inherited from the British House of Commons, and its Statutes, the Western Australian Parliament has also passed legislation which has dealt with the subject. It is a very complicated privilege which often requires the knowledge of the Clerk of each House to advise on its nature.

From time to time people may feel that they have been adversely affected, or unfairly treated, by statements made in or reports presented to the Legislative Assembly. Apart from requesting another Member of the Legislative Assembly to put forward their view, petition the Legislative Assembly, or ask a question on their behalf another avenue exists for a person. The aggrieved person may seek to have a response published in *Hansard*, as the public record of debates in Parliament.

Firstly the person must write to the Speaker requesting that his or her opinion be published. If the Speaker thinks the request is reasonable it is referred to the Procedure and Privileges Committee. This Committee will then consider the request in detail and report to the House upon whether or not a response should be published. If the response is published in *Hansard* it is expected to be clear and concise and relevant to the questions at hand and not contain anything offensive in character.

The Legislative Assembly has prepared a pamphlet titled 'Responses from Persons Adversely Referred to in the House'. This explains how the Standing Orders (Rules of Debate) provide for a request to be made and what details a person needs to provide. It should be remembered that the Legislative Council does not have such a provision in its Standing Orders although the Australian Senate pioneered the idea in Australia.

In recent years some critics have questioned whether curbs should be placed on parliamentary privilege. However, to date no major moves have been made to remove Parliamentary privilege or change its main features.

### Exercise 7.7

Why do you think some people believe that parliamentary privilege should be limited?

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### Legislative Council Timetable (Subject to Change)

Times	Tuesdays	Wednesdays	Thursdays	Times
11.00 - 12.00 pm			11.00 am - House sits Formal Business and Motions	11.00 - 12.00 pm
12.00 - 1.00 pm			Consideration of Committee Reports	12.00 - 1.00 pm
1.00 - 2.00 pm			Lunch Break	1.00 - 2.00 pm
2.00 - 3.30 pm			Orders of the Day	2.00 - 3.30 pm
3.30 - 3.45 pm	3.30 - 3.45 pm			
3.45 - 4.00 pm	3.45 - 4.00 pm			
4.00 - 4.30 pm	3.30 pm - House sits Formal Business and Urgency Motion		4.00 pm - House sits Formal Business and Motions	Questions without Notice
4.30 - 5.00 pm	Orders of the Day		Orders of the Day	4.30 - 5.00 pm
5.00 - 5.30 pm	Questions without Notice	Questions without Notice	5.00 pm Adjournment Debate Max. 40 minutes	5.00 - 5.30 pm
5.30 - 5.40 pm	Orders of the Day	Orders of the Day		5.30 - 5.40 pm
5.40 - 6.00 pm				5.40 - 6.00 pm
6.00 - 7.30 pm	Dinner Break	Dinner Break		6.00 - 7.30 pm
7.30 - 10.00 pm	Orders of the Day	Orders of the Day		7.30 - 10.00 pm
10.00 - 10.40 pm	10.00 pm Adjournment Debate Max. 40 Minutes	10.00 pm Adjournment Debate Max. 40 Minutes		10.00 - 10.40 pm

Please note that all times are approximate, and are subject to change by Sessional and Standing Orders.

Note: Formal Business includes Petitions, Ministerial Statements, Papers for Tabling, Notices of Questions, Notice of Motions to Introduce Bills, Notice of Motion for Disallowance, Notice of Motions and Motions without Notice.

## Legislative Assembly Timetable (Subject to Change)

Time	Tuesdays	Wednesdays	Thursdays	Time
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				12.00 - 12.50 pm
12.50 - 1.00 pm			Members' Statements (90 Second Statements)	12.50 - 1.00 pm
1.00 - 2.00 pm		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. 40 Minutes			2.05 - 2.45 pm
2.45 - 2.50 pm	Petitions Papers Notices	Government Business or Matters of Public Interest	Government Business or Matters of Public Interest	2.45 - 2.50 pm
2.50 - 3.30 pm	Government Business or Matters of Public Interest			2.50 - 3.30 pm
3.30 - 3.50 pm		Government Business	Government Business	3.30 - 3.50 pm
3.50 - 4.00 pm	Government Business			3.50 - 4.00 pm
4.00 - 5.00 pm	Government Business and Legislation Committee	Private Members' Business		4.00 - 5.00 pm
5.00 - 6.00 pm				5.00 - 6.00 pm
6.00 - 7.00 pm	Dinner Break			6.00 - 7.00 pm
7.00 - 9.00 pm	Government Business and Legislation Committee	Adjournment Approx. 7.00 pm	Adjournment Approx. 5.00 pm	7.00 - 9.00 pm
9.00 - 10.00 pm	Government Business			9.00 - 10.00 pm
10.00 pm	Adjournment Approx. 10.00 pm			10.00 pm

Please note that all times are approximate, and are subject to change by Sessional and Standing Orders..

## Challenge Exercise 7

Examine the Legislative Council Timetable and the Legislative Assembly Timetable. Both timetables are subject to change.

Suggest two similarities of the Timetable.

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Suggest two differences of the Timetable.

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## Terms 7.0

### Cognate

- Debate:** a debate which takes place, by special leave, at the second reading stage of a Bill, which enables similar Bills with similar subject matter to be discussed at the same time.
- Division:** a vote, which requires that the 'ayes' move to the right of the Chair and the 'noes' to the left. Before a vote is taken the bells are rung for two minutes to recall absent Members to the chamber, the doors of which are then locked.
- 'Dorothy Dixer':** a pre-arranged question asked of a Minister, or Parliamentary Secretary representing a Minister, by a Member of Parliament. It is often designed to reflect favorably on the Minister or his/her department's performance. The term derives from an American question-and-answer column, whose author Dorothy Dix, purported to solve readers problems but wrote the original questions herself.
- Gag:** a procedure for stopping a debate while some Members still wish to speak. This parliamentary manoeuvre is often known as a 'closure'.
- Grievance:** the opportunity in Parliament, dating back to the ancient practice in the House of Commons, for Members to briefly raise matters of concern. In the Legislative Assembly Grievances are heard every second sitting week.
- Guillotine:** the time limit set on discussion of a Bill. Such a motion is also known as 'a time allocation order'.
- Interjection:** a remark made to interrupt, or respond to a point made during a debate.
- Notice Of Motion:** the process of providing the House with notice of an intended motion. The Notice of Motion must be in writing, signed by the mover and orally presented at the time the Speaker calls for Notices at the beginning of the sitting day.
- Notice Paper:** the daily document, known as Notices and Orders of the Day in the Legislative Assembly and Daily Notice Paper in the Legislative Council, sets out the business for a particular day and the outstanding business before each House.
- Parliamentary Privilege:** the rights enjoyed by each House collectively, and by Members of each House individually, which are maintained under the Constitution for the performance of Parliament's duties.

## 8. Parliament House

The Legislative Council first met in temporary buildings near the corner of St George's Terrace and Barrack Street, Perth where Council House now stands. In 1836, these premises were replaced with other buildings in which the Council met until 1870 and from 1890 to 1904. Between 1870 and 1890 the Council met in a building (since demolished) at the eastern end of the Perth Town Hall in Hay Street. From the granting of responsible government in 1890 until 1904, the Legislative Assembly met in this building.

In 1897, a Commission of seven members of Parliament was appointed by the Government to:

*inquire into and report upon a site and suitable plans for the proposed new Houses of Parliament.*

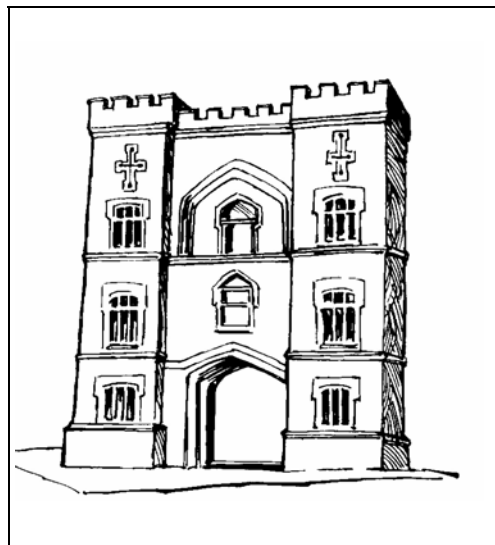
The Commission recommended that new Parliament Houses be built on the site in St George's Terrace where the Legislative Council met. It was thought that this was a good place for a parliamentary building, as it was close to the General Post Office, the central Railway Station and Government buildings.

As you know, Parliament House was never built there, but in Harvest Terrace, behind what were known as the pensioners' barracks at the western end of St George's Terrace. The Commission had not reported favourably on this location. It stated:

*the site abutting on Harvest Terrace, at the back of the Pensioners' Barracks, is too far removed from the central position of Perth, being 1400 yards from the General Post Office, and would not fulfil any of the conditions which the Commission deems to be necessary. Beyond being in an elevated position, and having an extensive view, it possesses no recommendations as a site for new Houses of Parliament.*

Two leading members of the Commission, the Honourable John Winthrop Hackett and Mr George Leake, strongly disagreed. They favoured the Barracks' site. Eventually, on 23 March 1900, the land bounded by Harvest Terrace, Malcolm Street, St George's Terrace and Hay Street was made an 'A' class reserve and set aside for Parliament House.

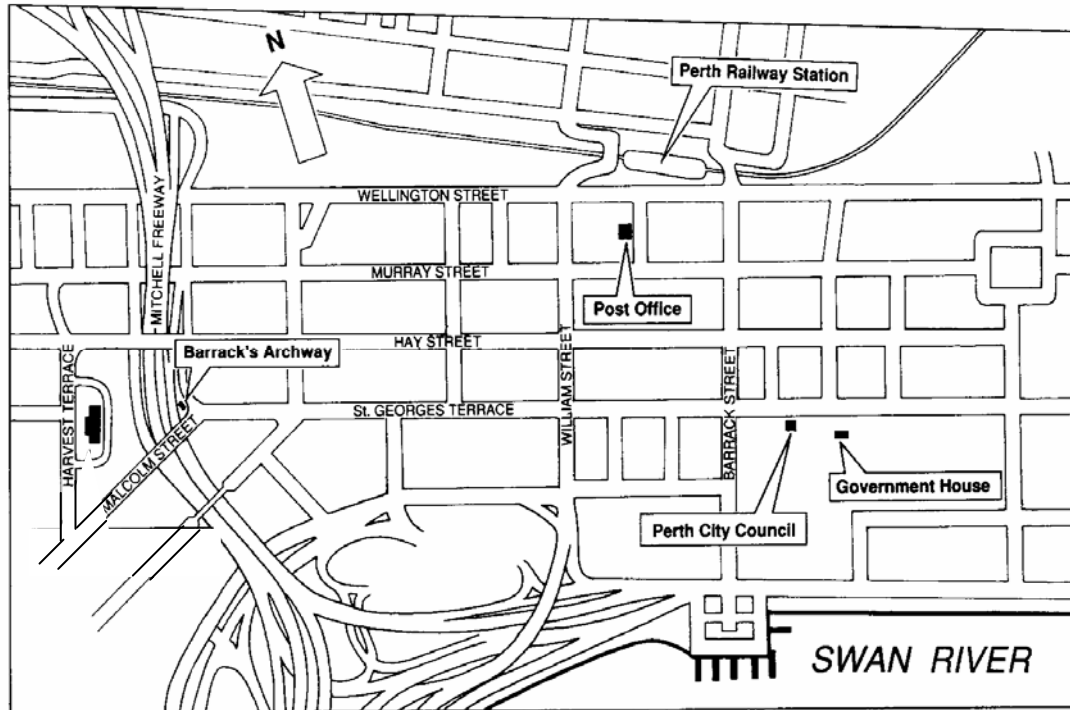
Today, the Barracks Arch is a reminder of the Pensioners' Barracks, behind which the Parliament was built. During the 1960s Parliament considered demolishing the Barracks. After much public protest, the archway was left standing.



*Barracks Archway*

## Exercise 8.1

- (a) Mark with an **X** where the Legislative Council first met.
- (b) Indicate with a **P** the location of the present Parliament.



## The Plans

John Grainger, the Chief Government Architect at the time, planned a fine building with a huge dome. It was to be built as money became available so that Parliament House, after the Pensioners' Barracks had been pulled down, would dominate St George's Terrace.

## Exercise 8.2

Name the freeway (after a former Premier and Governor), which has been built between the Barracks Arch and Parliament House. \_\_\_\_\_

## The Building

The foundation stone for Parliament House was laid by Governor Lawley on 31 July 1902. The first stage was ready for the parliamentary session which commenced on 28 July 1904. It consisted of the two chambers with temporary offices on the Perth city side. The building was always intended to have an eastern frontage overlooking the city, but it was 60 years before the building was completed, on 23 March 1964. Some extra accommodation was added in 1978 and further extensions were completed in 2004 to mark the centennial of the building.

## FOUNDATION STONE

31 July 1902

This Foundation Stone was Laid by  
His Excellency The Governor  
The Hon Sir Arthur Lawley KCMG  
Premier  
Hon Walter Hartwell James KC

President  
Sir George Shenton KCMG

Speaker  
Sir James Lee Steere KCMG



### The Forrest Foyer (The Ground Floor)

After walking up the outside stairs at the main entrance, you enter the Forrest Foyer on the ground floor. Here you will see a bust of Sir John Forrest. The inscription below the bust reads:

#### THE RIGHT HONOURABLE LORD JOHN FORREST PC GCMG LLD

*Born on 22 August, 1847, near Bunbury, John Forrest joined the Survey Department and led many extensive expeditions exploring and opening up vast areas of the State. He became Commissioner of Crown Lands and Surveyor-General with a seat in the Legislative Council in 1883.*

*On the introduction of responsible government in 1890, he was elected member for Bunbury and became the first Premier of the State, serving as Premier and Colonial Treasurer until 1901 when he entered Federal Parliament as Member for Swan on the Inauguration of the Commonwealth.*

*He held office in several ministries and retained this seat until his death on 3 September, 1918.*

**THIS FOYER HAS BEEN NAMED  
FORREST FOYER**

Another feature of the foyer is a central chandelier brought to Western Australia by an early settler, William Knight. It helped to decorate his home 'Mount House' in Mount Street, which was built in 1851. It was obtained for Parliament House in 1963.

A display cabinet provides reminders of the State's political history and between the lift doors is a plaque, which reminds visitors of the history of the building. It was hung in 1964. The passages to the north side and the south side of the Forrest Foyer display paintings from local government bodies throughout Western Australia. Offices of some of the members of Parliament are on this level, as are rooms for the education office and other support staff of Parliament.

### **The Lee Steere Foyer (The First Floor)**

After climbing the flight of stairs to the next floor you enter the Lee Steere Foyer. A bust of Sir James Lee Steere (1830-1903), the first Speaker of the Legislative Assembly (1890 - 1903), is a feature. His career reflected the period in Western Australia's parliamentary history when a person could be either an elected or in some cases a nominated member of the Legislative Council. Milestones in the career of Sir James Lee-Steere include:

- Elected to Legislative Council as the Member for Wellington, 9 November 1870.
- Succeeded as Member for Wellington by Mr HW Venn, 13 February 1880.
- Elected as Member for Swan 22 May 1880.
- Succeeded as Member for Swan by Mr H. Brockman, 25 October 1884.
- Appointed Nominee Member of the Legislative Council 11 July 1885.
- Appointed an unofficial Member of Executive Council 21 December 1885.
- Speaker of the Legislative Council 1886-1890.
- Appointed to represent the Colony in the Federation Council of Australia, August 1886.
- Elected to the First WA Parliament as the Member for Nelson, 28 November 1890.
- Appointed Speaker of the inaugural Legislative Assembly, 30 December 1890.
- Died 30 November 1903.



*Sir James Lee Steere*



### Exercise 8.3

As the first Speaker of the Legislative Assembly, having previously been the Speaker of the Legislative Council, Sir James Lee-Steere, would have been guided in his rulings by the traditions of :

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As you walk across the carpet towards the eastern wall, you will notice offices reserved for the Premier, Ministers, Chairman of Committees and Government Whips.

A post office is also located on this floor, and on the south wall, adjacent to the post office, there are photographs celebrating a number of 'firsts' for women parliamentarians in Western Australia. Some of the highlights of the resumes about each female parliamentarian are listed below.

**Edith Cowan (1861-1932):** In 1920 an Act of Parliament was passed which enabled women to be Members of either the Legislative Assembly or Legislative Council. Within 18 months Edith Cowan became the first woman in Australia to be elected to Parliament. Even before she won the West Perth seat at the State election in 1921, she helped to persuade the Government to allow women to serve on court juries. She was also partly responsible for the passage of the Women's Legal Status Act in 1923. This allowed women to enter law and other professions. Edith Cowan advocated better education for women and promoted the nursing profession. She was a leading member of the Committee that established the King Edward Memorial Hospital and a founding member of the Karrakatta Club. In 1919, after holding the presidency of that club she was made a life member. For her work during the First World War for the Red Cross and later for returned soldiers she was awarded the OBE. Today, the Edith Cowan University is a reminder of her contribution to learning.

**Mary Alice (May) Holman: (1893-1939)** was elected to the Western Australian Parliament in 1925. She was only the second woman elected to an Australian Parliament and Australia's first Labor women parliamentarian. She was elected unopposed to the seat of Forrest left vacant by the death of her father T.B. Holman. Prior to her election she was acting as secretary of the Timber Worker's Union and by the time of her tragic death in a road accident in April 1939 she had been re-elected five times making her the first woman to serve more than ten years in any Parliament in the British Commonwealth. Between 1933 and 1939 she was secretary of the Parliamentary Labor Party. A founder and life time driving force behind the Labor Women's Organisation she was appointed an alternate Australian delegate to the League of Nations in 1930 and she also served on the Board of Management of Perth Hospital. An accomplished musician she was for many years the youngest woman elected to an Australian Parliament.

**Dame Florence Cardell-Oliver: (1876-1965)** in 1949 became Australia's first woman Cabinet Minister when she was appointed Minister for Health, Supply and Shipping in the McLarty/Watts Liberal-Country Party coalition government. Previously appointed an Honorary Minister without portfolio in April 1947, she was given responsibility for the Supply and Shipping portfolios in January 1948 and she remained in Cabinet until the 1956 election. She was particularly concerned about the health of children and played a part in setting up a free milk scheme in schools. Born in Victoria, she went to London as a young woman and from there came to Western Australia with her husband in 1912. Over the years she played an active role in various women's organisations as well as travelling extensively

in Europe. After unsuccessfully contesting the federal seat of Fremantle against John Curtin in 1934 she was elected to the Legislative Assembly in Subiaco in 1936, holding the seat until her retirement in 1956. In 1951 she was awarded the honour of Dame Commander of the British Empire.

**Ruby Hutchison:** (1892-1974) was the first woman elected to the upper house of an Australian Parliament when she won a seat as a Member for the South Province in the Legislative Council in May 1954. When she married Fred Lavery MLC in May 1966, the couple became the first husband and wife to be members simultaneously of the same house of an Australian Parliament. Born in Victoria, Ruby was raised in the Western Australian goldfields and entered Parliament at the third attempt after raising and providing for seven children. Over the years she constantly agitated for the abolition of the Legislative Council or the reform of its voting system as well as being actively involved in a number of voluntary organisations, including her role as a founding member of the Australian Consumers' Association in Western Australia.

**Dr Carmen Lawrence:** (1918- ), was elected to the Legislative Assembly in 1986 as a Member for Subiaco and in 1989 for Glendalough. She was appointed Minister for Education in 1988 and in addition Aboriginal Affairs in 1989. In February 1990 she became the first woman Premier in Australia and remained in office until the defeat of her party at the 1993 election when she became the State's first woman Leader of the Opposition. She resigned from the Labor leadership and from State Parliament in February 1994 and was elected to the House of Representatives in March 1994 as Member for Fremantle. Her election shortly afterwards to the Keating Ministry made her only the third Western Australian (with Lord Forrest and Hon. Joseph Berinson) ever to serve in both Commonwealth and State Ministries. Carmen Lawrence retired from the House of Representatives at the 2007 Federal election.

**Margaret McAleer:** (1930-1999), who was first elected in 1974 as a Member for the Upper West Province, was the first woman to represent the Liberal Party in the Legislative Council. From 1980 until her retirement from politics in 1993 she was initially Government Whip and (from 1983) Opposition Whip in the Council. In 1989 her seat was merged into the larger Agricultural Region. As an active pastoralist and farmer she played a role in several community associations. Margaret McAleer was a member of the Select Committee that inquired into the controversial Mining Amendment Bill of the early 1980s. She was also a Member of the Joint Standing Committee on Delegated Legislation. Margaret McAleer was noted for the delivery of well researched, objective speeches.

### Exercise 8.4

If you were reading speeches from *Hansard* for the above mentioned women indicate which years you would examine the indexes of the volumes.

Edith Cowan \_\_\_\_\_

May Holman \_\_\_\_\_

Florence Cardell-Oliver \_\_\_\_\_

Ruby Hutchison \_\_\_\_\_

Carmen Lawrence \_\_\_\_\_

Margaret McAleer \_\_\_\_\_

Many more paintings hang on the walls of the passages that run north and south from the Lee Steer foyer. In the north passage, toward the public entrance to the Legislative Council there are more paintings donated by local governments and shires.

Above the Legislative Council entrance is a Royal Coat of Arms, which was placed there in 1964. This used to hang over the gable of the St George's Terrace building where the Legislative Council met from 1836 to 1870 and from 1890 to 1904.

The ante-room to the Legislative Council entrance has cabinets which display historical documents. There are two paintings of long serving Presidents of the Legislative Council, namely Hon. John Kirwin (President 1926-1944) and Hon. Clive Griffiths (President 1977-1997).

Sir John Kirwan was first elected to the Legislative Council in 1908 after having been a Member of the House of Representatives from 1901 to 1903. Kirwan was a journalist who rose to become an editor of several newspapers, including the *Kalgoorlie Miner*. He wrote many articles and periodicals including a work in 1932 titled *A Hundred Years of the Legislative Council in Western Australia*.

### Exercise 8.5

Mention two important changes, which John Kirwan would have discussed when comparing the Legislative Council of 1832, at its foundation, and one hundred years later.

(a) \_\_\_\_\_

(b) \_\_\_\_\_

In the Legislative Council the President's gallery includes an Honor Board which lists Members who served from 1870 to 1890, which was the representative government phase. Another Honor Board lists those members who served in Australia's armed services during times of conflict and war.

In the Westminster tradition, the Governor, on behalf of the Queen, opens Parliament. This ceremony always takes place in the Legislative Council.

The last time a British monarch, King Charles I, entered that country's Lower House (the House of Commons) it led to him being beheaded. This is why British monarchs, or their representatives (such as our State Governor,) never enter Lower Houses of Parliament that are modeled on the Westminster system. Moreover, the opening ceremony for each Parliament is always conducted in the Legislative Council as the 'upper house'.

Members of the Legislative Assembly also enter their chamber from the Lee Steered foyer, on the first floor.

In the entrance to the Legislative Assembly chamber, there are photographs of Sir John Forrest and subsequent Premiers. There are also displays of aspects of our parliamentary tradition. An Honour Board recognises Members of the Legislative Assembly who have served the nation in war and conflict.

On the same level, on the western, or Harvest Terrace, side is the Members Dining Room. There, Members discuss business with their colleagues and invited citizens, during their meal breaks.

One passage, on the western side, is decorated with photographs of previous Presidents of the Legislative Council. Nearby are the offices of the President and the Clerk of the Legislative Council and their support staff. Another arm of the passage features photographs of previous Speakers and houses the offices of the Speaker, the Clerk of the Legislative Assembly, the Deputy Clerk and support staff.

### **Exercise 8.6**

If you were the MLA for \_\_\_\_\_ (indicate your district), which two citizens from your district would you invite for lunch at the parliamentary dining room?

\_\_\_\_\_

If you are going to watch the Parliament at work, you may walk up the spiral staircase to the public gallery level. Across the foyer, now known as the Aboriginal People's Gallery, is the Aboriginal People's Meeting Room, which was opened by Governor John Sanderson in 2004. This was the previous location of the Parliamentary Library which was transferred to the Harvest Terrace (or western) side of the building.

In both passageways from the Aboriginal People's Gallery there are many more paintings and displays showing aspects of our State's history and Parliament's traditions.

Further down the passage towards the southern wing is the *Mansard* staff office area where the daily records of Parliamentary debates of each House are edited and produced as draft copies for Members to authorize as an accurate record of the day's proceedings.

### **The Public Galleries (the Second Floor)**

Except during the ceremony that marks the opening of Parliament, the public galleries are open to anyone to visit. There are certain rules and laws which apply to people watching Parliament at work. There are signs showing part of Act No.28 of 1913. It reads:

**ANY PERSON WHO ADVISEDLY DISTURBS EITHER HOUSE  
WHILE IN SESSION IS GUILTY OF A MISDEMEANOUR  
AND IS LIABLE TO IMPRISONMENT FOR THREE YEARS.**

Nowadays, there is an 'in-house' television recording of proceedings in both houses. However, visitors are not permitted to take photographs in the Parliament.

When Parliament is in session, a security guard is always on duty in the galleries to make sure that Parliament is not disturbed in carrying out its work.

## Traditions and Symbols

Much of the work of Parliament is conducted in accordance with procedures established by the British Parliament at the Palace of Westminster in London. Two important traditions surround the use of symbols known as the Black Rod and the Mace.

### The Usher of the Black Rod

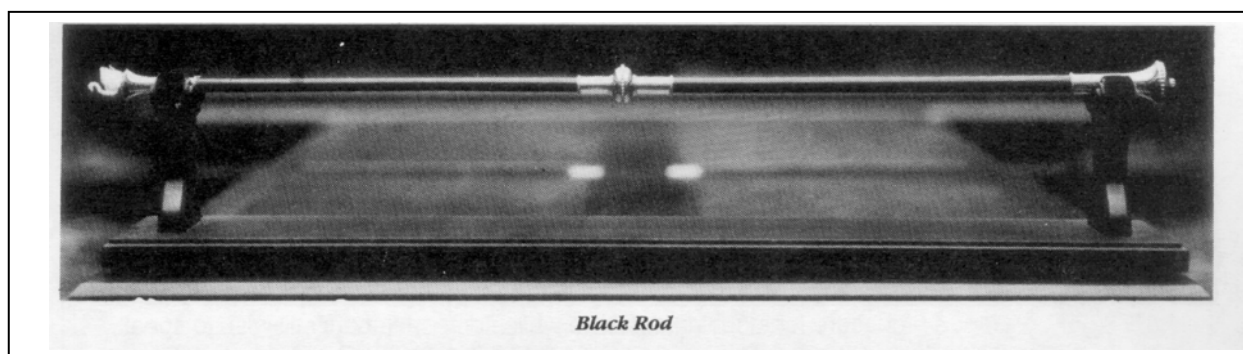
The Usher of the Black Rod (often referred to as 'Black Rod') is an officer of the Legislative Council. This position dates back to the House of Lords in the reign of King Henry VIII of England in the sixteenth century. Black Rod is, by tradition, responsible for the maintenance of order in the chamber, including arresting any member guilty of a breach of privilege.

Black Rod is the personal attendant upon the State Governor, and on the Governor's instructions, summons the Assembly and its Speaker to the Legislative Council to hear the Governor's speech at the opening of Parliament.

In this ceremony, Black Rod knocks three times on the closed door of the Legislative Assembly. After being admitted, Black Rod moves to the Bar of the House, bows and delivers a message ordering the Members to go to the Legislative Council chamber. The ceremony reminds us of the armed raid on the House of Commons in 1642 by King Charles I of England, who was trying to arrest five members for treason. As it disagreed with the King's action, the House of Commons has ever since maintained its right to freedom of speech and uninterrupted debate by closing its doors to the Crown's representative.

In the Western Australian Parliament, Black Rod is also the Deputy Clerk of the Legislative Council. This officer's administrative responsibilities include deputizing for the Clerk during the latter's absence. Black Rod also escorts the President into the Council Chamber at the beginning of each Sitting.

The symbol of the office of the Usher of the Black Rod is shown here:



The Black Rod now in use was specially designed for Western Australia by the Crown Jeweler and was presented to the House by a Member of the House ahead of Queen Elizabeth II's visit in 1954. During a sitting of the Legislative Council, the Black Rod is placed at the front of the table of the House and during Committee Stage it hangs from a hook to the left of and behind the President's chair.

### Exercise 8.7

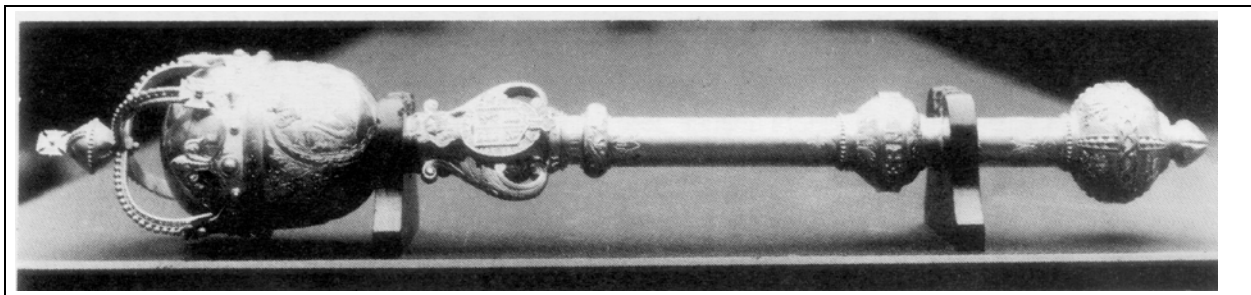
Look at the design of Black Rod.

What is the special Western Australian feature? \_\_\_\_\_

The Sergeant-at-Arms is responsible for carrying out the orders and directions of the Speaker of the Legislative Assembly. Every time the House sits, the Sergeant-at-Arms carries the ceremonial Mace ahead of the Speaker into the House. Traditionally, the Sergeant-at-Arms helped keep order in the House. Today, the Sergeant-at-Arms is primarily responsible for the ceremonial aspects of the House.

The Mace represents the clubs that were once carried into battle. In England during the reign of King Richard I (1157-1199), the Sergeants-at-Arms were given maces to protect the King and a mace came to be regarded as a symbol of the King's authority. Later, when Parliament was established, the Mace became the symbol of the Speaker and the authority of the House. When the Speaker is in the Chair, the Mace lies on the table of the House. During the Committee stage of a bill, the Mace is placed upon rests below the table of the House.

The Western Australian Mace was first used in the Legislative Council in 1887 and was moved to the Legislative Assembly when it was created in 1890.



*Mace*

## **Parliamentary Furnishings**

Following the tradition of the House of Lords in Britain, the Legislative Council Chamber, also being an Upper House, has red furnishings. The red carpet has a central coat of arms woven into it. The seats and fittings are also red.

The furnishings in the Legislative Assembly are blue. This is very rare in countries that follow the Westminster tradition. Lower House furnishings, like those of the House of Commons at Westminster and the House of Representatives in Canberra, are usually green. The reason for using blue is not clear. Only the lower house in British Columbia (Canada) and the Old Parliament in Northern Ireland have blue furnishings. As was mentioned in Chapter 4, there are similarities between the seating arrangements in both Houses. In the Legislative Council, there is a special, elevated seat for the President. In the Legislative Assembly there is a special elevated seat for the Speaker. In both Houses, the Government front benches, where Ministers sit, are to the right of this seat. To the left are the Opposition front benches, where the Shadow Cabinet sits. Behind both front benches are the backbenches for the other members of Parliament. Other features common to both Houses are the Table of the House, the Bar of the House and the Sand Glass.

## Table of the House

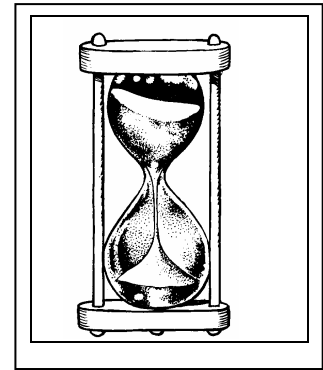
This is where documents presented to the Parliament are placed. When a paper is presented, it is recorded in the *Votes and Proceedings* (Legislative Assembly) and *Minutes* (Legislative Council) and tabled. Members of Parliament, the press or the public can then read the documents.

## Bar of the House

There is a brass rail across the entrance to each Chamber. Messages between the two Houses are carried across this bar. Persons can be summoned by the Parliament for a breach of privilege or to give evidence and appear at the Bar. Any citizen can be called before the Bar of the House, but this has rarely happened in Western Australia.

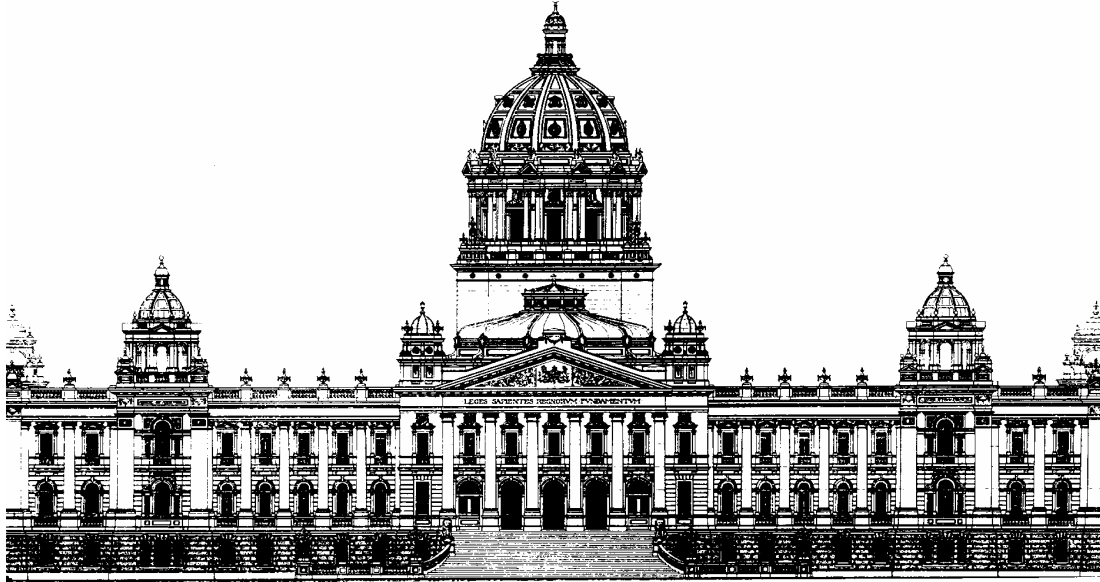
## The Sand Glass

Replicas of this old-fashioned means of counting time stand on the Tables in each House. When Members are to vote in a division, the bells are rung for two minutes to call them to the Chamber. The two minutes are measured by the sand glass. When the sand has run down, the doors are locked to avoid any interruption while the vote is taken.



## Challenge Exercise 8

After both the Legislative Assembly and the Legislative Council passed motions supporting the choice of the present site in Harvest Terrace, it was decided to conduct a competition throughout Australia for a suitable design. However, the cost was not to exceed 100 000 pounds (\$200 000). There were 17 entries, but they were all disqualified because each design was beyond the cost limit.



*One proposal for the Houses of Parliament, Western Australia, 1902*

There have been many calls, including a recommendation from the Commission of Government (COG) in 1996, to upgrade or even rebuild Western Australia's Parliament. If you were an architect what considerations would be different in your plans now as compared with 1902?

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_
- (e) \_\_\_\_\_
- (f) \_\_\_\_\_
- (g) \_\_\_\_\_
- (h) \_\_\_\_\_
- (i) \_\_\_\_\_
- (j) \_\_\_\_\_



## Terms 8.0

<b>‘A’ Class Reserve:</b>	land for which the purpose can only be altered by ministerial approval and parliamentary endorsement. <i>The Land Administration Act 1997</i> contains the legislation for ‘A’ Class Reserves.
<b>Barracks:</b>	a building or group of buildings for soldiers to live in.
<b>Chandelier:</b>	a feature with branches for electric lights or candles, usually hanging from the ceiling.
<b>Coat of Arms:</b>	a shield decorated with pictorial designs and used by noble families and, sometimes, by governments.
<b>Dome:</b>	a hemispherical (half of a sphere) roof.
<b>Facade:</b>	the outside front of a building.
<b>Foyer:</b>	an entrance hall, especially in a large building.
<b>Mosaic:</b>	small pieces of stone, glass, or wood of different colors, inlaid to form a picture or design.
<b>Motif:</b>	a distinctive figure or design.
<b>Plaque:</b>	an ornamental tablet, often of metal or porcelain, intended to be hung as a wall decoration.

## 9. Elections and Referendums

The parliamentary system we have been discussing is often called ‘representative democracy’. This means that citizens elect people to represent them in Parliament. Most people aged eighteen or over are allowed (and obligated) to vote.

In practice, elections in Western Australia are held when the Premier suggests an election date to the Governor. This happens because the Legislative Assembly (unlike the Legislative Council) does not have a fixed term. The choice of the date for an election is made mainly by the Premier. In Western Australia the tradition has been for the Parliament to mostly run its full term, although that was not the case for the 2008 General Election. Since 1987, the maximum term for members of both the Legislative Assembly and Legislative Council has been set at four years.

### **The Secret Ballot**

Since 1877 voting in general elections in Western Australia has been conducted by secret ballot. The Australian colonies led the world in the adoption of the secret ballot so that it became known as the Australian ballot. This enabled electors to cast their votes in total privacy and with adequate safeguards against personal identification of ballot papers.

#### **Exercise 9.1**

Give one main reason why you think the secret ballot was introduced in Western Australia.

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### **First past the Post**

When elections were first held in Western Australia under responsible government, the form of voting, by secret ballot, was according to the simple plurality system. This is commonly known as the first-past-the-post method. This method is still used in such countries as the United Kingdom, the United States of America and Canada. In 1995 the Local Government Act in Western Australia made the simple plurality (or first-past-the-post) method the voting system for local government elections. In 2007 preference voting was reintroduced for single member wards, including mayoral contests. For multi-member wards proportional representation was introduced for the first time in local government. However, in 2009 legislation was passed to revert to simple plurality for both single member and multi-member wards.

In first-past-the-post voting the candidate with the most votes wins the contest. As it is very simple, it is often used to elect captains of sporting teams and other leaders of small groups. For example, if 24 students (including yourself) take part in a vote for class captain by placing an X beside their choice, who is the winner with the following voting pattern?

Glens Brown	8 votes	Anne Richards	9 votes
Martin Light	7 votes		

Yes! Anne Richards is captain, although 15 members of the class, over half, did not vote for her.

In Parliamentary election contests, if there are three or more candidates, it is possible with simple plurality to gain a seat without gaining at least half of the votes. An example is provided below from the 1904 State election for the Legislative Assembly seat of Greenbush, near Gerald ton. Before asking you to declare the winner it should be remembered that for the first ten to fifteen years after responsible (self) government was gained in 1890 the main political parties had not been formed or did not contest every election. In those days the order of the candidates on the ballot paper was according to alphabetical order. It was not compulsory for citizens to enroll to vote, nor was it compulsory to vote. Yes! Even when electors only had to mark a ballot paper with an X to indicate their choice of candidate some informal votes were still recorded. An informal vote is a ballot paper which is not counted because it has not been filled in correctly.

## Exercise 9.2

Greenough: Legislative Assembly-30 May 1904

Candidates	Votes	Percentage (%)
Mitchell, Samuel (Independent)	181	21.94
Nanson, John Leighton (Ministerialist)	289	35.03
Penneyfather, Richard William (Independent)	144	17.45
Stone, Patrick (Independent)	211	25.58
	825	
Informal	15	1.79
Total Enrolment	1350	
Turnout	830	62.15

- a) Which candidate won the seat of Greenough in 1904? \_\_\_\_\_
- b) What was the plurality, that is, by how many votes, did the winner receive ahead of the second candidate? \_\_\_\_\_  
(Hint. It's between 70 and 80).

## The Adoption of Preference Voting

In 1907, as part of a comprehensive consolidation of the Electoral Act, a new voting system was introduced for parliamentary elections. For both the Legislative Assembly and Legislative Council ballots marked with a single X would still be valid but preferential voting in which voters marked the ballot paper with numbers in order of preference was introduced. In 1911 it was made compulsory to give a full expression of preferences. This meant that plurality (or first-past-the-post) voting had been abolished. It was now necessary for a candidate to gain an absolute majority of votes to be elected. An absolute majority is half or 50 per cent of the valid votes, plus one more vote. If there were 80 valid votes in an election count, the absolute majority would be 41 (50 per cent of the 80 votes plus one).

In the preference vote system (sometimes also called the alternative vote), instead of showing a cross for the candidate on his or her first choice, an elector ranks the candidates on the ballot paper in order of preference. The candidate whom the elector prefers is ranked first. The elector's second choice is ranked next and so on until the least preferred candidate is ranked last. This is done by placing the numerals 1, 2, 3 and so on opposite the names of the candidates.

To explain how the vote is counted under the preference vote system, let us again look at the contest for classroom captain. Imagine that nobody changes their first preference. The totals would read:

Glenys Brown	8 votes (first preferences)
Martin Light	7 votes (first preferences)
Anne Richards	9 votes (first preferences)

As none of the candidates had achieved an absolute majority (one-half of 24 plus 1 = 13), this meant that the candidate with the lowest number of first preference votes (Martin Light) was withdrawn from the contest. Martin Light's ballot papers were then looked at again. As five of his second preferences went to Glenys Brown and two preferences to Anne Richards, the final total read as:

Glenys Brown (8 first preferences plus 5 second preferences)	= 13
Anne Richards (9 first preferences plus 2 second preferences)	= 11
	<hr/>
	24

Glenys Brown would be declared the class captain as she had gained an absolute majority. However, she would not have won the contest with the first past the post (or plurality system).

The details of the count below show how David Brand, who was Premier of Western Australia between 1959 and 1971, was first elected to the Legislative Assembly in a by-election in 1945. The by-election took place when the seat became vacant because the sitting member John Verdum Newton had been reported as missing action at war. David Brand, who was behind on the first count, was elected after the distribution of preferences.

### Exercise 9.3

Greenough By-election: Legislative Assembly, 27 September 1945

Candidate	First Count	(%)	Second Count	(%)
Brand, David (Lib*)	1227	34.05	1956	54.27
Horwood, Francis Joel (CP**)	869	24.11		
Newton, Edward Cecil (ALP ***)	1508	41.84	1648	45.73
Total valid	3604			
Informal	37	3.64		
Turnout	3641	76.88		
Enrolment	4736			

\* Liberal and Country League

\*\* CP- Country Party

\*\*\* ALP- Australian Labor Party

- What was the absolute majority necessary to win the seat of Greenough? \_\_\_\_\_
- Which candidate led after the first count? \_\_\_\_\_
- What was the turnout percentage? \_\_\_\_\_
- What was the informal vote percentage? \_\_\_\_\_

The preference (alternative vote) continues to be used for Legislative Assembly elections. In recent years there has been much discussion about whether electors should be required to indicate preferences for all candidates on the ballot paper for each Legislative Assembly district contest. Many believe that electors should have the *option* of showing their preferences for the candidates on the ballot paper.

### Proportional Representation-The Legislative Council

A system of voting known as proportional representation (frequently called 'PR' for short) has been used in the Australian Senate since 1949. In 1987 proportional representation was introduced for the Legislative Council elections. It is also used for upper house elections in most Australian States. Forms of proportional representation are common for many European assemblies.

Although the workings of PR are quite complicated, the main idea is very simple. If a party or candidate receives 40 per cent of the vote, the proportional representation idea is that the party or candidate will receive 40 per cent of the seats.

Before learning more about the working of proportional representation, you need to realise that PR can only work in electorates (or regions) with two or more members. If there was only one seat in an electorate, it could not be divided between the parties.

To be elected to the Legislative Council, it is necessary for a candidate to achieve a quota. This is the number of valid votes necessary to elect an MLC.

The quota is calculated by dividing the total number of formal ballot papers by one more than the number of candidates to be elected and adding 1 to the result. It may sound complicated but it is very simple when expressed as a formula as follows:

$$\text{Quota} = \frac{\text{Total number of formal ballot papers}}{\text{Number of candidates to be elected}} + 1$$

An example of how to work out a quota is shown by referring to the Legislative Council election (in 2008). In the East Metropolitan Region, which had six members in that election and 275 729 formal votes, the figures read as follows:

$$\text{Quota} = \frac{275\,729 + 1}{6 + 1} = 39\,390$$

To be elected in the East Metropolitan Region a candidate had to receive a quota of 39,390 either in first preference votes or after the lengthy distribution of preferences.

### Exercise 9.4

These are the voting figures for the Regions for the 2008 Legislative Council.

Calculate the quotas for the North Metropolitan Region and the South West Region.

<b>Metropolitan Region</b>	<b>Formal Votes</b>	<b>Seats</b>	<b>Quota</b>
-East Metropolitan (as above)	276,591	6	39,514
-South Metropolitan	280,582	6	40,084
-North Metropolitan	280,235	6	?
<b>Country</b>			
-Agricultural Region	73,022	6	10,432
-Mining and Pastoral	54,409	6	7,773
-South West Region	153,999	6	?

### The Ballot Paper (Legislative Council)

The ballot paper for Legislative Council elections permits voters to indicate their preferences for all of the candidates by numbering each square on the ballot paper. On the other hand electors may choose to indicate their preference schedule by placing the numeral 1 or a tick in the box beside the party of the candidate of their choice. Parties register their preference schedule with the Western Australian Electoral Commission. This is commonly known as *ticket voting*. As with voting for the Australian Senate most electors use the ticket voting methods. One of the recommendations of the Commission of Government (1996) was that ticket voting not be permitted.

### Exercise 9.5

In the 2008 Legislative Council election, the percentages of voters who used the ticket voting method were as follows:

<b>REGIONS</b>		<b>REGIONS</b>	
<b>Metropolitan</b>	<b>% Ticket Voting</b>	<b>Rural</b>	<b>% Ticket Voting</b>
East	95.89	Agricultural	95.31
South	96.13	Mining and Pastoral	95.61
North	96.50	South West	96.03

- a) Why do you think the Commission on Government (1996) recommended that ticket voting not be permitted?

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It should be noted that the Commission on Government also recommended for Legislative Council elections the introduction of what is known as Robson Rotation. This system involves the rotation of candidate's positions on the ballot paper to prevent the political parties from deciding the order of election of party candidates and to minimise the effect of the 'donkey' vote. At regular intervals in the printing process, the candidate at the top of the ballot paper is moved to the bottom and the next candidate moves up to the top. This is repeated so all candidates have a turn at the top.

## **Parliament's Seats and Electoral Boundaries**

As indicated the Legislative Assembly and Legislative Council have different voting systems. For electoral purposes the Legislative Assembly (with preference voting) is divided into single member districts while the Legislative Council (with proportional representation) has the State divided into a number of multi-member regions. Since 'responsible government' in 1890 there have been a number of changes in the number of seats as well as the districts (provinces) and regions for each House. The Commission on Government (1996) recommended that the Legislative Assembly be increased from 57 seats to 61 seats while the Legislative Council should be changed from six regions returning 34 members to five regions each returning seven members. Further institutional changes were made in 2005 when it was determined that from 2009, the membership of the Legislative Assembly was to be 59 while the Legislative Council was to increase to 36 members with six regions each receiving six members. A historical sketch of the changes in the number of seats reads as follows:

### **1890**

Legislative Assembly divided in to 30 electoral districts each represented by one member.  
Legislative Council divided in to 15 seats nominated by the Governor.

### **1893**

Legislative Assembly increased to 33 seats.  
Legislative Council increased to 21 seats to be elected with three from each seven provinces, one to retire every two years.

### **1896**

Legislative Assembly enlarged to 44 seats.  
Legislative Council enlarged to 24 members, with 3 members elected from 8 provinces.

### **1899**

Legislative Assembly enlarged to 50 members.  
Legislative Council was enlarged to 30 members and rezoned into ten provinces with three members each.

### **1963-1964**

Legislative Council was changed from ten provinces electing three members to 15 provinces electing two members each.

### **1965**

Legislative Assembly was enlarged from 50 to 51 members.

### **1975**

Legislative Assembly was enlarged to 55 seats.  
Legislative Council included one extra metropolitan province to make a Council of 32 members.



## 1981

Legislative Assembly was enlarged to 57 seats.

## 1987

Six multi-member regional electorates, with a total of 34 seats, were established for the Legislative Council. For the metropolitan area, defined by the Metropolitan Region Scheme Boundary, 17 seats were provided. For the Country Regions 17 seats were also created.

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

The metropolitan area was defined by the Metropolitan Region Scheme Boundary.

## 2005

Legislative Assembly was enlarged from 57 to 59 seats.

Legislative Council was enlarged from 34 to 36 seats. Each region was to have six seats.

Both the metropolitan regions and country regions were to have a total of 18 seats.

### Exercise 9.6

- a) Indicate the increase of single member districts in the Legislative Assembly from 1890 until 2008?

From \_\_\_\_\_ seats, to \_\_\_\_\_ seats.

- b) Indicate the increase in the number of seats from all provinces or regions in the Legislative Council from 1890 until 2009?

From \_\_\_\_\_ seats, to \_\_\_\_\_ seats.

## Electoral Boundaries

The task of drawing electoral boundaries is undertaken by three Electoral Distribution Commissioners. According to the legislation from 2008 the Commission shall be:

- A person who is or has been a judge of the Supreme Court of Western Australia
- The Electoral Commissioner.
- The Government Statistician.

The legislation for drawing electoral boundaries has been keenly debated for several decades. The Supreme Court of Western Australia and the High Court of Australia have also heard cases about electoral law matters in Western Australia. In the debate concerning the drawing of boundaries, which the Commission on Government also addressed, the following factors are usually considered for districts and regions:

- the number of enrolled electors (or the resident population)
- trends of population growth
- the community of interest
- means of communication and distance from the capital
- geographical features
- existing boundaries of regions and districts, including local government boundaries

### **Exercise 9.7**

- a) Specify your Legislative Assembly district. \_\_\_\_\_
- b) Specify your Legislative Council region. \_\_\_\_\_

*(See Challenge Exercise 9)*

## **Compulsory Voting**

It has been said that compulsory voting enables more complicated voting methods to be used. If people did not have to vote, many citizens would perhaps not vote unless the methods of voting were made easier. Indeed it is possible that less people would vote if attending the polling booth was voluntary. Visitors to Australia are often very surprised by compulsory voting laws.

Compulsory voting was introduced in Australia in 1914 at the State level in Queensland. Ten years later the Commonwealth Parliament passed a compulsory voting law. Western Australian did not have compulsory for Legislative Assembly elections until the 1939 general election. Not until 1964 was voting made compulsory for Legislative Council elections. Failure to have one's name crossed off the list of voters without having a 'reasonable' excuse could lead to a person being fined. Of course, it has to be remembered that because of secret voting, voting formally (or properly) cannot be forced on people. No one really knows how a person votes, except the voter.

Some of the main arguments for compulsory voting include:

- Parliament reflects more accurately 'the will of the people'.
- Governments must consider the total electorate when determining policies.
- Requiring people to vote makes them think about their vote.
- Voting is a civic duty like jury service, paying taxes and going to school.
- Candidates can concentrate their campaigns on issues rather than encouraging voters to attend the poll.

Some of the main arguments against compulsory voting include:

- It is undemocratic to force people to vote.
- The ignorant and those with little interest, and perhaps little knowledge, are forced to vote.
- It increases the number of 'safe seats'.
- Expenditures are required to determine whether those who have failed to vote had 'valid' reasons for not voting.
- It increases the informal vote and the likelihood of 'donkey' voting.

### Exercise 9.8

It is not compulsory to vote in local government elections in Western Australia. Provide one reason to either support or reject compulsory voting in local government elections.

a) Support: \_\_\_\_\_

b) Rejection: \_\_\_\_\_

### Donkey Voting

Some people think that compulsory voting increases the 'donkey vote. When a person votes either straight up or straight down the ballot paper, without consideration of the merits of each candidate or their policies it is known as 'donkey voting'. For example

Candidate	'Donkey' Vote Model	Considered Vote Model
Peter Brown	1	5
Alan White	2	2
Michelle Green	3	4
Harry Black	4	1
Margaret Grey	5	3

It is difficult to accurately measure the 'donkey' vote because the 'donkey' vote model (shown above) may actually be the considered voting pattern for some electors. Nevertheless it is widely considered to be an advantage to be placed at the top of a ballot paper to obtain the benefit of the 'donkey' vote. Although the term 'donkey vote' evokes amusement it's hoped there are very few 'donkey' voters. It has to be remembered that a 'donkey vote' is still a valid vote and is counted.

As mentioned if ballot papers are incorrectly filled in (or spoilt in some way) so they cannot be included in the count, they are called *informal* (or invalid) votes. They are not 'donkey votes'.

In Western Australia, candidates on the ballot paper for both Legislative Assembly and Legislative Council elections were, until 1971, listed in alphabetical order. Nowadays the order of candidates on the green shaded Legislative Assembly ballot paper are drawn by lot (a number for the candidate is drawn from a barrel). For the Legislative Council ballot paper, which is shaded pink, the listing of the party groupings are also drawn by lot.

### Election Day (Saturday)

In Western Australia, as for Commonwealth and other State elections and local government, elections are held on a Saturday with the voting hours usually being between 8.00 a.m. and 6.00 p.m. In the United Kingdom general elections are held on Thursday, in Canada such elections are held on Monday whereas in the United States of America elections are conducted on the first Tuesday in November.

## Exercise 9.9

Why do you think elections in Australia for Local, State and Federal Elections are always conducted on Saturdays?

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## Ways of Voting On Election Day

### *(i) An ordinary vote*

Most electors, go to a polling place in their district and vote for candidates in their Legislative Assembly district and Legislative Council Region.

### *(ii) An absent vote*

If an elector is temporarily out of his or her electoral district on election day it is still possible to vote at any polling place in Western Australia. However, as the elector's name will not be on the roll for that district, he or she will be asked to sign a declaration by stating their name and residential address, before being given the ballot papers.

### *(iii) A provisional vote*

On rare occasions an elector may go to their polling station in their District and find their name does not appear on the electoral roll. In this case an elector may make a 'provisional vote'. Later the electoral officials will check if an error has occurred.

## Ways of Voting Before Election Day

Electors who are unable to attend a polling place on Election Day can apply for an Early Vote and lodge their vote before Election Day. Although most electors will vote on polling day at a close or convenient polling place an elector is entitled to apply for an Early Vote if the elector lives more than 20kms by the shortest practicable route from the nearest polling place. An Early Vote can also be applied for where an elector cannot or is precluded from attending to vote at a polling place because of:

- emergency duty or employment;
- membership of a religious order or beliefs which precludes attendance at a polling place or voting on polling day;
- serious illness or infirmity;
- caring for someone with a serious illness or infirmity.
- approaching maternity;
- travelling;
- serving a sentence of imprisonment or in lawful custody or detention; or
- enrolment as a silent voter.

After an election has been announced application forms can be obtained from Post Offices; the Western Australian Electoral Commission; Australian Electoral Commission offices; Country Court Houses and Local courts at Armadale, Fremantle, Joondalup, Midland and Rockingham. It is also possible to download an Application for an Early Vote from the Western Australian Electoral Commission website which is: [www.waec.wa.gov.au](http://www.waec.wa.gov.au)

Application forms must be completed and returned to the Western Australian Electoral Commission before 6.00 p.m. on the Thursday immediately preceding Election Day. Ballot papers will then be posted to the elector for completion. These must be mailed, postmarked prior to 6.00 p.m. on Election Day and be received by the Western Australian Electoral Commission before 9.00 a.m. on the following Thursday.

You can apply to vote in person before election day at any of the Electoral Commission offices or Court Houses. This will enable you to complete ballot papers immediately at that venue. Applications in person must be made before 6.00 p.m. on the last Friday before election day.

## Compulsory Enrolment

It is compulsory to enrol and vote for all State and Commonwealth elections in Australia, but before you can vote you must place your name on the electoral roll. Enrolment forms can be obtained from:

- the Western Australian Electoral Commission;
- all Post Offices;
- the electorate offices of Members of Parliament;
- offices of the Australian Electoral Commission;
- or downloaded from the Electoral Commission website [www.waec.wa.gov.au](http://www.waec.wa.gov.au) (see sample on page 112).

You are eligible to enrol as an elector for the Legislative Assembly and Legislative Council if you are 17 years of age or older (but you will have to be 18 years of age before you can vote);

- you are an Australian citizen; and
- you have lived at your present address for at least the last month.

If citizens change their address they are required to change their enrolment within 21 days. A failure to enrol or change enrolment as required can mean a citizen is liable for a maximum fine of fifty dollars (\$50).

### Exercise 9.10

After you have received confirmation of your electoral enrolment indicate two political or civic education matters you would like to learn more about concerning elections and politics.

- a) \_\_\_\_\_  
\_\_\_\_\_
- b) \_\_\_\_\_  
\_\_\_\_\_

## By-Elections

Your enrolment needs to be correct for general elections at either the State, Commonwealth or local government level of government. However, occasionally by-elections may be called when a member resigns or dies. Moreover, a referendum may be conducted. For State Parliament a by-election may be called for a vacant Legislative Assembly district seat. However, if a vacancy occurs in the Legislative Council the seat is filled by a formula which usually means that the seat falls to the candidate who was next on the party group ticket at the

previous election. This means it is very unlikely that by-elections will occur for the Legislative Council. Invariably the turnout for by-elections is lower than for general elections.

### Exercise 9.11

Suggest two reasons why the turnout for by-elections may be lower than for general elections.

- a) \_\_\_\_\_
- b) \_\_\_\_\_

## Referendums

As indicated in Chapter 2 electors are sometimes required to vote in national referendums on proposed constitutional changes. In the Western Australian constitutional documents there is a requirement since 1978 for a referendum if there is a proposal to abolish the Office of Governor and to abolish or reduce the numbers of the Legislative Assembly or Legislative Council. To date, no such proposals have been considered by the Parliament. However, there have been four referendums on daylight saving. This has been a divisive issue in Western Australian politics. Each Daylight Saving Act has provided for a trial daylight saving period during the summer months to be followed by a referendum. Voters were to either vote yes or no for daylight saving. The results of the referendums in 1975, 1983, 1992 and 2009 are shown below:

1975			1983			1992			2009		
Total WA votes			Total WA votes			Total WA votes			Total WA votes		
<b>Yes</b>	250 644	46.34%	<b>Yes</b>	329 536	45.65%	<b>Yes</b>	399 441	48.86%	<b>Yes</b>	519 899	45.44%
<b>No</b>	290 179	53.66%	<b>No</b>	392 340	54.35%	<b>No</b>	452 985	53.14%	<b>No</b>	624 304	54.56%
<b>Total</b>	540 823		<b>Total</b>	721 876		<b>Total</b>	852 426		<b>Total</b>	1,144,203	
Metropolitan votes			Metropolitan votes			Metropolitan votes			Metropolitan votes		
<b>Yes</b>	174 855	51.38%	<b>Yes</b>	251 855	50.80%	<b>Yes</b>	332 691	52.90%	<b>Yes</b>	434 143	50.60%
<b>No</b>	165 488	48.62%	<b>No</b>	243 878	49.20%	<b>No</b>	295 971	47.08%	<b>No</b>	423 785	49.40%
<b>Total</b>	340 343		<b>Total</b>	495 733		<b>Total</b>	628 662		<b>Total</b>	857 928	
Country votes			Country votes			Country votes			Country votes		
<b>Yes</b>	75 789	37.80%	<b>Yes</b>	77 681	34.35%	<b>Yes</b>	66 750	29.83%	<b>Yes</b>	85 756	29.96%
<b>No</b>	124 691	62.30%	<b>No</b>	148 462	64.65%	<b>No</b>	157 014	70.17%	<b>No</b>	200 519	70.04%
<b>Total</b>	200 480		<b>Total</b>	226 143		<b>Total</b>	223 764		<b>Total</b>	286 275	

### Exercise 9.12

**Members of Parliament take a great deal of notice of referendum results and public opinion polls.**

- a) Was support for daylight saving stronger in the metropolitan or country areas? \_\_\_\_\_
- b) Which members, metropolitan or country, are more likely to support daylight saving? \_\_\_\_\_

## Exercise 9.13

### Question: Daylight Saving?

Should daylight saving be law in Western Australia?

A framework to help you make your case is presented below. Governments, Opposition parties and pressure groups have to carefully consider the main arguments.

Mention two values to be considered (e.g. health)

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### Options

FOR	Don't have daylight saving (summer months)	Have daylight saving (summer months)	Have daylight saving South of Tropic of Capricorn
	(i)		
	(ii)		
	(iii)		

### Options

AGAINST	Don't have daylight saving (summer months)	Have daylight saving (summer months)	Have daylight saving South of Tropic of Capricorn
	(i)		
	(ii)		
	(iii)		

Decisions	
Review of Decision	

## Challenge Exercise 9

### Electoral Boundaries

Using the Western Australian Electoral Commission Website ([www.waec.wa.gov.au](http://www.waec.wa.gov.au)) attempt to locate your electoral district and electoral region. Access the *Profiles* link for some of the information.

As the electoral legislation provides for a redistribution of boundaries after every general election, according to a prescribed timetable, which allows for public consultation, citizens should be aware of periodic boundary changes.

- a) What is the length and breadth of your electoral **district** in kilometres?

[use the map and the Kilometre scale in the legend to help you]

Length \_\_\_\_\_ Breadth (wide) \_\_\_\_\_

- b) What is the area of your electoral **district**? \_\_\_\_\_

- c) What are the main suburbs in your electoral

**district** (or what is your main local government body)? \_\_\_\_\_

- d) Indicate the number of electors on the **district roll** \_\_\_\_\_

- e) Find the *Technical Descriptions* of your district or any other. What term is used when a boundary divides one side of a street from the other side? \_\_\_\_\_

- f) Name the districts (ie. Single member electorates in your **region**).

_____	_____
_____	_____
_____	_____
_____	_____

- g) Which local government authority (authorities) are contained in your electoral **district**?

_____	_____
_____	_____

- h) Name two geographic features of your electoral district (such as roads and rivers).

_____	_____
-------	-------

- i) Comment upon whether you consider your electoral district to be a community of interest with its own schools, town hall, civic, cultural and sporting activities?

_____
_____





# Electoral enrolment form

Commonwealth of Australia and Western Australia



## How do I fill in the form?

These notes will help you fill in your enrolment form.

**PLEASE COMPLETE THE FORM USING BLOCK LETTERS AND BLUE OR BLACK INK**

Please give full details to show exactly where you live. If you live in a rural area please give sufficient information to identify your residence, eg. Lot/Location No. and Shire or Local Government Authority.

If your postal address is the same as your residential address, print 'as above'.

Answer YES or NO. Are you an Australian citizen?

If you have changed any part of your name since your last enrolment, show here the full name you previously used.

Fill this in only if you have moved since your last enrolment.

Please check the section "Am I eligible to enrol?" before you sign this declaration. You must sign this declaration in front of a person who is eligible to be on the Commonwealth of Australia or Western Australian electoral roll.

This form must be witnessed by a person who is eligible to be on the Commonwealth of Australia or Western Australian electoral roll and can sign their name in writing.

Authorisation to collect the information sought on this form is contained in the *Commonwealth Electoral Act 1918*.

New SD	RVI (F/S)	NIN
New Cats	Ack (Y/N)	Date Received

WA

COMMONWEALTH OF AUSTRALIA WESTERN AUSTRALIA

1 Title (Mr, Ms, Mrs, Miss, Dr etc.)

Surname / family name

Given names

2 Residential address

Shire Postcode

3 Daytime phone number for contact (if convenient)

4 Postal address

Postcode

5 Occupation

6 Male ☐ Female ☐ 7 Date of birth Day Month Year

8 Place of birth Town Country

9 Are you an Australian citizen? No ☐ Yes ☐

If you are an Australian citizen by naturalisation, please supply the following details:

Date of naturalisation Day Month Year

Citizenship Certificate No.

10 Former surname / family name

Former given names

11 Former enrolled address

Postcode

## DECLARATION

I am eligible to enrol for Federal and Western Australian elections. I declare that all the information I have given on this form is true and complete.

Signature or mark of applicant

Day Month Year

## WITNESS

I saw the applicant sign this form. I am satisfied that all statements in it are true.

Signature of witness

Name BLOCK LETTERS

Address

© Commonwealth of Australia 2001

ER016(WA)www - 01/01

Print your form, complete it and return it in an envelope (no postage required) addressed to:

REPLY PAID 1098 - PERTH  
AUSTRALIAN ELECTORAL COMMISSION  
GPO BOX 9867  
PERTH WA 6848

\* Note this form has been updated. It is now longer than one page. See website [www.waec.wa.gov.au](http://www.waec.wa.gov.au)

## Terms 9.0

<b>Candidate:</b>	from the Latin <i>candidus</i> , which means 'white'. In ancient Rome, citizens who wanted to be elected dressed in white.
<b>Cliff-hanger:</b>	an electoral result that is so close that the result is not certain until the end of the count.
<b>Constituent:</b>	someone who votes, or lives in an electorate district or region.
<b>Election:</b>	from the Latin <i>electus</i> , which means 'choosing' or 'selection'. Note that by-election is an election held between general elections to fill a seat left vacant because a member has died or resigned. By-elections only take place for Legislative Assembly elections. Vacancies in the Legislative Council are normally filled by reference to the election results from the most recent Legislative Council election.
<b>Gerrymander:</b>	The drawing of boundaries of electoral districts in a way which gives one political party or group an unfair advantage in elections by maximising its potential vote. The word dates back to 1812 when Governor Gerry, from the American State of Massachusetts, unfairly drew boundaries to the advantage of his party group. It was said the boundaries looked like a salamander. Hence <i>gerry</i> was linked to <i>mander</i> to become gerrymander.
<b>Large district allowance:</b>	If a Legislative Assembly district has an area of 100,000 square kilometers or more, the number of electors is to be supplemented by a 'large district allowance', calculated by multiplying the geographic area by 1.5 per cent. This allows the final number to be within a range of 20% less or 10% greater than the average district enrolment.
<b>Malapportionment:</b>	is any variation in the drawing of electoral districts from the principle of one-vote one value. The most obvious form of malapportionment in Western Australia is a favourable rural weighting as against urban votes in the Legislative Council.
<b>Informal vote:</b>	a vote that cannot be allowed in the count because the ballot paper has not been filled in properly. Sometimes known as a spoiled or invalid vote.(Instructions are always printed at the top of each ballot paper.)
<b>Vote:</b>	comes from the Latin <i>vovere</i> , meaning a 'vow'. Before you are able to vote in an election, you have to indicate that you have not previously voted in the same election.
<b>The Writ:</b>	a document, usually issued by the Governor commanding an electoral office to hold an election. It also contains dates for the closing of the rolls, the closing of nominations, the polling and return of the writ.

## 10. Political Parties and Party Leaders

If you read Western Australia's constitutional documents, and the rules of parliamentary debate set out in the Standing Orders, it is doubtful that you would fully understand the importance of political parties in our parliamentary system.

On the other hand, when you read newspapers and listen to the radio or watch television about Parliament, much of the news is about political parties and their leaders.

### **A political party**

A political party is a group of people with similar ideas or aims. Some of its members try to be elected to Parliament in the hope that they will be able to form the government.

There are many definitions of a political party. However, it is the aim of gaining representation in the Parliament and becoming the government, which are the special features of political parties.

In order to achieve the goal of becoming government and staying in power, political parties need the loyalty and support of their members.

Party loyalty is an important influence on Members of Parliament in Western Australia. This means that we can usually predict how members are going to vote when bills are being debated and motions moved in either House.

### **Exercise 10.1**

Imagine you are considering the formation of a new political party which will advocate policies which you favour.

(a) Propose a name for the political party\* \_\_\_\_\_

(b) List three policies for the new political party

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(\*New political parties register their names with the Western Australian Electoral Commission)

### **What political parties do?**

- Political parties draw together people with similar viewpoints. People in groups can seek common causes.
- Political parties help organise the decision making activities of government. These include managing much of the business of Parliament.
- Political parties may try to educate voters about politics in general and make them more informed about public affairs.
- Political parties may help citizens and young people to form their own opinions and may give guidance on new or difficult matters.
- Political parties encourage people to join their organisations and train members in leadership skills.

- Political parties choose candidates for elections. At election time they distribute pamphlets, advertise in the media and visit voters to persuade them to vote for their candidates. At polling booths, they hand out how-to-vote cards to the voters.

## Party organisation

Sometimes it is difficult to understand how political parties are organised. Only a small percentage of adults join political parties. However, political parties are similar in some ways to associations (or sporting clubs).

Each political party, like an association (or club), has a constitution and written rules for its members. Leaders are elected and some secretarial and research workers are appointed.

### Exercise 10.2

Name a 'major' party in Western Australia \_\_\_\_\_

Does the party have the following?	Yes	No
A constitution	_____	_____
Elected leaders (e.g. President, Secretary, Treasurer)	_____	_____
Permanent officials (e.g. manager, secretary)	_____	_____
An address/telephone/fax/e-mail	_____	_____

List two main aims/policies of the 'major' political party (see party websites)

\_\_\_\_\_  
\_\_\_\_\_

### Exercise 10.3

Name a registered 'minor' party in Western Australia \_\_\_\_\_

Does the party have the following?	Yes	No
A constitution	_____	_____
Elected leaders (e.g. President, Secretary, Treasurer)	_____	_____
Permanent officials (e.g. manager, secretary)	_____	_____
An address/telephone/fax/e-mail	_____	_____

List two main aims/policies of the 'minor' political party (see party websites)

\_\_\_\_\_  
\_\_\_\_\_

Although political matters are the most important business for members of political parties, they do have social events for their members. Yes, political parties do have parties. Some of the happiest parties are held on election nights if a 'major' political party appears to have become the Government. For 'minor' parties, which can also represent important interests, improved representation can be a cause for celebration.

## Political parties in Western Australia

Until 1900, there were no real political parties in Western Australia. Before this, John Forrest had the support of most of the Members of Parliament, partly because of his strong personality. 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 Labor and non-Labor labels. In recent years, however, this classification has been challenged. Of course, over the years parties change their policies, and, sometimes, their names. Sometimes, too, in Australia's federal system, a party may have a slightly different policy in the Federal Parliament as compared with the State Parliament.

### Registered Parties

From 20 October 2000 provisions have been made for the registration of political parties. Candidates of unregistered parties are not able to use a political party name on ballot papers. Shown below are the names and abbreviations of the registered political parties as of 25<sup>th</sup> September 2009. According to the legislation the name of the political party must not:

- contain more than 6 words
- be obscene or offensive
- be an existing party name or nearly resemble a party name
- be a public body name, or nearly resemble a public body name
- include the words “royal” or “independent”
- otherwise cause confusion if registered

<b>Registered Name</b> (as at 1 November 2009)	<b>Ballot Paper Abbreviation</b>
Australian Labor Party (Western Australian Branch)	Australian Labor Party
Christian Democratic Party WA	Christian Democratic Party WA
Citizens Electoral Council of Australia	CITIZENS ELECTORAL COUNCIL
National Party of Australia (WA) Incorporated	The Nationals
The Greens (WA) Inc	Greens (WA)
The Liberal Party of Australia (Western Australia Division) Incorporated	Liberal
WAFAMILYFIRST.COM INCORPORATED	WAFAMILYFIRST.COM

Political parties with representation on the 38<sup>th</sup> Parliament from 2008 were:

- Australian Labor Party (ALP)
- The Liberal Party of Australia
- National Party of Australia (National Party-NP)
- The Greens (WA) Inc.

## Exercise 10.4

Many political parties have been formed in Western Australia to contest elections.

Historian, Professor David Black, has prepared a list of these candidates in a publication called ***An Index to Parliamentary Candidates in Western Australia Elections State and Federal 1890-2006***. As you can imagine a list for the first century of federation is quite long.

Some of the minor parties over the years have been *Anti -Conscription Party*, *Tax Cuts Party* and *Valentine Peace Group*.

Attempt to name one 'minor' party, which has contested elections in Western Australia apart from those registered for the 2008 State election. If possible specify the election year which was contested by the 'minor' party.

Political Party

Election Year

\_\_\_\_\_

\_\_\_\_\_

## Winning Government

Although there have been dozens of political parties competing in Western Australia elections, only a few of these parties have been able to win sufficient seats to win government.

It should be remembered that elections used to be conducted over several weeks. In the early stages of responsible government, a person who was appointed as a Minister had to then face another election. Sometimes the new Minister was not opposed, but occasionally a new by-election had to be held. It should be noted that it was very common in the first seven decades of responsible government for political parties to decide not to contest a seat. Members were said to be 'elected by acclamation'. As the seats were regarded as 'safe', no party contest took place.

The table on the next page shows the result of the party contest for each election since responsible government in 1890, headed under the name of the Premier who successfully won the election.

As elections for most of the last century have often been regarded as Labor versus non-Labor contests, the percentage of the Labor vote has been estimated.

Each Premier is commissioned by the Governor, to be the leader of the Ministry or Cabinet. Chairing Cabinet meetings and assuming responsibility for the co-ordination of the administration of the State are major tasks of the Premier who becomes the Head of Government of the State and its major spokesperson.

The Party Contest							
Year	Premier	Seats (Contested)	Labor Seats (%)	Ind	N.Lab	Nationalist/ Liberal	C.P./ Nationals
1890	Forrest	30 (11)					
1894	Forrest	30 (15)					
1897	Forrest	44 (26)				37a	
1901	Throssell	50 (41)	6 (26%)	5		39b	
1904	James (Labor)	50 (40)	23 (43%)	9		18c	
1905	Rason (Lib)	50 (39)	15 (35%)			35	
1908	Moore (Lib)	50 (41)	22 (38%)			28	
1911	Scaddan (Labor)	50 (40)	34 (42%)			16	
1914	Scaddan (Labor)	50 (35)	26 (42%)			16	8
1917	Lefroy (Nat)	50 (40)	15 (25%)	1	6	16	12
1921	Mitchell (CP)	50 (44)	17 (37%)	3	4	10	16
1924	Collier (ALP)	50 (38)	27 (40%)	1		9	13d
1927	Collier (ALP)	50 (41)	27 (45%)			16	7
1930	Mitchell (Nat/CP)	50 (39)	23 (38%)	1		16	10
1933	Collier (ALP)	50 (41)	30 (45%)	1		8	11
1936	Collier (ALP)	50 (40)	26 (41%)	3		8	13
1939	Willcock (ALP)	50 (40)	27 (45%)	4		7	12
1943	Willcock (ALP)	50 (38)	30 (43%)	3		7	10
1947	McLarty (LCP)	50 (30)	23 (37%)	2		13	12
1950	McLarty (LCP)	50 (38)	23 (42%)	3		15	9
1953	Hawke (ALP)	50 (28)	26 (50%)			15	9
1956	Brand (LCP)	50 (34)	29 (45%)	2		11	8
1959	Brand (LCP)	50 (39)	23 (44%)	2		17	8
1962	Brand (LCP)	50 (39)	24 (44%)			18	8
1965	Brand (LCP)	50 (39)	21 (44%)			21	8
1968	Brand (LCP)	51 (37)	23 (45%)			19	9
1971	Tonkin (ALP)	51 (51)	26 (49%)			17	8
1974	Court (LCP)	51 (50)	22 (49%)			23	6e
1977	Court (LCP)	55 (55)	22 (44%)			27	6f
1980	Court (LCP)	55 (54)	23 (46%)			26	6g
1983	Burke (ALP)	57 (57)	32 (53%)			20	5h
1986	Burke (ALP)	57 (57)	32 (53%)			19	6i
1989	Dowding (ALP)	57 (57)	31 (42%)			20	6j
1993	Court (Lib-Nat)	57 (57)	24 (37%)	1		26	6j
1996	Court (Lib/Nat)	57 (57)	19 (36%)	3		29	6j
2001	Gallop (ALP)	57 (57)	32 (37%)	4		16	5j
2005	Gallop (ALP)	57 (57)	32 (42%)	2		18	5j
2008	Barnett (Lib)	59 (59)	28 (36%)	3		24	4j

Lib.- Liberal, ALP - Labor, CP - Country Party, LCP - Liberal Country Party, Nat - Nationalists, NCP - National Country Party, Ind - Independent, N Lab - National Labor

a Ministerialists 29, Opposition 8

f National Country Party

b Ministerialists 19, Opposition 20

g National Country Party 3, National Party 3

c Ministerialists 18

h National Country Party 3, National Party 2

d Majority Country Party 7, Executive Country Party 6

i National Party of Australia

e National Alliance

j National Party

## Exercise 10.5

- (a) In your lifetime, how many years have there been Labor or non-Labor Governments in Western Australia?

Your age \_\_\_\_\_ Labor \_\_\_\_\_ Non-Labor \_\_\_\_\_

- (b) In which election held after World War II was there a sudden jump in the number of contested seats? \_\_\_\_\_
- (c) During John Forrest's premiership (after 1890), and before party politics, at which election was the percentage of acclaimed (uncontested) seats at its highest? \_\_\_\_\_
- (d) In which year did Labor (later the ALP) first win Government in Western Australia? \_\_\_\_\_
- (e) In which year did the Country Party first elect members to the Legislative Assembly? \_\_\_\_\_
- (f) In which election did the Country Party achieve its highest number of seats? \_\_\_\_\_
- (g) In which election did Labor (the ALP) achieve its highest percentage of the total vote? \_\_\_\_\_
- (h) In which election was an Independent last elected in the Western Australian Parliament? \_\_\_\_\_
- (i) In which two elections did the National Party and National Country Party both elect members to the Legislative Assembly? \_\_\_\_\_
- (j) In which election did Labor win government with its lowest percentage of the first preference vote? \_\_\_\_\_



## Opposition

When elections firmed into a Labor versus non-Labor contest, the losing party or parties became known as the Opposition. Since 1911, the Leader of the Opposition has received extra salary for holding the position. The salary is equivalent to that received by a Minister.

So the Western Australian Parliamentary system recognises the right of political parties to oppose and criticise the Government. The Opposition, through its Leader and Shadow Ministry, also tries to provide alternative policies or ideas to improve the governing of the State.

Exercise 10.6							
Opposition Leader	Party	Period in Office		Yrs	Mths	Days	
Henry Daglish**	ALP	25 August 1905	– 27 September 1905	-	1	2	
William Johnson	ALP	4 October 1905	– 27 October 1905	-	-	23	
Thomas Bath	ALP	22 Nov 1905	– 03 August 1910	4	8	12	
John Scaddan*	ALP	03 August 1910	– 07 October 1911	1	2	4	
Frank Wilson** *	Lib.	01 Nov 1911	– 27 July 1916	4	8	26	
John Scaddan**	ALP	27 July 1916	– 08 August 1916	-	-	12	
William Johnson	ALP	19 September 1916	– 31 October 1916	-	1	12	
John Scaddan**	ALP	31 October 1916	– c.10 April 1917*	-	5	10	
Philip Collier*	ALP	09 May 1917	– 17 April 1924	6	11	8	
Sir James Mitchell** *	Nat.	17 April 1924	– 24 April 1930	6	-	7	
Philip Collier**	ALP	24 April 1930	– 24 April 1933	3	-	-	
Sir Charles Latham	C.P.	24 April 1933	– 07 Oct 1942	9	5	13	
Arthur Watts	C.P.	08 October 1942	– 01 April 1947	4	5	24	
Frank Wise**	C.P.	01 April 1947	– 26 June 1951	4	2	25	
Albert Hawke*	ALP	03 July 1951	– 22 February 1953	1	7	19	
Sir Ross McLarty*	Lib.	23 February 1953	– 01 March 1957	4	-	6	
David Brand*	Lib.	01 March 1957	– 01 April 1959	2	1	-	
Albert Hawke**	ALP	02 April 1959	– 31 December 1966	7	8	29	
John Tonkin*	ALP	01 January 1967	– 02 March 1971	4	2	1	
Sir David Brand**	Lib.	03 March 1971	– 05 June 1972	1	3	2	
Sir Charles Court*	Lib.	05 June 1972	– 08 April 1974	1	10	3	
John Tonkin**	ALP	08 April 1974	– 15 April 1976	2	-	7	
Colin Jamieson	ALP	16 April 1976	– 21 February 1978	1	10	5	
Ronald Davies	ALP	21 February 1978	– 18 September 1981	3	6	28	
Brian Burke*	ALP	18 September 1981	– 19 February 1983	1	5	1	
Raymond O'Connor**	Lib.	19 February 1983	– 15 February 1984	-	11	27	
William Hassell	Lib.	15 February 1984	– 25 November 1986	2	9	10	
Barry McKinnon	Lib.	25 November 1986	– 12 May 1992	6	5	17	
Richard Court*	Lib.	12 May 1992	– 06 February 1993	-	9	4	
Carmen Lawrence**	ALP	16 February 1993	– 07 February 1993	-	11	22	
Ian Taylor	ALP	07 February 1994	– 12 October 1994	-	10	5	
James McGinty	ALP	12 October 1994	– 15 October 1996	2	-	3	
Geoffrey Gallop*	ALP	15 October 1996	– 16 February 2001	4	4	1	
Richard Court**	Lib.	16 February 2001	– 26 February 2001	-	-	10	
Colin Barnett	Lib.	26 February 2001	– 09 March 2005	4		11	
Matthew Birney	Lib.	09 March 2005	– 24 March 2006	1	-	15	
Paul Omodei	Lib.	24 March 2006	– 17 January 2008	1	9	24	
Troy Buswell	Lib.	17 January 2008	– 04 August 2008	-	6	18	
Colin Barnett *	Lib.	04 August 2008	– 23 September 2008	-	1	19	
Eric Ripper	ALP	23 September 2008	– Still in Office	-	-	-	

\* Became Premier \*\*Was previously Premier

### Exercise 10.6 - *continued*

- (a) Who served three separate terms as Leader of the Opposition? \_\_\_\_\_
- (b) Who served the longest term as Leader of the Opposition without becoming Premier? \_\_\_\_\_
- (c) Since World War II (1939– 1945), which Leaders of the Opposition did not become Premier? \_\_\_\_\_
- (d) Has a woman been Leader of the Opposition in Western Australia? If so, who? \_\_\_\_\_
- (e) The Leader of the Opposition receives the same salary as :  
(*Tick the correct box*)
- |                 |                          |                  |                          |
|-----------------|--------------------------|------------------|--------------------------|
| (a) The Premier | <input type="checkbox"/> | (c) The Speaker  | <input type="checkbox"/> |
| (b) A Minister  | <input type="checkbox"/> | (d) The Governor | <input type="checkbox"/> |

## Challenge Exercise 10

Study the following table, which lists the Premiers of Western Australia since responsible government in 1890.

Premiers of Western Australia		
	Period of Service as Premier	Reasons for Resignation as Premier
Hon. John Forrest, MLA	20/12/1890 – 14/02/1901	Elected to Federal Parliament
Hon. George Throssell, MLA	14/02/1901 – 27/05/1901	Lacked Parliamentary support
Hon. George Leake, MLA	27/05/1901 – 21/11/1901	Defeated in Legislative Assembly
Hon. Alfred Morgans, MLA	21/11/1901 – 23/12/1901	Defeated in Legislative Assembly
Hon. George Leake, MLA *	23/12/1901 – 24/06/1902	Died in Office
Hon. W.H. James, MLA	01/07/1902 – 10/08/1904	Defeated in Legislative Assembly
Hon. Henry Daglish, MLA	10/08/1904 – 25/08/1905	Defeated in Legislative Assembly
Hon. C.H. Rason, MLA	25/08/1905 – 01/05/1906	To accept government appointment
Hon. N.J. Moore, MLA	07/05/1906 – 16/09/1910	Resigned for personal reasons
Hon. Frank Wilson, MLA	16/09/1910 – 07/10/1911	Defeated at general election
Hon. John Scaddan, MLA	07/10/1911 – 27/07/1916	Defeated in Legislative Assembly
Hon. Frank Wilson, MLA *	27/07/1916 – 28/06/1917	Resigned party leadership
Hon. H.B. Lefroy, MLA	28/06/1917 – 17/04/1919	Lost party leadership
Hon. H.P. Colebatch, MLC	17/04/1919 – 17/05/1919	Resigned party leadership
Hon. James Mitchell, MLA	17/05/1919 – 15/04/1924	Defeated at general election
Hon. P. Collier, MLA	16/04/1924 – 23/04/1930	Defeated at general election
Hon. James Mitchell, MLA *	24/04/1930 – 24/04/1933	Defeated at general election
Hon. P. Collier, MLA *	24/04/1933 – 19/08/1936	Resigned for personal reasons
Hon. J.C. Willcock, MLA	20/08/1936 – 31/07/1945	Resigned party leadership
Hon. F.J.S. Wise, MLA	31/07/1945 – 01/04/1947	Defeated at general election
Hon. Ross McLarty, MLA	01/04/1947 – 23/02/1953	Defeated at general election
Hon. A.R.G. Hawke, MLA	23/02/1953 – 02/04/1959	Defeated at general election
Hon. David Brand, MLA	02/04/1959 – 03/03/1971	Defeated at general election
Hon. J.T. Tonkin, MLA	03/03/1971 – 08/04/1974	Defeated at general election
Hon. Charles Court, MLA	08/04/1974 – 25/01/1982	Resigned for personal reasons
Hon. R.J. O'Connor, MLA	25/02/1982 – 25/02/1983	Defeated at general election
Hon. B.T. Burke, MLA	25/02/1983 – 25/02/1988	Resigned for personal reasons
Hon. P.M. Dowding, MLA	25/02/1988 – 12/02/1990	Lost party leadership
Hon. C. M. Lawrence, MLA	12/02/1990 – 16/02/1993	Defeated at general election
Hon. Richard Court, MLA	16/02/1993 – 15/02/2001	Defeated at general election
Hon. Geoffrey Gallop, MLA	15/02/2001 – 25/01/2006	Resigned for health reasons
Hon. Alan Carpenter, MLA	25/01/2006 – 23/09/2008	Defeated at general election
Hon. Colin Barnett, MLA	23/09/2008 – still in office	

\* reappointed but not serving consecutive terms

## Challenge Exercise 10 - *continued*

(a) Complete the table: reasons for resignation.

Reason for Resignation (1890-2008)	Number
Died in office	_____
Defeated in Legislative Assembly	_____
Defeated in general election	_____
Lost or resigned Party Leadership	_____
Resigned for personal or health reasons	_____
Elected to Federal Parliament	_____
Other	_____

- (b) Who was the only Premier who was an MLC? \_\_\_\_\_
- (c) Who had the shortest term as Western Australia's Premier? \_\_\_\_\_
- (d) Who was the first woman Premier of Western Australia? \_\_\_\_\_
- (e) During which years was A.R.G (Bert) Hawke (the uncle of Bob Hawke) Premier? \_\_\_\_\_
- (f) During which years was Sir Charles Court Premier? \_\_\_\_\_
- (g) Who was the only Premier to die in office? \_\_\_\_\_
- (h) Who served exactly five years as Premier? \_\_\_\_\_
- (i) Name Western Australia's longest serving Premier. \_\_\_\_\_
- (j) How many Premiers did Western Australia have in the first century of responsible government? \_\_\_\_\_
- (k) When Colin Barnett became Premier he was the \_\_\_\_\_th person to occupy the position. \_\_\_\_\_

## Terms 10.0

- ‘Acclamation’:** a vote without a ballot being conducted.
- Caucus:** the Members of Parliament belonging to a particular political party; used mainly in relation to the Labor Party.
- Coalition:** the joining together of two or more groups or parties, usually to form a Government or Opposition.
- Independent(s):** Candidates for election, or members of Parliament, who are not members of a political party.
- Minor Party:** Political parties which attract only limited electoral support and gain relatively few seats. They may arise as a splinter group from a major party or express the needs of a particular section of society which are not widely recognised.
- Platform:** policies or plans for a political party or candidate or a collection of such policies or plans.
- Pledge:** The binding of Labor members of parliament to vote in the Parliament as a majority of caucus determines and to refrain from contesting a seat against an endorsed Labor candidate and to carry out the party’s objectives as determined by national conference.
- Policy:** A plan of action. Sometimes the term public policy is used to indicate the laws, rules and programs of a government.
- Political Party:** a voluntary group of persons with similar views on broad issues which form associations with the aim of winning seats, and perhaps forming government by means of the electoral process.
- Shadow Ministry:** The most prominent members of the Opposition in the Parliament who occupy the Opposition front bench and who are usually given ‘shadow’ portfolios to match those of the Government. These ‘shadow ministers’ are sometimes called ‘shadow spokespersons’.

## 11. Government at Work

The Western Australian Parliament passes statutes (or laws) on matters for which State Government's are responsible under Australia's Constitution. Once an Act of Parliament is signed and proclaimed by the State Governor, a member of the Ministry (or Cabinet) is responsible for the administration of this statute. This is the executive arm of government administering the law.

There are over 1000 Western Australian statutes. The length of statutes varies greatly from less than a page to several hundred pages. A listing of each statute, together with the responsible Minister, appears periodically in the *Government Gazette*. Under many statutes Ministers, upon the advice of their departmental officials, formulate regulations. The regulations require the approval of the Governor in Executive Council. Both the Legislative Assembly and Legislative Council can review the regulations and, if necessary disallow them. Regulations, part of which is often called delegated legislation, are a very important aspect of modern day government.

When it is said the minister is 'responsible', it does not mean that he or she actually carries out the day to day administration of the law. This is left to a public service department (sometimes called a Ministry). For example, the Department of Housing and Works conducts the daily administration of the Housing Act. Many regulations are formulated under this Act. It is, however, the Minister for Housing and Works, who is responsible and answerable to the Parliament for this administration. In Parliament, as part of this role the Minister will be expected to answer 'Questions Without Notice' on matters about the housing portfolio. Some of the answers to Questions with Notice about housing will be prepared by public servants who work for the Department of Housing and Works.

### **Exercise 11.1**

Five Acts of Parliament are listed below. Indicate which Minister, with the assistance of his or her Department, will be responsible to Parliament for the administration of the Act.

<b>ACT</b>	<b>Minister Responsible</b>
a) <i>Agricultural Products Act</i>	_____
b) <i>Boxing Control Act</i>	_____
c) <i>Juries Act</i>	_____
d) <i>Land Tax Act</i>	_____
e) <i>Zoological Gardens Act</i>	_____

(choose from: Attorney General; Agriculture; Environment; Heritage; Sport & Recreation; Treasurer)

## Statutory Authorities

With the growing scale of government in our society, it has become very difficult for Ministers to be totally answerable for much of the work of their Departments. This problem has become even greater since the creation of what are known as 'statutory authorities' or 'statutory corporations'. They are authorities or businesses, which are created by an Act of Parliament, or statute.

Statutory authorities carry out their business separate from their regular supervision of a Minister. The Western Australian Tourist Commission is a statutory authority. It carries out its business of fostering tourism and then makes a report once a year to Parliament.

The provision of community services, such as water, gas, electricity, railways, roads and bridges were once carried out by government departments. The departments, or authorities, were sometimes known as public utilities. They were (and remain) large-scale organisations employing many hundreds of people.

### Exercise 11.2

Indicate what services are provided by the following statutory authorities, which have been established by an Act (or statute) of the Parliament of Western Australia.

Statutory Authority	Service
a) Country Housing Authority	_____ _____
b) Disability Services Commission	_____ _____
c) Law Reform Commission	_____ _____
d) Lotteries Commission	_____ _____
e) Small Business Development Corporation	_____ _____

## Governmental Accountability

Modern governments, their departments and agencies, are accountable for their performance. Apart from parliament, elections and the avenues for citizens to voice their opinions through mediums such as the media, institutions or bodies have been created to help ensure that governments are accountable and follow correct procedures. Citizens need to know how these agencies function or work. The most important statutory authorities with these accountability roles include the Office of the Auditor General; the Parliamentary Commissioner (often known as the Ombudsman); the Information Commissioner; Commissioner for Public Sector Standards and the Crime and Corruption Commissioner.

## Office of the Auditor General

The Auditor General's role is to annually audit the financial records of government departments and agencies. The audit is an official check of accounts to ensure that the payment of monies is proper and legal. The Office of the Auditor General has a long history in Western Australia (and elsewhere) but in recent years the Auditor General's office has also begun to conduct examinations of the efficiency and effectiveness of the performance of the government agencies. It is very important that the Auditor General is independent of government and not subject to the direction of a Minister or any public service department.

### Exercise 11.3

If an audit of the Education Department was being conducted in terms of the administration of the Schools Education Act 1999 nominate two areas where you think monies would be lawfully expended or spent.

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_

Developing measures of efficiency or effectiveness for government departments or agencies has proven to be difficult. Nominate two measures which you believe could be a guide for an effective and efficient school.

- (c) \_\_\_\_\_
- (d) \_\_\_\_\_

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

The Parliamentary Commissioner for Administrative Investigations is more commonly known as the Ombudsman. In 1971 Western Australia was the first State in Australia to establish such an office. The main task of the Ombudsman is to carry out an independent and impartial investigation of a complaint relating to 'a matter of administration'. In certain circumstances the investigation can include the police force. Of course citizens should ensure they fully explore any situation before they commence dealings with the Ombudsman. The Ombudsman may make recommendations concerning complaints, but has no power to force any department or agency to take certain steps. As the Ombudsman reports to Parliament on the outcome of investigations, any criticism by the Ombudsman is a strong incentive for government agencies to comply with any recommendations made. Listed below, from an Annual Report to Parliament, are some actions which followed Ombudsman investigations:

- Extension of time to lodge stamp duty objections;
- Visits to prison by engaged partners re-instated;
- Street trading license, previously refused, granted;
- Action taken to record an error when recording a traffic conviction; and
- Consultation process with neighbours affected by developments amended.



## The Information Commissioner

The *Freedom of Information* (FOI) Act gives people the right to apply to access to documents held by Ministers, State Government Departments, Local Government Authorities and Statutory Authorities. The access to documents includes applications for amendment of personal information. The Information Commissioner requires agencies to assist the public to obtain the required information at the lowest reasonable cost. Each government agency has a nominated 'FOI' officer who assists people in lodging an application.

It should be noted that for the protection of essential public interest and the personal and business affairs not all information can be made available to the public. Sometimes only access to part of a document will be provided if it is considered it contains information considered to be exempt. For requests concerning other than personal information there is an application fee (about \$30) and additional charges for dealing with the application. Sometimes these costs can be quite high but there are some allowances for people who are financially disadvantaged.

If a person is unhappy with a decision made by an agency following an FOI request, it is possible to request an internal review by the agency. Thereafter there is provision to request an External Review by the Information Commissioner if a person is not satisfied with the reasons given by the agency.

### Exercise 11.4

Give two examples of personal information in a departmental file, which could be incorrect.

- a) \_\_\_\_\_  
\_\_\_\_\_
- b) \_\_\_\_\_  
\_\_\_\_\_

## Commissioner for Public Sector Standards/Public Service Commissioner

Under the *Public Sector Management Act 1994* the Commissioner for Public Sector Standards is required to establish and monitor standards and proper procedures in the public sector. This applies to all public sector employees and bodies, including chief executive officers. It does not cover elected officials such as Members of Parliament or local government representatives. These standards relate to matters of recruitment, selection, appointment, transfer, performance and termination of employment in the public sector. In addition the Commissioner is required to establish codes of conduct of ethics and integrity. The Commissioner also assists public sector bodies to develop and monitor compliance with the codes of conduct. The codes of conduct must be consistent with the Code of Ethics values and behaviours of justice, respect for persons and responsible care. The listing of the values and behaviours include fairness and equity, lawful obedience, honesty, openness, respect, loyalty, integrity, protective care, efficiency, personal development and leadership. Under the same act in 2008 the Premier 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, including operational efficiency and performance.

### **Exercise 11.5**

In practice Codes of Conduct are very often very similar to Codes of Ethics. Mention two matters you would include in a Code of Conduct

- a) \_\_\_\_\_  
\_\_\_\_\_
- b) \_\_\_\_\_  
\_\_\_\_\_

## **Corruption and Crime Commission**

At the beginning of 2004, the Corruption and Crime Commission (CCC) replaced the Anti-Corruption Commission (ACC), which had been established in 1996. A key purpose of the ACC had been to receive and investigate allegations of corruption against public officers. The CCC has similar objectives but its powers have been made more comprehensive, including the power to compel witnesses to give evidence and the power to hold public hearings. The CCC's primary functions are to:

- investigate allegations of misconduct by public officers;
- monitor the reporting and subsequent investigation by agencies;
- conduct education programs in the public sector and general community; and
- develop and implement corruption prevention strategies in the public sector.

The CCC, effectively a permanent Royal Commission can, through its Commissioner, confirm to the public that investigations are on-going, disclose information and comment on outcomes if it is felt to be in the public interest. Importantly, too, the CCC's activities are overseen by a Parliamentary Inspector.

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

The Parliamentary Inspector of the CCC audits the operations of the CCC to ensure compliance with the laws of the State, including allegations of misconduct by officers of the Commission. Importantly, the Inspector assesses the effectiveness and appropriateness of the CCC procedures and may make recommendations to the Commission for other agencies and appropriate authorities. The Inspector reports to Parliament and its Joint Standing Committee on the Corruption and Crime Commission.

## **Commission on Government**

The Commission on Government (COG) was established in late 1994 to broadly examine the workings of government in Western Australia. By 1996 the COG had tabled each of its five reports. The reports, after wide public consultation, provided a valuable commentary and analysis of government in Western Australia. The fifteen public discussion papers also

provided useful insights into governmental issues in the State. In all, COG made 263 recommendations to improve the operations of government in Western Australia.

The final recommendation tabled by COG was to establish, by legislation, a people's convention to review the constitutional laws of the State and to formulate a new constitution for Western Australia. It was thought the people's convention should be a broadly representative body half of which should be persons directly elected by the people. The Commission provided a list of issues for consideration by the People's Convention although it indicated other matters could be debated. The specific matters for discussion were listed as:

#### Assent to legislation

- Should it be an option for the Premier to advise the Governor not to sign a Bill which has been passed through Parliament?

#### A Bill of Rights

- As a 'Bill of Rights' was constantly suggested in the public forums it was contended the matter be addressed by the forum and after adequate public education be put to the electorate in a referendum.

#### Electoral Rights

- Should there be constitutional protection of electoral rights such as a franchise (the vote) for all citizens (including criminals) and the 'one vote one value' principle?
- The initiation of constitutional amendment/citizen initiated referendum:  
As the methods available for the initiation of constitutional amendments are confined to Parliament the wisdom of greater citizen involvement should be considered. Should the citizen initiated referendum idea (usually proposed laws requiring support by referendum in a petition containing a certain number of signatures) be extended to normal legislation?

#### New Preamble

- The present preamble to the *Constitution Act* 1889 is merely a statement of the legal background to its enactment. Some contend a preamble to the Constitution may be used to express the enduring values or aspirations of a political community.

#### Power of Parliament to Recall Parliament

- Should Parliament have the power to recall itself, taking it out of the hands of both the Governor and the Premier?

#### Prorogation (of Parliament)

- Prorogation results in the termination of a session of Parliament meaning that standing committees are not able to transact business and select committees are concluded. Should this provision be changed?

#### Recognition of Aboriginal Rights

- Should there be specific recognition of Aboriginal Peoples in the Constitution?

#### Resolution of Parliamentary Deadlocks

- Should resolution procedures be set out in the Constitution to resolve deadlocks between the two Houses?

#### Role of Local Government

- What should be the constitutional provisions for local government in Western Australia?

#### Role of Political Parties

- Should political parties be mentioned or even constrained by the State's Constitution?

#### Selection, Appointment and Powers of the Governor

- The Governor is currently appointed by the Monarch on the advice of the Premier in accordance with the *Australia Acts* 1986. It was considered that many proposals for the selection, appointment and powers of the Governor be debated by the Convention.

### Size of Ministry

- Originally there was a constitutional limit of five ministers in a Parliament of 45 Members. In 2009 there is a limit of 17 ministers of which one must be a member of the Legislative Council. Is, however, this ratio of Ministers too high?

### **Exercise 11.6**

If a new Preamble was included in the Western Australian Constitution what values and aspirations should it include? To assist you, some of the proposals and matters to be considered for inclusion in a new Preamble for the Australian Constitution, which were formulated by the Constitutional Convention in 1999, have been listed.

- Introductory language in the form 'We the people of Australia';
- Reference to 'Almighty God';
- Reference to the origins of the Constitution, and acknowledgment that the Commonwealth has evolved into an independent, democratic and sovereign nation under the Crown;
- Recognition of our federal system of representative democracy and responsible government;
- Affirmation of the rule of law;
- Acknowledgment of the original occupancy and custodianship of Australia by Aboriginal peoples and Torres Strait Islanders;
- Recognition of Australia's cultural diversity;
- Recognition of gender equality;
- Affirmation of respect for our unique land and the environment;
- Concluding language to the effect that 'We the people of Australia asserting our sovereignty, commit ourselves to this Constitution.

In Discussion Paper (No. 15), prepared by the Commission on Government, the following possibilities were mentioned:

- Sovereignty of the people as a source of constitutional laws;
- The rule of law;
- Acknowledgment of indigenous people;
- The environment;
- Equal treatment of all people regardless of race, culture, sex, creed or religion.

Mention five values or aspirations you would include in the Preamble:

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_
- (e) \_\_\_\_\_

### **Having Your Say (Active Citizenship)**

There are many ways in which a citizen can have his or her say. Firstly, it is best to attempt to be a well informed citizen, prepared to carefully consider issues. Some of the avenues open to citizens include:

- When eligible, vote effectively in both Legislative Assembly and Legislative Council elections. This means careful consideration of the distribution of preferences. Of course the same approach should be adopted for the federal parliament and local government.

- Contact your MLA or MLC or make a deputation to your Member of Parliament. This can normally be arranged by telephoning or sometimes emailing the electorate office in your district. If you have any difficulties, call the Parliament House telephone number listed in the telephone directory.
- Writing, telephoning, faxing or e-mailing, the department, statutory authority or agency that handles matters of concern.
- Preparing a petition to be presented by a member to Parliament. This is recorded in *Hansard*.
- Establish a website to communicate with other interested community members.
- Writing to the editor of a major or community newspaper to express your concern. Remember to keep your letter very short, if you hope to have it published. Don't make any spelling mistakes!
- Writing a submission to a Parliamentary Committee, which may be investigating a particular matter. Generally, these Committees, through newspaper advertisements, invite the public to write submissions.
- Organising a public meeting or demonstration. To avoid inconvenience to the public, police permission should be obtained.
- Helping to form a 'pressure group' to further your cause. You should seek advice on drawing up constitutions and handling money.
- Contacting an existing association or union, which can help you.
- Printing special pamphlets or placing advertisements in community or major newspapers can also be considered.
- Telephone radio announcers on a talkback show. The producer will indicate if you are to be given air-time. Sometimes it may be possible to e-mail the talk-back show host.
- Joining a political party. Only about two per cent of the adult population join an existing political party. The percentage is higher in Europe and North America. This is an effective way of having a say on matters.
- Forming a new political party. A party has to begin from somewhere.

### Challenge Exercise 11

Indicate a matter of concern that you believe requires governmental action. Specify some strategies to achieve an outcome. (If you can't think of a matter of concern, or need, mention some steps to have the voting age lowered to 16 years of age.)

Concern or Need \_\_\_\_\_

Possible Strategies

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_

## Terms 11.0

<b>Code of Conduct:</b>	Specific expressions of required behaviour (generally expected to be consistent with a code of ethics).
<b>Code of Ethics:</b>	Values which guide the membership of a group or society.
<b>Department/Ministry:</b>	A group of public servants organised to administer a particular area of Government activity, under the control of a Minister.
<b>Executive:</b>	Government ministers and their departments in their role as administrators of the law.
<b>Executive Council:</b>	The formal meeting of the Governor with the Ministers of the Crown. Many day to day activities of government, including the promulgation of regulations, require the approval of the Governor in Executive Council.
<b>Government Gazette:</b>	The Government Gazette is an official weekly publication which records, all Acts of parliament and which contain details of Executive Council Decisions, including regulations. The Gazette also contains details of State Government appointments, transfers and promotions.
<b>Privatisation:</b>	The transfer of ownership from the public sector (government) to the private sector (business). A transfer in the opposite direction is often referred to as a nationalisation of some property or responsibility. Sometimes the term privatisation is used to refer to government subcontracting a service or function to a private firm.
<b>Public Service:</b>	the various government departments and their employees, often called 'public servants'.
<b>Public Sector:</b>	That section of the economy, which is owned and either fully or partly controlled by government.
<b>Royal Commission:</b>	An inquiry into a matter of public interest established under the <i>Royal Commissions Act 1968</i> . As it is created by the Governor in Executive Council, the Commission reports to the Governor rather than to Parliament. Most Royal Commissions are conducted by serving or retired federal judges.
<b>Statutory Authority (or Corporation):</b>	a Government agency set up by an Act of Parliament, more or less independent of day-to-day Ministerial control, and usually not bound by public service rules to the same extent as ordinary Government departments.

## 12. The Courts

Nearly 250 years ago, a famous French philosopher, the Baron de Montesquieu, published a book called *The Spirit of the Laws* (1748). He claimed that liberty (which he defined as the right to do whatever the law permitted) existed in England because of the way in which the system of government was organised. He recognised the three arms of government as follows:

### **The Legislative Arm**

- This was the law-making section of government;

### **The Executive Arm**

- This was the law-administering (or ‘executive’) section of government; and

### **The Judicial Arm**

- This was the law-adjudicating (or ‘judicial’) section of government.

<b>LEGISLATIVE</b> Law-Making	<b>EXECUTIVE</b> Carrying Out or Executing the Law	<b>JUDICIAL</b> Judging or adjudicating on the law
<b>The Government of Western Australia</b>		
<p><b>LEGISLATIVE</b></p> <p>Legislative Council Legislative Assembly Parliamentary Committees</p> <p><b>Select Committees</b> Appointed to undertake a particular or select task, e.g. Select Committee on Youth Affairs (Assembly), Select Committee on Aboriginal Education (Council).</p> <p><b>Standing Committees</b> Appointed for the life of the Parliament for a continuing task, e.g. Public Accounts Committee (Assembly), Standing Committee on Legislation (Council).</p> <p><b>Joint Committees</b> Committees made up of members from both Houses. e.g. Joint Select Committee on Delegated Legislation.</p>	<p><b>EXECUTIVE</b></p> <p>Governor Executive Council Premier Cabinet (Ministry) Departments Eg Health Treasury Fisheries Education Local Government</p> <div style="border: 1px solid black; width: 80px; height: 60px; margin: 10px auto; text-align: center; line-height: 60px;"><b>Police</b></div> <p><b>Statutory Authorities</b> (&gt; 300 in total) Rottnest Island Authority Lotteries Commission</p>	<p><b>COURTS</b></p> <p>[High Court]</p> <p>Supreme Court District Court Magistrate’s Court Family Court Children’s Court Drug Court Coroner’s Court</p> <p><b>Tribunals</b> (..some examples...) State Administrative Tribunal Western Australian Industrial Relations Commission Liquor Commission of Western Australia</p> <p><b>Other Legal Officers</b> Office of Director of Public Prosecutions Office of Solicitor General</p> <p>Sheriff’s Office Bailiff’s Office</p>

### *The Three Arms of Government*

***Independent Agency Officers include:***

Auditor General, Ombudsman (Parliamentary Commissioner for Administrative Investigation), Commissioner for Public Sector Standards, Information Commissioner, Corruption and Crime Commissioner and Parliamentary Inspector of the Corruption and Crime Commission.

Montesquieu thought that separating the arms of government prevented any one person from becoming too powerful. Each branch of government was, he suggested, held in balance, with each checking and in turn being checked by the other branches.

Many constitutions throughout the world have been modelled on Montesquieu's ideas about the separation of the branches of government. Perhaps the best example is the Constitution of the United States of America.

Western Australia's Constitution does not exactly follow the ideas set down by Montesquieu because the legislative branch and the executive branch are not really separated. As you know, by convention the members of the Government (part of the executive) have to be Members of Parliament. The Parliament is the legislative or law-making branch of the Government.

However, in at least one very important respect the views of Montesquieu are still a feature of Western Australia's system of government. The judicial branch, i.e. the courts of law, are separate. It is said that Western Australia has an 'independent judiciary' or an 'independent court system'.

**Exercise 12.1**

What is liberty, according to de Montesquieu? \_\_\_\_\_  
\_\_\_\_\_

**What is a Court?**

A court is a place where the laws are applied to particular cases.

**The Court System**

A court is a place where people have authority to decide if an Act of Parliament and previous decisions ('precedents') apply to a particular case.

There are two major types of disputes that courts hear. Western Australian courts have jurisdiction (the right to administer the law or justice), to hear both *civil* and *criminal* disputes. A civil dispute is a dispute between two or more persons in a community. Sometimes the term private dispute is used. On the other hand a criminal dispute is sometimes called a public dispute, because it involves the public agencies such as the police service or the Director of Public Prosecutions prosecuting (bringing the case before the court) all alleged criminal offences.



## Exercise 12.2

Indicate whether the following disputes should be classified as either **civil** or **criminal** disputes.

- (a) Two neighbours dispute the correct position of the fence dividing their property. \_\_\_\_\_
- (b) A citizen wishes to sue a radio station for defaming her reputation. \_\_\_\_\_
- (c) Police accuse an owner of a house of murdering an intruder. \_\_\_\_\_
- (d) Parents allege that a hospital was negligent in administering medicine to their child, resulting in serious injury to the child. \_\_\_\_\_

## Standards of Proof

In civil cases, a plaintiff (as the party which commences the action) has to persuade the court, being judge or jury, that the facts he or she alleges are true on a *balance of probabilities*. If after hearing both sides, the judge feels that the plaintiff's case is more likely to be true, then the plaintiff will be entitled to a verdict in their favour.

In criminal cases, the standard of proof is much stricter. The prosecution has to do much more than to tip the 'scales of justice' its way; it must prove the accused person's guilt *beyond reasonable doubt*. Regardless of how strong the prosecution's evidence may be, if the judge or jury has any reasonable doubt (or reservation) that he or she is guilty, the accused is entitled to be acquitted.

In both civil and criminal cases the rules of evidence are complex. They are designed to ensure that both parties can present the cases to the court as fully and fairly as possible. Once a case is decided the judge applies the law (and decides the penalty).

## Exercise 12.3

In a first class cricket match which broad principle prevails (**balance of probabilities** or **beyond reasonable doubt**) when an umpire considers whether a batter should be given out leg before wicket (LBW)?

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## Court Hierarchy

Depending on the type and seriousness of a case, it is heard in a particular kind of court. Within Western Australia, there are several kinds of courts. The court system is arranged in a hierarchy with those at the top of the hierarchy able to hear appeals from courts below them.

## The High Court

The High Court is the most senior court in Australia. Its original role was mainly to decide matters relating to Australia's Federal Constitution. However, today the number of constitutional cases heard each year is only about eight percent of the total number of cases.

Most of the High Court's work is in hearing arguments that a decision made in a lower court is wrong. This work makes the High Court an 'appeal' court. Remember that there must be strong legal arguments to cause a case to be heard. It is not sufficient that somebody claims

to have been badly treated in another court.

The High Court hears appeals against decisions taken by :

- Other Federal Courts; and
- State (and Territory) Supreme Courts.

The High Court also hears a limited range of cases at first instance (i.e. without an earlier hearing in a lower court.) These include disputes :

- In which the Commonwealth Government is involved;
- Between State Government; and
- Between people living in different States.

The High Court has a Chief Justice and other justices known as *puisne* (or assistant) judges. Decisions are made on a majority basis. Until 1980, the High Court sat in the various State capitals. However, it now has a permanent home in Canberra, but it continues to sit in the various state capitals during the year, usually for a week at a time.

### Exercise 12.4

If seven Justices sit on a constitutional case, how many Justices are needed to reach a majority decision? \_\_\_\_\_

## Courts in Western Australia

### The Supreme Court

The Supreme Court has a Chief Justice and other *puisne* (or assistant) Justices. The Supreme Court mainly sits in Perth. However, it also visits more than ten country centres. At each sitting, judges and lawyers wear wigs and gowns. This is thought to help give the impression that the proceedings are orderly and fair.

### Exercise 12.5

Name the present Chief Justice of Western Australia? \_\_\_\_\_

(visit: <http://www.supremecourt.wa.gov.au/content/procedure/judges/martincj.aspx>)

The Supreme Court is the 'superior' court in Western Australia with responsibility for both civil and criminal matters. It is also the main appeal court of the State. The Supreme Court is divided into two divisions - the General Division and the Court of Appeal. The General Division deals with criminal offences of a serious nature, such as wilful murder, armed robbery and serious breaches of Commonwealth drug enforcement.

A jury of 12 community members decides whether a person accused of a criminal offence is guilty or not guilty. It should be noted that an accused person may choose to have a trial by judge alone rather than jury.

The General Division also deals with civil matters in which the amount involved in the dispute is more than \$500,000. Under its probate jurisdiction the court may also grant

authority for the administration of deceased estates and disputes with wills. Disputed elections and corporations law matters are also handled by the Supreme Court.

The Court of Appeal of the Supreme Court is also the highest State Court of Appeal from other jurisdictions (courts) in Western Australia.

Originally judges and lawyers wore wigs and gowns to help give the impression that the proceedings are orderly and fair. These garments have gradually been phased out.

## **The District Court of Western Australia**

The District Court is the intermediate court in Western Australia, presided over by a District Court judge.

The Court deals with serious criminal offences, for which the maximum penalty is 20 years' imprisonment (for instance, serious assaults, breaking and entering). Again, a jury of 12 community members decides whether a person accused of a criminal offence is guilty or not guilty. An accused person may choose to have a trial by judge alone, and not by jury.

In civil law, the court deals with matters generally involving claims up to \$500 000 but it has unlimited jurisdiction in damages claims.

Appeals from the Local Court and some tribunals are heard by the District Court. Appeals from the District Court are heard by the Supreme Court of Appeal.

### **Exercise 12.6**

What education and training do you think a judge requires?

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## **Magistrates' Court**

The new Magistrates' Court of Western Australia which began operations on 2 May 2005, amalgamated the former Court of Petty Sessions, Local Court and Small Claims Tribunal into a single court. The Magistrates' Court of Western Australia now has multiple registries located around the State to deal with criminal and civil matters.

### ***Criminal Matters***

Some criminal offences known as 'simple offences' are dealt with in the Magistrates' Court. More serious criminal offences, known as 'indictable offences' commence in the Magistrates' Courts, with the most serious being held in the District or Supreme Courts.

### ***Civil Matters***

The civil jurisdiction of the Magistrates' Court deals with civil cases that involve:

- general procedure claims for debt damages up to \$50,000;
- minor case claims for debt damages up to \$7,500;
- consumer/trader claims over the sale, supply or hire of goods or services up to \$50,000;

- residential tenancy matters involving amounts up to \$10,000; and
- claims for the recovery of 'real property' up to a gross rental value of \$50,000.

As the Magistrates' Court deals with the vast majority of criminal and civil cases in the State, it is the Court which most Western Australians are most likely to come into contact.

## **The Family Court of Western Australia**

This Court was created in 1975. It hears all matters of family law, such as disputes about marriage, divorce, custody of children, maintenance and adoption. By governmental agreement, the Family Court hears Federal cases. The Court also has a counselling service for people seeking assistance with regard to marriage difficulties and matters affecting the welfare of children. It also has jurisdiction over separated and de facto couples. The Family Court sits mainly in Perth, but Judges and Magistrates of the Family Court travel, at various times, to regional centres. Appeals from the Family Court go to the Western Australian Court of Appeal if the case is a State matter. If the case is of Federal jurisdiction the offence goes to the Full Court of the Family Court of Australia.

### **Exercise 12.7**

What is counselling? \_\_\_\_\_  
 \_\_\_\_\_

## **Children's Courts**

The Children's Court deals with all complaints of offences alleged to have been committed by young people between the ages of 10 and 17 years (inclusive). If the young person charged has turned 18 after the date of the alleged offence, then the person still appears before the Children's Court. Members of the public are not allowed into these Courts.

The Children's Court does not only hear criminal matters. If a child had been seriously abused or neglected, an application can be made by a police officer or an officer from the Department for Child Protection, for the court to make a declaration that the child is in need of care and protection. The court may order that the child be committed to the Department for Child Protection for a period. If such an order is made, the child is described as a ward of the State.

The President of the Children's Court is a judge of the same status as a judge of the District Court of Western Australia. A judge of the Children's Court has the same powers in sentencing as a Supreme Court judge, and can also hear appeals against the decisions of Children's Court magistrates or members.

In addition to the President, who only deals with the most serious charges brought before the Court, there are magistrates and Children's Court members. A members' role is like that of a justice of the peace in the Court of Petty Sessions. Generally, the maximum sentence a magistrate can impose is six months detention. A member is not empowered to impose any detention at all. Therefore, a judge must deal with any matter requiring a greater sentence of detention or imprisonment.

### Exercise 12.8

Children, or juveniles, are persons under the age of \_\_\_\_\_ years?  
(18, 17, 16, 15 or 14)

### Drug Court

In Western Australia, Drug Courts have been introduced to address substance abuse within a criminal justice framework.

The Drug Court is a court under the Magistrates' Court; however, the specialist pilot Drug Courts also operate in the Perth Children's Court and the District Court at Perth. They can help break the cycle of substance abuse and offending by nominating a treatment program and making the treatment part of the court process.

To be considered, offenders must enter an early plea of guilty. The court then uses judicial authority to manage the offender in appropriate treatment. Defendants who are referred to the Drug Court will be subject to specific bail conditions encouraging abstinence and rehabilitation.

### Exercise 12.9

Indicate what is meant by the terms abstinence and rehabilitation.

- (a) Abstinence: \_\_\_\_\_  
\_\_\_\_\_
- (b) Rehabilitation: \_\_\_\_\_  
\_\_\_\_\_

### Coroner's Courts

When a person dies apparently from non-natural causes or where the cause of death is not known, a doctor cannot issue a death certificate and the Coroner must be advised.

Once a report of death is received, usually from police, doctors or hospital authorities, the Coroner has legal control over the body of the deceased person, and he or she must establish:

- The manner in which the death arose;
- The cause of death;
- The particulars needed to register the death; and
- The identity of the deceased.

Medical doctors certify the cause of about 85 percent of deaths. The remainder are referred to coroners.

### Exercise 12.10

Specify two main causes of death in Western Australia.

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### Prisoners Review Board of Western Australia

The Prisoners Review Board of Western Australia, formerly the Parole Board of Western Australia, was established on 28 January 2007. It has the authority to grant, defer or refuse parole, taking into account factors affecting the offender, victims of crime and most importantly, the safety of the community. The legislation provides for a seven member Board including nominees from the judiciary, government departments and the police force.

### Exercise 12.11

What is parole?

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### Liquor Commission of Western Australia

The Liquor Commission was established under section 8 of the *Liquor Control Act 1988*. It came into effect on 7 May 2007 to replace the Liquor Licensing Court. In making its decisions, the Commission takes into account the main aims of the Act which include the:

- regulation, sale, supply and consumption of liquor;
- minimisation or ill-health caused to people, or any group of people, due to the use of liquor;
- catering for the development of consumers for liquor and related services, with regard to the proper development of the liquor industry and other hospitality industries;
- facilitation of the use and development of licensed facilities, including their development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and
- the provision of adequate controls over the persons directly or indirectly involved in the sale, disposal and consumption of liquor.

## Exercise 12.12

Which Minister do you consider the Director of Liquor Licensing is required to report to annually on the activities of the Commission and indicate, when requested to do so, on the work of the Commission?

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(Minister for Education, Minister for Health, Minister for Racing and Gaming, or the Attorney General)

## State Administrative Tribunal

The State Administrative Tribunal (SAT) was established in Western Australia in 2004 as an independent body that makes and reviews a wide range of administrative decisions made by Government agencies, public officials and local governments. It is headed by a President, two deputy presidents and a large number of members who are experienced in the relevant field. Individuals, businesses, public officials and vocational boards can bring before the SAT many different types of applications related to civil, commercial and personal matters. Given its very wide jurisdiction, the matters coming before SAT are divided into four streams to enable the procedures to be adapted to the needs of the people using the SAT. The streams as specified on the SAT website are -

[\[http://www.sat.justice.wa.gov.au/\]](http://www.sat.justice.wa.gov.au/)

- **Human Rights** - Make decisions in relation to guardianship and administration, and equal opportunity, and reviews decisions of the Mental Health Review Board.
- **Development and Resources** - Reviews decisions made by State and local government regarding planning, development and resources, and hears matters relating to land valuation and compensation.
- **Vocational Regulation** - Hears complaints concerning professional and occupational misconduct (for dozens of self-regulated trades and professions such as doctors, lawyers, nurses, finance brokers, travel agents and real estate agents) and reviews concerning licensing.
- **Commercial and Civil** - Deals with strata title and retirement village disputes, commercial tendance and credit and reviews state revenue decisions and other commercial and personal matters. Examples include disputes under the *Business Names Act 1962* and *Dog Act 1976*.

Matters not within SAT's jurisdiction include: workers' compensation, liquor licensing, mining, building contract disputes, industrial relations and racing penalties. The approach of SAT is similar to a court, but the strict rules of evidence do not apply. SAT encourages the resolution of disputes through meditation. Parties are allowed to be represented by lawyers with most hearings being held in public. SAT provides reasons for all decisions with most of them being published on its website.

## **Other Legal Officers**

### **Director of Public Prosecutions**

The Office of the Director of Public Prosecutions was only established in Western Australia in 1991. In a short time the office has become an important part of the judicial system. The main aim of the Director of Public Prosecutions (DPP) is to provide citizens with an independent and effective criminal prosecution service which is fair and just. The DPP initiates and conducts criminal prosecutions in the Supreme Court and District Court. In addition the DPP conducts all appellate (appeal) work flowing from those prosecutions. The Director of Public Prosecutions Act 1991 provides that the Director may receive direction as to policy, but cannot be directed in a particular case, and functions independently from the Attorney General and Executive.

### **The Solicitor General**

The Solicitor General is the principal or main legal advisor to the Western Australian Attorney General. The latter is a Minister in each government. The Solicitor General appears in court as Counsel for the State and when requested by the Attorney General, for agencies of the State and other bodies. In addition the Solicitor General provides advice to the Government. To help ensure that the Solicitor General can give independent legal advice to the government the office has the same security of permanent employment as a judge of the Supreme Court.

### **Sheriff's Office**

The Sheriff's Office was established in 1970. The office has duties relating to such matters as the provision of juries, warrants for unpaid court fines and responsible for court security.

### **Bailiff's Offices**

These offices derive authority from Local Courts Act. They serve and execute processes of Local Courts. This role is to help the administration of Local Courts in Western Australia.

#### **Exercise 12.13**

Why are senior judicial officers in Western Australia such as Supreme Court justices, District Court judges, Magistrate Court judges, the Director of Public Prosecution and the Solicitor General given permanent office which is not subject to regular election like parliamentarians?

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## **Western Australian Industrial Relations Commission**

The Western Australian Industrial Relations Commission (WAIRC), as constituted under the *Industrial Relations Act 1979*, conciliates and arbitrates industrial disputes, sets conditions of employment and fixes wages and salaries by making industrial awards, approves enterprise agreements and makes decisions of claims of unfair dismissal. The Commission consists of a President, a Chief Commissioner, a Senior Commissioner, and other Commissioners as required. There are provisions for appeals to the WAIRC, which also deals with the State Wage Case and other cases of importance, in Court Session.

Of increasing importance have been the changes to the Australian Industrial Relations Commission (AIRC), which from 1904 to 2006 established national awards. In 1907 the *Harvester Judgement*, Justice Higgins influentially ruled that employers had to pay a 'reasonable and fair wage' defined as a wage 'appropriate to the needs of the average employee regarded as a human being in a civilised society'. From 2006 the wage setting powers of the AIRC were transferred to the Australian Fair Pay Commission. Then from 2010 the ARTIC was scheduled to become a division within Fair Work Australia with wage setting responsibilities to comply with ten minimum conditions.

Setting the salaries of parliamentarians has historically been a contentious issue. Members of Parliament have been paid for their services since 1900. Nowadays a three member Salaries and Allowances Tribunal annually determines and recommends rates of remuneration for Members of Parliament (including additional allowances from Ministers and other roles such as a President and Speaker), the judiciary and leading public sector office holders. The basic salary for a Member of Parliament from 1 September 2008 was \$128,980 per annum.

## **Law Reform Commission of Western Australia**

In Western Australia a Law Reform Commission Act was passed in 1972. The purpose of the Western Australian Law Reform Commission is to help keep the law up-to-date and relevant to the needs of society by making recommendations for the reform of areas of law referred to it by the Attorney General. This Minister tables the Commission's Reports in Parliament.

The Commission operates on a very limited budget. Currently it has three part time members (although it may consist of five members of which two may be full-time and three part-time). Of the part time members, one has to be a private legal practitioner with not less than eight years' experience; one has to be a person engaged in teaching the law of a university in the State; and one must be an officer of the Crown Solicitors Office.

In recent years the Commission has undertaken some major enquiries into aspects of Western Australian Law. One important inquiry was a report upon Aboriginal customary laws in Western Australia. Earlier, in 1997, the Commission had undertaken a comprehensive review of the Criminal and Civil Justice System. The Commission advertised for submissions from the public and launched an Internet Website. A number of 'Have Your Say' public meetings were held. In 2007 the Law Reform Committee published a major Review of the Law of Homicide (murder, manslaughter etc).

An important theme of the Law Reform Commission's Report recommendations was to reduce delay, cut costs and 'demystify' the system by making it more understandable. To simplify the justice system and make it more easily understood by the public the Commission recommended uniform rules in all courts. There should be more use of plain English when:

revising laws, drafting legislation and developing new procedures. In particular it was suggested that all statutes (Acts) should include a statement of purposes or principles upon which the legislation is founded.

The Law Reform Commission does not offer legal advice or deal with legal complaints of any nature. The Commission cannot intervene in individual cases nor deal with any matters representative of the legal profession.

### **Exercise 12.14**

Specify three areas of law reform which could be examined by the Law Reform Commission

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

## Challenge Exercise 12

### Jury Duty

The jury system is a feature of the Western Australian judicial system. It is part of our inherited English judicial system dating back at least to the Magna Carta (1215). A jury is a group of 12 citizens in a criminal trial and six people in a civil trial to decide on the innocence or guilt of an accused person. In a criminal trial the accused must be found guilty 'beyond reasonable doubt' whereas in a civil trial (which is rarely heard by a jury) beyond the 'balance of probabilities' is the guiding principle. The jury members are randomly chosen from the electoral roll although there are many categories of people, such as doctors and teachers, who are excused from service. The jurors listen to the evidence brought before it by the prosecutor and weigh up the truth or validity, bearing in mind that the defence will try to disclaim any evidence not favouring its client. The role of the judge is to rule on points of law; that of the jury to decide the guilt or innocence of the accused.

The operation of the jury system in Western Australia is coordinated by the Sheriff's Office. If you are asked to serve on a jury the sheriff's officers will provide support throughout your jury service. It should be noted that during the process of the selection in the court a prospective juror may be challenged by the prosecution lawyer or defence lawyer. If a person is asked to stand aside, no reason needs to be given,

The final report of the Review of the Criminal and Civil Justice System in Western Australia (1999) indicated that many submissions supported jury trials, but many other submissions were highly critical of juries. Many citizens sought trial by judge alone. The review recommended that trial by judge alone should not, in general, be the preferred method of trial for serious criminal offences.

The strengths of the jury system include:

- It being a traditional part of the legal system allowing citizens to be tried by their peers, people who have the same problems and worries.
- The random selection procedure helping to ensure a wide cross section of the society.
- Providing the need for cases to be presented in a manner that helps community understanding of important issues.
- Bringing to the administration of the law a quality of mercy and good common sense.

The weaknesses of the jury system include.

- Beliefs that juries carry with them the influence of prejudice or community perceptions.
- The extensive range of exemptions from jury service increasing the likelihood of juries not representing the 'ordinary' person.
- The time involved in deliberation adds to costs and delays.
- The problem that in many trials the evidence is very complicated and technical.

## Challenge Exercise 12 - *continued*

The framers of the Constitution of the United States of America considered the right to jury trial to be of great significance. In the so called Bill of Rights, Amendment 6 provided for trial by an impartial jury in all criminal prosecutions while Amendment 7 provided for the right for trial by jury for common law cases where the value in controversy shall exceed twenty dollars.

Section 80 of the Australian Constitution reads in part

“The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed...”

(a) Do you think the Western Australian Constitution should have a ‘trial by jury’ clause?

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(b) What changes to the jury system would you recommend?

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## Terms 12.0

<b>Balance of Probabilities:</b>	the standard of proof required in civil matters, whereby the version of the facts is most probable or likely.
<b>Beyond reasonable doubt:</b>	in criminal proceedings, a standard of proof that stipulates that a charge must be proven with no reservations.
<b>Employee:</b>	a person who works for some person, firm or company for pay (usually a wage or salary).
<b>Employer:</b>	a person, firm or company that employs one or more persons.
<b>Due process:</b>	refers to legal actions which comply with procedures to ensure fairness and the protection of individual rights and liberties.
<b>In-camera:</b>	In private or in secret.
<b>Liberty:</b>	the power or right to do as one chooses (usually in accordance with the law).
<b>Plaintiff:</b>	the party, which commences an action in a civil legal proceeding.
<b>Rule of law:</b>	the idea that all people are equal before the law with the expectation that due process or proper processes are followed.
<b>Sub-judice:</b>	under consideration or awaiting consideration by a court of law.

## **13. Resources**

### **Parliamentary Education Office**

The Parliamentary Education Office, which administratively is within the Department of the Legislative Assembly, delivers services for promotion, awareness, knowledge and understanding of the history, role and function of the Western Australian Parliament.

Education programs and materials are developed and delivered for members, Parliamentary staff, dignitaries, professional bodies, school and tertiary groups, community groups and for the general public. It is situated on the ground floor, southern corridor in Rooms G-22 and G-22A and provides services for members of both Houses of Parliament.

### **Parliamentary Education Office Contacts**

Jane Gray	Parliamentary Education Officer
Tel:	9222 7829
email:	<i>jgray@parliament.wa.gov.au</i>
Fax:	9222 7865

James Sollis	Deputy Parliamentary Education Officer
Tel:	9222 7429
email:	<i>jsollis@parliament.wa.gov.au</i>

Cherie Toovey	Education Presenters
Michael Loney	
Tel:	9222 7800
email:	<i>education@parliament.wa.gov.au</i>

Erin Grace	Administrative Assistant
Tel:	9222 7259
email:	<i>education@parliament.wa.gov.au</i>

### **Outline of Standard Tours**

Two standard tours have been developed each being structured around the workings of Parliament at the time of the visit or school excursion. All tours are apolitical in content and are structured to meet the specific needs of the group. Participants in tours guided by Education Office staff are not required to wear a visitor pass. Bookings are essential for all groups other than the Public Tours.

### **Non-Sitting Day**

On a Monday and Friday of a sitting week and during all non-sitting weeks participants enter through the security officer at the main doors on the eastern side of the building. They are welcomed in the John Forrest Foyer by Education Office staff and informed about the structure and function of the Western Australian Parliament. Parliamentary symbols, features

and objects of interest in the Western Australian Parliament are explored as participants make their way to the Public Gallery of the Legislative Council and then onto the floor of the Legislative Assembly. It is here that school groups re-enact parliamentary debates and the opening of a session. Groups are farewelled in the John Forrest Foyer and leave the building through the main doors.

## **Sitting Day**

Tours conducted during Tuesday, Wednesday and Thursday of sitting weeks enter through the security officer at the main doors on the eastern side of the building. They are welcomed in the John Forrest Foyer by Education Office staff and informed about the structure and function of the Western Australian Parliament. Participants are advised of the Orders of the Day for the Legislative Council and the Legislative Assembly and reminded that Parliament is sitting. During sitting days the workings of Parliament determine the sequence of the tour. Typically however, parliamentary symbols, features and objects of interest are explored as participants make their way to the Public Gallery of the Legislative Council and then to the Public Gallery of the Legislative Assembly.

The most sought after visiting time for sitting days is Question Time in the Legislative Assembly at 2.00pm. Groups are usually farewelled in the John Forrest Foyer and leave the building through the main doors. Some however choose to stay longer in the Public Gallery of either House and will leave through the Public Gallery exit.

Members of the public are encouraged to visit the public galleries whenever the Legislative Council or Legislative Assembly is sitting.

## **School and Tertiary Groups**

School and tertiary groups usually arrange their bookings directly with the Parliamentary Education Officer. In this way the Parliamentary Education Office can assist teachers and program coordinators in making links to their current learning programs and the Curriculum Framework. On occasions schools will contact the member of Parliament of their district or region to arrange a visit to Parliament House. Electorate Office staff notify the Parliamentary Education Office to confirm that the time proposed is available.

All members are notified when groups are visiting from their electorate or region, most members electing to meet with the students. There is also an option of providing a simple morning or afternoon tea at the member's expense. The Parliamentary Education Office organises the refreshments on the Member's behalf through the Parliamentary Catering Service.

School excursions take approximately 75 minutes.

To assist schools the Parliamentary Education Office is now able to offer the following range of options to selected groups of visiting students on non-sitting days. Please select the one you would prefer.

- Educational tour featuring key aspects of the history, functions, layout, roles, processes and procedures of Parliament.
- Abbreviated version of the tour plus role-play of some parliamentary procedures (eg. Petitions, ministerial statements, question time etc.).

- Abbreviated version of the tour plus reader's theatre of a historical debate. This role-play becomes the vehicle for explaining key workings of the Parliament within the unique setting of the Legislative Assembly chamber.

Preparation is recommended for the scripted options. A copy of the script and teacher's notes will be forwarded should they be chosen.

## **Public Tours**

The Parliamentary Education Office coordinates the public tour program. Tours are conducted every Monday and Thursday commencing at 10.30am. These tours run for approximately one hour and can accommodate a maximum of 20 people.

No booking is required.

## **Professional Groups and Dignitaries**

These groups include overseas dignitaries and personnel from government departments, agencies and professional organisations. Bookings for these groups are generally made with the Parliamentary Education Office through the Presiding Officers, Clerks or members of Parliament.

## **Community Groups**

The Parliamentary Education Office provides support to organised community groups. The service includes conducting tours booked directly with the Parliamentary Education Office or arranged through a member of Parliament. Special events such as Youth Parliaments, if approved by the Presiding Officers, must conform to strict guidelines for use of the Chamber. These are available on request to the Sergeant-at-Arms tel. 9222 7453. Members are often invited to preside over debates. The Parliamentary Education Officer coordinates community events held in Parliament House.

## **Parliamentary 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.

An internship runs for one semester. Students are drawn from third year or higher and may be majoring in any discipline, although preference is given to students from the schools of politics, law and journalism. Completed research papers are bound by the universities and sent to the Parliamentary Library for ongoing reference.

Further information regarding the Parliamentary Internship Program can be obtained from Jane Gray, Parliamentary Education Officer Telephone: 9227 4829.



## General information

Printed and multi-media materials are produced to promote knowledge and understanding of the role and function of the Western Australian Parliament.

- Harry Phillips, 2009, *A Citizen's Guide to the Western Australian Parliament*.
- *About Parliament* - fact sheets
- *Parliament of Western Australia: Structure and Function*
- *Parliamentary Parlance* - Glossary of Terms
- *Notes on the Parliament in Western Australia: Student Resource Book*

The Parliament of Western Australia has a comprehensive internet site which includes a virtual tour of the Parliament. ([www.parliament.wa.gov.au](http://www.parliament.wa.gov.au))

Telephone and email enquiries are handled by Parliamentary Education Office staff from 8.30am until 5.00pm every week day.

## Publications Available

Parliamentary History Advisory Committee
David Black, 2006, <i>An Index to Parliamentary Candidates in Western Australian Elections, State and Federal, 1890-2006</i> .
David Black (assisted by Valerie Prescott), 1997, <i>Election Statistics: Legislative Assembly of Western Australia 1890-1996</i> .
David Black, (revised 1991, <i>Legislative Council of Western Australia. Membership Register, Electoral Law and Statistics 1890-1989</i> ).
David Black and Brian de Garis, 1992, <i>Legislative Council of Western Australia. Elections and Electoral Law 1867-1890</i> .
David Black and Geoffrey Bolton, <i>Biographical Register of Members of the Parliament of Western Australia Volume Two 1930-2004</i> (revised edition).
David Black and Geoffrey Bolton, <i>The Western Australian Parliamentary Handbook</i> , Nineteenth edition, 1998 (revised)
David Black (editor), 1991, <i>The House on the Hill. A History of the Parliament of Western Australia 1832-1990</i>
David Black, 1992, <i>Ministerial Portfolio Listings - Western Australia: Including Official Offices Held 1832-1890 Prior to Responsible Government</i> .
David Black and Harry Phillips, 2000, <i>Making a Difference: Women in the Western Australian Parliament 1921-1999</i> .
Harry Phillips, 2004, <i>Speakers and Presidents of the Parliament of Western Australia</i>
Phillip Pandal and David Black, 2004, <i>House to House: The story of Western Australian's Government and Parliament Houses over 75 Years</i> .
Phillip Pandal, David Black, Harry Phillips, 2007, <i>Parliament: 'Mirror of the People'. Members of the Parliament of Western Australia 1890-2007</i> .
Janet Wilson and David Black, 2009, <i>'Women Parliamentarians in Australia', 1921-2009</i> , Parliament of Australia, Library, Background notes.
David Black, 2009, <i>The Western Australian Parliamentary Handbook</i> , Twenty second edition.

## **Articles and Books (Western Australian Civics and Citizenship)**

Beresford, Q., Macmaster, L. and Phillips, H. (1996), *Conflict and Consensus: Politics and Law in Australia*, Melbourne: Addison, Wesley, Longman.

Milnes, P., and Spindler, W., (2004), *The Layman's Guide to Political and Legal Studies*, Perth: Layman's Book Club.

Phillips, H., Black, D., Bott, B., and Fischer, T., (1998), *Representing the People: Parliamentary Government in Western Australia*, Fremantle: Fremantle Arts Centre Press. See Chapter 12.

Phillips, Harry (1996), *The Voice of Edith Cowan: Australia's First Woman Parliamentarian 1921-1924*, Perth: Edith Cowan University

Phillips, Harry and Moroz, Wally (1996), 'Research findings on Student's Perceptions of Political Awareness and the Characteristics of a Good Citizen', *Youth Studies*, Vol. 15, No. 1, March, pp. 13-19.

Read, Jolly (ed.) (2004), *Dynamics in Government: A Guide to the Workings of Government in Western Australia*, Perth: Constitutional Centre of Western Australia

Willmott, J. (2008), *Civics and Citizenship: An Introduction to Politics and Law in Australia*, Perth: Politics Law Publishing.

## **Discovering Democracy**

Hirst, John (1998), *Discovering Democracy: A Guide to Government and Law in Australia*, Carlton South: Curriculum Corporation.

See Discovering Democracy website. The site includes information about the wealth of materials published by the Curriculum Corporation under the Discovering Democracy program, plus articles about teaching civics.

## Recommended Web Sites

Aboriginal studies virtual library	<a href="http://www.ciolek.com/WWWVL-Aboriginal.html">www.ciolek.com/WWWVL-Aboriginal.html</a>
Amnesty International	<a href="http://www.amnesty.org">http://www.amnesty.org</a>
Australian Department of Foreign Affairs	<a href="http://www.dfat.gov.au">http://www.dfat.gov.au</a>
Australian Electoral Commission	<a href="http://www.aec.gov.au">www.aec.gov.au</a>
Australian Local Government Association	<a href="http://www.alga.com.au/">http://www.alga.com.au/</a>
Centre for World Indigenous Studies	<a href="http://www.cwis.org/wwwvl/indig-vl.html">http://www.cwis.org/wwwvl/indig-vl.html</a>
Citizenship	<a href="http://www.omi.wa.gov.au/">http://www.omi.wa.gov.au/</a>
Civnet-for civics education	<a href="http://www.civnet.org/resources">http://www.civnet.org/resources</a>
Constitutional Centre of Western Australia	<a href="http://www.ccentre.wa.gov.au">http://www.ccentre.wa.gov.au</a>
Curriculum Corporation	<a href="http://curriculum.edu.au">http://curriculum.edu.au</a>
Discovering Democracy	<a href="http://www1.curriculum.edu.au/ddunits/index.htm">http://www1.curriculum.edu.au/ddunits/index.htm</a>
Electoral Education Commission and WA Electoral Education Centre	<a href="http://www.waec.wa.gov.au/">http://www.waec.wa.gov.au/</a>
Francis Burt Law Education Centre	<a href="http://www.lawsocietywa.asn.au/education.htm">http://www.lawsocietywa.asn.au/education.htm</a>
Ministry of Justice (Dept. of Attorney General)	<a href="http://www.dotag.wa.gov.au/">http://www.dotag.wa.gov.au/</a>
National Trust of Australia (WA)	<a href="http://www.ntwa.com.au">http://www.ntwa.com.au</a>
One World Centre	<a href="http://www.oneworldcentre.org.au">http://www.oneworldcentre.org.au</a>
Open Learning Australia	<a href="http://www.ola.edu.au">http://www.ola.edu.au</a>
Parliament of Australia	<a href="http://www.peo.gov.au">http://www.peo.gov.au</a>
Parliament at Work	<a href="http://www.parliament.curriculum.edu.au">http://www.parliament.curriculum.edu.au</a>
Parliament of New South Wales	<a href="http://parliament.nsw.gov.au">http://parliament.nsw.gov.au</a>
Parliament of Northern Territory	<a href="http://www.nt.gov.au">http://www.nt.gov.au</a>
Parliament of Queensland	<a href="http://www.parliament.qld.gov.au">http://www.parliament.qld.gov.au</a>
Parliament of South Australia	<a href="http://www.parliament.sa.gov.au">http://www.parliament.sa.gov.au</a>
Parliament of Tasmania	<a href="http://www.parliament.tas.gov.au">http://www.parliament.tas.gov.au</a>
Parliament of Victoria	<a href="http://www.parliament.vic.gov.au">http://www.parliament.vic.gov.au</a>
Parliament of Western Australia	<a href="http://www.parliament.wa.gov.au">www.parliament.wa.gov.au</a>
Parliamentary Education Office (Canberra)	<a href="http://www.peo.aph.gov.au">http://www.peo.aph.gov.au</a>
Supreme Court of Western Australia	<a href="http://www.supremecourt.wa.gov.au">http://www.supremecourt.wa.gov.au</a>

United Nations	<a href="http://www.un.org">www.un.org</a>
Western Australian Government	<a href="http://www.wa.gov.au">www.wa.gov.au</a>
Western Australian Electoral Commission	<a href="http://www.waec.wa.gov.au">www.waec.wa.gov.au</a>
Western Australia (Local Government)	<a href="http://www.walga.asn.au">http://www.walga.asn.au</a>

For database of parties, elections, governments and representation for State and Federal Parliaments since 1890 see:  
<http://elections.uwa.edu.au>

## Parliamentary Political Party Websites

Australian Labor Party	<a href="http://www.alp.org.au">http://www.alp.org.au</a> (Federal)
	<a href="http://www.wa.alp.org.au">http://www.wa.alp.org.au</a> (WA)
Greens (WA)	<a href="http://wa.greens.org.au">http://wa.greens.org.au</a>
Liberal Party of Australia	<a href="http://www.liberal.org.au">http://www.liberal.org.au</a> (Federal)
	<a href="http://www.wa.liberal.org.au">http://www.wa.liberal.org.au</a> (State)
National Party	<a href="http://www.nationals.org.au">www.nationals.org.au</a> (Federal)
	<a href="http://www.nationalswa.com">www.nationalswa.com</a> (WA)

## **CURRICULUM FRAMEWORK LINKS** (Curriculum Council, Western Australia 1998)

### **Overarching Learning Outcomes**

- Students understand cultural, geographic and historical contexts and have the knowledge, skill and values necessary for active participation in life in Australia.
- Students will be provided opportunities to demonstrate active citizenship through their behaviours and practices in accordance with the principles and values associated with the democratic process, social justice and ecological sustainability.

### **Society and Environment Outcomes**

#### **• *Active Citizenship***

##### **Democratic Process**

Behaviours consistent with the values associated with democratic process include:

- acknowledging individual freedom;
- acknowledging the rights and responsibilities of participating in a democracy;
- showing respect for the law and for legitimate and just authority;
- respecting different cultures, choices, viewpoints and ways of living;
- displaying ethical behaviour; and
- ensuring equitable participation in decision making.

##### **Social Justice**

Behaviours consistent with the values associated with social justice include:

- showing respect and concern for the welfare, contribution, rights and dignity of all people;
- empathising with people of different belief systems and cultural groups;
- displaying fairness and equity in dealing with people;
- redressing disadvantage; and
- changing discriminatory and violent practices.

##### **Ecological Sustainability**

Behaviours consistent with the values associated with ecological sustainability include:

- acting in equitable ways to ensure the present and future quality of life;
- developing strategies to ensure the sustainable use of natural resources and the maintenance of healthy natural cycles;
- understanding the importance of biodiversity and integrity of all living species; and
- contributing to the preservation, conservation and enhancement of natural and cultural heritage.

Curriculum Framework – 1988 p. 261

<b>Society &amp; Environment Learning outcomes</b>	<b>Demonstration of outcomes</b>
Active Citizenship	<ul style="list-style-type: none"> <li>• Recognises other perspectives and can identify both positive and negative effects.</li> <li>• Creates personal stances on issues and justifies views.</li> <li>• Shows respect for democracy as a system of decision making and appreciates the need for the rule of law and just authority.</li> </ul>
Investigation, Communication and Participation	<ul style="list-style-type: none"> <li>• Designs suitable methods for organising and gathering information.</li> <li>• Identifies primary and secondary sources of information and their bias and perspective.</li> <li>• Makes judgements about the relevance of information collected.</li> <li>• Communicates conclusions.</li> </ul>
Social Systems	<ul style="list-style-type: none"> <li>• Understands concepts such as adaptation, interdependence and equilibrium.</li> <li>• Makes judgements about the appropriateness of various policies and management practices.</li> <li>• Understands simple political and legal structures and devaluates them from the perspective of social justice and democratic process.</li> <li>• Recognises that political and legal systems ensure peoples' rights and responsibilities and that citizens can actively influence the operation of these systems.</li> </ul>
Culture	<ul style="list-style-type: none"> <li>• Understands that values and beliefs shape practices and are represented in people's ethics, codes and rituals, cultural practices, ideas and symbols.</li> <li>• Understands the various influences that shape cultural identity, including nationality, religious affiliation, physical characteristics, racial and ethnic heritage.</li> <li>• Shows an understanding that core values of a society influence personal, group and cultural identity.</li> </ul>
Time, Continuity and Change	<ul style="list-style-type: none"> <li>• Understands that values shape people's actions now and in the future.</li> <li>• Classifies information in terms of reliability, accuracy and bias.</li> <li>• Understands that differences in people's beliefs and values contribute to different interpretations of events and issues.</li> <li>• Understands that some heritage transmissions endure over time and across societies including civil rights, constitutional monarchy, the parliamentary system, law, etc...</li> </ul>
Place and Space	<ul style="list-style-type: none"> <li>• Recognises the interdependence between people and places.</li> </ul>

## 14. Answers, Terms and Index

### **Suggested Answers to Chapter Exercises and Challenge Exercises**

#### **Chapter 1: Citizens of Western Australia: Government and Politics**

Exercise 1.1-Name: John or Joan Citizen

Life Expectancy: John about 79 years and Joan about 84 years.

Expected years of community life: If aged 10 years about 69 years for John and 74 years for Joan.

Exercise 1.2-Choice about literature, dress, friends, diet, and treatment if ill.

Exercise 1.3-a) Knowledge and skills about government; b) act to protect the environment; c) keeps fits and healthy; d) treats people equally; e) is prepared to help family, friends, and neighbours.

Exercise 1.4-a) Charisma (extra-personal characteristics); b) rectitude (moral uprightness).

Exercise 1.5

Group	The Rule	Why was the rule made?	How could the rule be improved?
Family	Close gates	Keep dog in yard	Include clip on gate latch.
Sporting Team	No let chord for serve in tennis	Reduce disagreement about a fine ball touch on the net.	More experiments at different levels of tennis.
Local Gov	Charges for ovals	To obtain funds	Scale of fees.
State Gov	License fee reduction for five years without demerit points.	Public concern about road safety	Extension of incentives.
Fed. Gov	Incentive for youth to bank savings	Encourage savings	Improved scale of incentives.

#### Challenge Exercise 1

Accepting of other people; open to new ideas; responsible but watchful attitude towards authority; and, attempts to be well informed about civic affairs.

#### **Chapter 2: Australia's Federal System**

Exercise 2.1-Adelaide 2114 km; Canberra 2975 km; Melbourne 2699 km.; Sydney 3274 km; Brisbane 3605 km; Darwin, 2649 km; Hobart 3037 km; Air flight time to Sydney is over 4 hours. It is usually less time travelling from west to east than east to west.

Exercise 2.2-a) Canada. b) Canada is both a federal system and one mainly based on the Westminster (British) system of government and law.

Exercise 2.3-Social security, health and education is 66.7 %;

Exercise 2.4-Income tax.

Exercise 2.5-Senate vacancies (WA government was against some other proposals)

Exercise 2.6-a) Neighbours; Home and Away;

b) More Australian content; more program time for children and youth

Exercise 2.7-51 % of budget devoted to health, education and training.

Exercise 2.8-GST component is 24 %

Exercise 2.9 -Subiaco: Post Code 6008; Subiaco City of Subiaco.

Exercise 2.10-Unimproved value rental \$8000.

Exercise 2.11-Gross rental value rental \$688

### Challenge Exercise 2

a) s.51 xxiii (social services), s.51 xxvi (Aboriginal peoples)

b) s.51 ii (taxation); s.51 iii (bounties) c) s.51 xxxvii (reference power)

d) environment; health; education.

## **Chapter 3: Parliament's History in Western Australia**

Exercise 3.1-Respect for elders; care for environment.

Exercise 3.2-The arrowed windows.

Exercise 3.3-John Forrest thought the payment of Members of Parliament would lead to a 'class' of politicians who were professional agitators. Moreover, such a class of politicians would probably lose touch with their electorates.

Exercise 3.4-Common defence, common currency, common market, common language and culture.

Exercise 3.5-Western Australia was not receiving a fair share of Commonwealth payments; distance to the eastern states created a feeling of isolation.

Exercise 3.6-Crown; Mangles Kangaroo paw; kangaroos, swan, boomerang.

### Challenge Exercise 3

a) 24,785; b) 39,782; c) 4.88%; d) 1.57%; e) 854; f) 9.86%; g) 6,844; h) Fallen; i) 6.62%; j) 3682 persons.

## **Chapter 4: The Western Australian Constitutional Framework**

Exercise 4.1-Mitchell Freeway; Hampton Senior High School; Newdegate (town);

Exercise 4.2-Army Museum; Art Gallery of Western Australia; Salvation Army; Wesley Central Mission.

Exercise 4.3-Churchill Fellowships; Queen Elizabeth 11 Silver Jubilee Trust Awards; Australian Honours Investitures.

Exercise 4.4-Changes to seasonal fishing regulations; changes to local shopping hours.

### Challenge Exercise 4

1(b)-Representative; 2(a)-1890; 3(e)-peace, order, good government; 4(e)-regions; 5(e)-4 years; 6(b)-59 election districts each returning one Member known as an MLA; 7(c)-4 years; 8(d)-introduce money bills; 9(a)-at least one Minister of State shall be a Member of the Legislative Assembly; 10(c)-passage of both Houses of Parliament and approval by the people in a referendum..

## **Chapter 5: How a law is made in Western Australia**

Exercise 5.1-a) dogs must be kept on a lead; b) No parking in William Street between 4.30 p.m. and 6.00 p.m. from Monday to Friday; c) A two-metre fire break is required for garden refuse and rubbish fires.

Exercise 5.2-a) page 152 onwards and page 1053 onwards; b) 13/6/2001; 28/6/2001; 2/8/2001.

Exercise 5.3-There does appear to be an apparent loophole in the law as some athletes under 18 years of age would be competing in senior competition.

Challenge Exercise 5 a) Sport Drug Testing Bill 2001; b) No, c) Australian Sports Drug Agency Act 1990; d) A person who is selected to represent, or purports to represent, Western Australia; e) Australian Sports Drug Agency, f) a blood or urine test, g) \$550; h) from parents or guardian; i) Yes; j) swimming, gymnastics, tennis.



## Chapter 6: People in Western Australia's Parliament

Exercise 6.1- 'Burden upon the people' (a tax, charge or levy placed upon the community under the authority of a Statute of the Parliament (or Act); contempt (an offence against the orderly management of the House); Green Paper (a preliminary discussion document, usually issued in advance of Government policy); 'left-wing' (those who favour public enterprise and egalitarian values); mandate (the claiming of authority by an elected government, or party, to implement election promises or an electoral program); psephology (patterns and trends of voting); redistribution (review and redrawing of electoral boundaries; right-wing (favouring the existing system and the maintenance of order ahead of freedom usually with a strong commitment to private enterprise); sessional order (a resolution of the House concerning its procedures); White Paper (a statement issued by the government outlining a policy proposal).

Exercise 6.2-liar, hypocrite, idiot, 'drongo', 'rat', 'crook', Fascist, Nazi.

### Challenge Exercise 6

Rules concerning: a quorum; matters of privilege; time limits on speeches; un-parliamentary language; the meaning or definition of a financial Bill; the scope of a grievance statement; public gallery rules, press and media and their reporting; tabling of papers.

## Chapter 7: Parliament at Work

Exercise 7.1- a) Legislative Council (red chamber = red light).

b) Legislative Assembly (blue chamber = blue light).

Exercise 7.2- a)  $59-1$  (Speaker)  $58$  divided by  $3 = 19$ .

b)  $36-1$  (President)  $35$  divided by  $3 = 11$  (closest whole number is 12).

Exercise 7.3- a) Both Members may wish to attend a school speech night.

b) Both members may have interstate Standing Committee business.

Exercise 7.4- a) Both mention Almighty God; both seek the blessing of the Parliament; both seek the advancement of thy glory.

b) The Council seeks 'the continued benefit of the people of this State', whereas the Assembly seeks 'the true welfare of the people of Western Australia'; the Council mentions 'Her Majesty' but the Assembly does not.

Exercise 7.5-: a) 'legislate that penalties for animal cruelty be increased.',

Others: passenger rail service to Geraldton, pink snapper size limits, smoking in public places, safety mechanisms at rail crossings.

b) 'demand that trading hours on Sunday be extended.',

Others: public library service funding, zones free from genetically modified crops, travel passes for disabled voluntary community workers.

Exercise 7.6-: a) Achievement of the Western Australian Wheelchair Rugby Team.

b) Chinese Language Study in Schools.

Exercise 7.7- Occasionally members of the public suffer damage to their reputation; sometimes it is argued that the conduct of Courts and Royal Commissions should not be constrained by the inability to call Members of Parliament when Parliament is sitting.

### Challenge Exercise 7

- (i) Similarities- Same sitting days, with both Houses commencing their sittings on Tuesday afternoon; sitting on Tuesday and rising Thursday afternoon; Question Time takes place in each House on each sitting day; Petitions are also tabled on each day of sitting in each House:
- (ii) Differences- The Legislative Council allows more time for Committee Reports; the Legislative Assembly has specific provision for Grievances and Members' Statements; the Legislative Council conducts an Adjournment Debate at the conclusion of each days sitting

### **Chapter 8: Parliament House**

Exercise 8.1: (a) Corner of St George's Terrace and Barrack Street.  
(b) Harvest Terrace.

Exercise 8.2: Mitchell Freeway named after former Premier and Governor James (later Sir James) Mitchell.

Exercise 8.3: The British House of Commons.

Exercise 8.4: Edith Cowan (1921-1924); May Holman (1925-1939); Florence Cardell-Oliver (1936-1956); Ruby Hutchison (1954-1971)  
Carmen Lawrence (1986-1994) and Margaret McLeer (1974-1993).

Exercise 8.5: The Council was initially nominated and then became an elected body; Members were initially officials, but its Members came to be elected to represent provinces or regions, firstly on a restricted franchise and after 1964 on universal franchise.

Exercise 8.6: *e.g.*: Member for Eyre. President of the Parent's and Citizen's Association and Shire President for Lake Grace.

Exercise 8.7: Black Swan design on the head of the rod.

### Challenge Exercise 8

Electronic provisions for computers; non-smoking areas; adequate office space for Members and Ministers; better facilities for women Members; child care facilities; more adequate car parking; appropriate gymnasium space; adequate library space; an education office; Standing Committee Offices for the Legislative Council and Legislative Assembly.

### **Chapter 9: Elections and Referendums**

Exercise 9.1- It enabled electors to cast their vote without intimidation or possible bribery.

Exercise 9.2- a) John Nanson (Ministerialist), b) 78 votes.

Exercise 9.3- a) 1803 votes (50% of valid votes + 1); b) Edward Newton; c) 76.88 %; d) 3.64%

Exercise 9.4- North Metropolitan quota = 40,033  
South West Quota = 22,000

Exercise 9.5- Electors do not always understand which direction their preference flows.  
Ticket voting encourages political parties to make preference deals.

Exercise 9.6- a) 30 seats to 59 seats; b) 15 seats to 36 seats.

Exercise 9.7- a) *e.g.* Assembly-Albany b) *e.g.* Council-South West Region

Exercise 9.8-: a) Support- It would enhance the status of local government and help ensure that local government councillors were elected by the majority of voters.

b) Rejection- It would be widely opposed by the electors who have

historically not experienced compulsory voting in local government elections.

Exercise 9.9 - Traditionally, Saturday provides the best non-working day for voters to cast their vote. It also makes available venues for polling stations that might be required in the week *e.g.* schools, halls, churches.

Exercise 9.10- a) The proportional representation voting system for the Legislative Council;

b) The policies of the political parties (see the respective websites)

Exercise 9.11- a) There is less publicity for by-elections than a general election.

b) Rarely is the fate of the government at stake in a by-election.

Exercise 9.12- a) Metropolitan areas; b) Metropolitan Members.

Exercise 9.13- Beliefs/Values - Skin care (cancer), business productivity, leisure patterns, energy costs (environment).

Options (for daylight saving): Easier business links with eastern states; more time for leisure in afternoon; energy savings; same concept as in Western Europe and North America: Standard time itself is an adjustment to real time.

Options (against daylight saving): Altering the 'natural way'; Children departing school in the heat of day; altering time zone with Asian countries and markets.

Challenge Exercise 9 (Answers based on Western Australian Electoral Commission website statistics ([www.waec.wa.gov.au](http://www.waec.wa.gov.au))).

e) the centre line of a street.

## **Chapter 10: Political Parties and Party Leaders**

Exercise 10.1-a) Federation Party; b) More taxing powers to State Governments, more funds to rural health; a higher priority for road safety.

Exercise 10.2- Australian Labor Party; Liberal Party. See websites in Chapter 13

Exercise 10.3- Greens WA; See website in Chapter 13.

Exercise 10.4- Communist Party (1956); Democratic Labor Party (1956); Greypower (1989); One Australia Movement (1989); Liberals for Forests (2001); Social Credit (1936); Westralia Party (1971).

Exercise 10.5- a) If 15 years of age in 2008 it would be 7 years Labor and 8 years non-Labor; b) 1971; c) 1897; d) 1904; e) 1914; f) 1921; g) Burke 1983; h) 2008; i) 1980, 1983 j) 2001-37%.

Exercise 10.6-a) John Scaddan; b) Sir Charles Latham; c) Colin Jamieson, Ron Davies, Bill Hassell, Barry McKinnon, Ian Taylor, Jim McGinty, Matt Birney, Paul Omodei and Troy Buswell. d) Yes-Carmen Lawrence; e) A Minister.

### Challenge Exercise 10

a) Died in office-1; Defeated in Legislative Assembly- 5; Defeated in General Election-13; Lost or resigned party leadership-5; Resigned for health or personal reasons-5; Elected to Federal Parliament-1; Other-2.

b) Hon H.P. Colebatch.

c) Hon. H.P. Colebatch

d) Hon. Carmen Lawrence

e) 1953 to 1959

f) 1974 to 1982

g) Hon. George Leake

h) Hon. Brian Burke.

i) Hon. Sir David Brand

j) 25 premiers

k) Colin Barnett became the 29<sup>th</sup> Premier

## **Chapter 11: Government at Work**

- Exercise 11.1-a) Agriculture; b) Sport and Recreation; c) Attorney General;  
d) Treasurer; e) Environment.
- Exercise 11.2-a) Provision and standards of country housing;  
b) Assistance to people with disabilities,  
c) Recommendation of law reform,  
d) Administration of the State lotteries and distribution of grants,  
e) Advice to small business.
- Exercise 11.3-a) Purchase of computer equipment b) Maintenance of buildings  
c) Literacy measures of students; d) Ratio of teachers to pupils.
- Exercise 11.4-a) Date of birth; b) Educational or professional qualifications.
- Exercise 11.5-a) Honesty b) Integrity
- Exercise 11.6-Federalism; equality of opportunity; the environment; Indigenous peoples; representative democracy.

### **Challenge Exercise 11.** Lowering the voting age to 16 years of age:

- a) the vote would help to lessen youth alienation;  
b) at 16 years of age students are able to leave school with the expectation of exercising full duties as a citizen;  
c) many other rights are exercised by 16 and 17 year old youth such as the right to marry and the right to hold a driver's license;  
d) better political and civic education is now available for youth.

## **Chapter 12: The Courts**

- Exercise 12.1- Liberty according to Montesquieu is the right to do whatever the law permits. Broadly it means to do as one pleases.
- Exercise 12.2- a) Civil; b) Civil; c) Criminal; d) Civil.
- Exercise 12.3- There is no correct answer. Probably the balance of probabilities (particularly below Test match level)
- Exercise 12.4- Four judges
- Exercise 12.5- Chief Justice Wayne Martin Q.C.
- Exercise 12.6- A law degree and experience in the law. High levels of integrity.
- Exercise 12.7- Counselling is providing advice on personal, social and psychological problems.
- Exercise 12.8- Juveniles are persons under 18 years of age.
- Exercise 12.9- Abstinence in this sense means refraining from taking drugs;  
Rehabilitation in this sense means restoring one's health with appropriate training and procedures.
- Exercise 12.10- Two main causes of death in WA are heart disease and cancer.
- Exercise 12.11- Parole is when a person convicted of an offence in a court of law and sent to prison, may be released from prison under certain conditions before the full sentence has been served.
- Exercise 12.12- Minister for Racing and Gaming.
- Exercise 12.13- Decisions can be based on law and not upon the likely popularity of the decision.
- Exercise 12.14- a) double jeopardy; b) Right to silence; c) Jury duty.

### Challenge Exercise 12

- a) No rights, save that of representation, are specified in the Western Australian Constitutional documents. Trial by jury is already extensively provided for in the criminal law of the State.
- b) If a 'State Bill of Rights' was agreed to at a State constitutional convention it is likely that the option of trial by jury, at least for alleged serious offences, would be included in the list of constitutional rights. There is scope to reduce the number of exemptions from jury duty.

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