This chapter explores the structure of the Australian parliamentary system. In order to understand this structure, it is necessary to reflect on the historical development. Important features of the Australian parliamentary system include:

- the principle of separation of powers
- the structure of state and Commonwealth parliaments
- representative government
- responsible government
- roles played by the Crown and the houses of parliament.
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Key terms

bicameral  A parliament with an upper and a lower house
Cabinet  The meetings of the leader of the government and the most senior state ministers
Crown  The authority of the monarch represented by the governor or governor-general
federation  The joining together of separate states to form one nation
government  The party (or parties in coalition) holding a majority of seats in the lower house
High Court  The highest court in Australia established by the Constitution and the only court with the authority to interpret the Constitution
House of Representatives  The lower house of the Commonwealth Parliament
Legislative Assembly  The lower house of the Victorian Parliament
Legislative Council  The upper house of the Victorian Parliament
parliament  The supreme law-making body consisting of elected representatives and the Crown
Senate  The upper house of the Commonwealth Parliament
separation of powers  The division of the powers of government among legislative, administrative and judicial bodies to provide a system of checks and balances
A Westminster system

Australia’s legal system is based on the British legal system. Like most countries colonised by Great Britain, Australia adopted the basic structure of the British parliamentary system. This is known as the Westminster system, named after Westminster Palace in London where the British Parliament is located.

The Westminster system of parliament consists of two houses and the sovereign. A parliament that consists of two houses is known as a bicameral parliament. The monarch is referred to as the Crown.

Parliament is the ultimate law-making authority. It is a democratic body that represents and is responsible to the people. The Crown retains the right to accept or refuse proposals passed by both houses. However, the usual practice is that the Crown accepts laws passed by parliament.

2.1 Bicameral parliament

Parliament in Australia

Both the Commonwealth and Victorian Parliaments are based on the Westminster system. The structure of Australia’s Commonwealth Parliament is formally set out in the Commonwealth Constitution.

Before federation

Was Australia an empty land?

When the British colonised Australia they brought with them the English legal system. They did not recognise the existence of an indigenous legal system or the land rights of the Indigenous people. At that time, Australia was considered to be a terra nullius. In other words, according to British law Australia was considered an empty land. It was not until 3 June 1992, in the famous Mabo Case (Mabo and Others v. State of Queensland), that our courts recognised native title or ownership of land.

Australia was first colonised as a convict colony. These convicts were released after serving their time as prisoners and settled in various parts of the country. Free settlers also arrived and began industries and trade. These settlers wanted representative and responsible government in the form of a Westminster-style Parliament.

This was granted by the British Parliament, passing a colonial constitution for each of the colonies (today’s states). These constitutions meant that each colony had a parliament with limited law-making powers. Each colony could make its own laws and had its own courts. These courts could hear and determine disputes concerning British laws and laws made by the colony.

Federation

Between 1881 and 1900, the colonies met to discuss forming a federation of six colonies. The colonies wanted to create a central authority to legislate for national issues. Each colony also wanted to retain the power to govern in its own territory. A federal political system had to be designed that would balance these interests. Some powers had to be set aside for a central authority. Other powers had to be reserved for the colonies.
What is a federal system?

Australia has a federal system of government. Under this federal system, the country is divided into states. Each state has its own parliament, which can exercise powers relating to certain issues, such as transport, power, water and education. In a federation, the people of the states agree that specified matters are more effectively handled by a national authority than a state body. Therefore, the central authority—the Parliament of Australia—has the power to make laws about matters that would affect the whole country, such as defence, currency, trade and postal services.

The opening of the first parliament

The Constitution

The Commonwealth Constitution was passed by the British Parliament. It came into force on 1 January 1901. The Commonwealth Constitution forms the guidelines for a federation. It sets out the structure of the Commonwealth Parliament and its powers to make laws. It defines the relationship between the Commonwealth Parliament and the states. It establishes that the Commonwealth Parliament has a House of Representatives (lower house) and a Senate (upper house).

The Constitution also established the High Court as the highest Australian court of appeal. When the Constitution came into force, the colonies became known as states. The states had their own parliaments with some of the law-making powers that they exercised as colonies.

Between 1901 and 1986, the historical influence of the British legal system on the Australian parliaments and the courts slowly ended. The Australia Acts 1986 cut the links between Great Britain and the states. These nearly identical Acts were enacted by the British and Australian parliaments, and they came into force on the same date. The Australia Acts established the Australian High Court as the final court of appeal.
There are three functions that must be performed within any legal system:

- laws must be made (the legislative function)
- laws must be administered (the administrative or executive function)
- laws must be applied when disputes arise (the judicial function).

The distribution of these functions to different bodies is known as the separation of powers. No one body holds absolute authority to perform all the functions in the legal system.
The Australian system

At a federal level, the separation of powers is set out in the Commonwealth Constitution. The legal system in each of the states also provides for a separation of powers. However, this is generally not stipulated in state constitutions.

**Legislative function**

In the Australian legal system the legislative function, or law-making power, is given to the parliament. At a federal level, law-making power is given to the Commonwealth Parliament. At a state level, the power to make laws is given to each of the state parliaments.

**Executive function**

The executive function includes the administration of laws and the business of government. This includes the day-to-day management of government affairs. In theory, as the Queen’s representative the governor-general exercises the executive function. However, the governor-general acts on the advice given by the government of the day. In practice, through its ministers and government departments, the government is largely responsible for the administration of the law.

Although in theory there is a separation of powers between the executive and legislative functions, in practice this distinction is blurred. As the party that holds a majority in the lower house of parliament forms the government, there is some overlap. This is because some members of parliament (performing a legislative function) are also ministers of the government (performing an executive function). Furthermore, parliament sometimes gives the power to make regulations to government departments.

**Judicial function**

The judicial function is the task of applying the law. This function is given to the courts. The courts have the power to interpret the laws and to decide how these laws apply to individual cases. The courts are independent of the legislative and executive functions. Therefore, the courts are not subject to political interference. The courts can act as a check on the use of law-making powers and government actions.

**Importing drugs—an example**

The operation of these functions of a legal system is best explained through the use of an example. Consider a person charged with the importation of heroin. Importation of an illicit drug is an offence under Commonwealth legislation. This legislation was passed by the Commonwealth Parliament—an example of the legislative function. The offence was most likely to have been detected by police or customs officials. Surveillance by the Australian customs service is an example of the executive function. Eventually the offender would be tried and, if found guilty, convicted and sentenced by a court—an example of the judicial function.
Reasons for the separation of powers

The separation of powers is considered to be very important. If all powers were given to a single body it would hold unlimited authority. The separation of powers therefore provides a system of checks and balances against the possible abuse of power.

Are powers really separated?

PHILOSOpher Baron de Montesquieu recognised that power is often abused. He believed that the concentration of power in one body was a threat to liberty. To reduce this threat, he proposed that the functions of government should be separated.

The doctrine of the separation of powers divides the institutions of government into three branches. They are legislative, executive and judicial. The powers and functions of each are separate and carried out by separate personnel. The doctrine allows each group to check the power of the other two. The division of power stops one person or group of people from taking over the power to govern.

Constitutional principle

The Commonwealth Constitution reflects this principle. Separate chapters deal with each of the three components. However, in Australia there is no strict separation between the executive and legislative branches at a federal level.

Executive power was given to the monarch or their representative, the governor-general (section 61). At the same time, the governor-general is required to act on the government’s advice (subject to the governor-general’s controversial ‘reserve powers’). Ministers (the executive) have to be members of parliament (the legislature). There is considerable interconnection between the executive and the legislative branches in both personnel and actions.

Legislative functions can be delegated

In the case Victorian Stevedoring and General Contracting Co. v. Dignan (1931) 46 CLR 73, the High Court found legislative power may be delegated to the executive. The same case reconfirmed the separation of powers as it relates to the judiciary. The courts are separate, and the High Court’s function is to rule on constitutional questions and the validity of legislation. However, the executive—although not part of parliament—can exercise some law-making powers. The High Court ruled that the legislature could delegate some of its law-making powers to the executive. The executive can make regulations under an Act passed by parliament. Similarly, parliament can restrict or overrule some powers held by the executive by passing new laws to that effect.

Partial separation

Section 44 partially separates executive and legislative functions. Public servants cannot become members of parliament while the government employs them. In 1992, Federal Independent MP Phil Cleary was on leave without pay from the Victorian Education Department at the time he stood for election. He was held to be holding an office of profit under the Crown and was disqualified. He lost his seat in the Commonwealth Parliament. This requirement of separating executive influence from the legislature does not apply to state elections.

Political parties have an effect on the separation of powers between the executive and the legislature. By convention, the party controlling the lower house forms the government.

As a result, the government exerts authority over the House of Representatives. Party discipline ensures that members of government support the decision of the executive.

In the Wheat Case in 1915 (New South Wales v. Commonwealth (1915) 20 CLR 54), the High Court decided that strict separation of judicial power was essential. Reiterating this in the Boilermakers’ Case of 1956 (R v. Kirby; Ex parte Boilermakers’ Society of Australia (1956) 94 CLR 254), the court said that the Constitution does not allow non-judicial functions to be vested in courts established by or under Chapter III of the Constitution.

Separation and the states

The states are a different matter. The separation of powers in all Australian states has little constitutional existence, even though it is generally practised. Various cases have shown this. They include Clyne v. East (1967) 2 NSWLR 483 and Kable v. Director of Public Prosecutions (NSW) (1996) 189 CLR 51. These judgments and others noted that a ‘general’ doctrine of separation of powers operates as accepted practice in the states through constitutional convention. This position was confirmed in cases in Victoria (Collingwood v. Victoria (No.2) [1994] 1 VR 652), Western Australia (Nicholas v. Western Australia (1971) 168), and South Australia (Gilbertson v. South Australia (1976) 15 SASR 66).
Activity

Understanding the separation of powers

Read the article ‘Are powers really separated?’ and answer the following questions.

1. What is the principle of the separation of powers? In your answer you should define the following terms:
   - judicial
   - legislative
   - executive.

2. Suggest reasons to justify why power should be separated.

3. How does the Commonwealth Constitution reflect the principle of separation of powers?

4. To what extent is the function of the executive separate from the function of the legislature? Explain.

5. Does the principle of the separation of powers apply to state parliaments? Explain.

Commonwealth Parliament

The Commonwealth Parliament is a bicameral parliament. It consists of the House of Representatives (lower house), the Senate (upper house) and the Crown.

2.3 Commonwealth Parliament
The House of Representatives

The lower house of the Commonwealth Parliament is known as the House of Representatives. It consists of 150 members.

Members of the House of Representatives are elected to represent areas called electorates. Each electorate is an area with approximately the same number of voters. Voters directly elect a member for their electorate in elections held every three years. Members are responsible to the electorate and represent the interests of the people in their electorate.

The House of Representatives is designed to represent the interests of the majority of people in Australia. For this reason it is sometimes referred to as the 'people's house'. The House of Representatives also plays an important role in the formation of government. The political party that wins a majority of seats in the House of Representatives forms government. For this reason it is sometimes referred to as the 'house of government'.

How many representatives?

The number of representatives from any state varies according to the population of the state. The Constitution allows parliament to increase or decrease the total number of members in the House of Representatives. This is to meet the requirement that the number of members shall be as near as practicable to twice the number in the Senate. The Constitution also states that no state shall have fewer than five representatives.

Role of the House of Representatives

The House of Representatives is seen as having six key roles.

- **Making laws** The main function of the House of Representatives is to make laws. Any member can introduce a proposal for a new law. However, most proposals come from members of the government. To become a law, the proposal must receive the approval of both houses of parliament.

- **Determining government** The party, or parties in coalition, with a majority in the lower house forms government. To remain in government, the party must maintain the support of the majority of members in the lower house.

- **Providing for representative government** Members of the House of Representatives are elected to represent areas of approximately the same number of electors. The electoral system ensures that the House of Representatives represents the interests of the majority of voters.

- **Providing for responsible government** Individual members of the House of Representatives have the opportunity to present the views of their electorate by presenting petitions or raising issues with ministers during question time.

- **Scrutinising government** The House of Representatives plays an important role in providing for responsible government. In the House of Representatives, legislation is debated, ministers make policy statements, matters of public importance are discussed, and ministers are questioned during question time.

- **Controlling government spending** The government can only collect taxes or allocate the spending of public money if a law is passed by parliament.
The Senate

The Senate consists of 76 members. Each state elects 12 representatives and each territory elects two. This system guarantees equal representation for each state irrespective of population. The Commonwealth Constitution ensures that a balance of numbers is maintained between the lower house and the upper house. The Constitution also provides that the lower house has roughly double the number of members in the upper house.

The Senate is directly elected by all Australians who qualify to vote. Voting is conducted according to the proportional representation system. With the exception of financial Bills (see page 79), the Senate has powers equal to the House of Representatives.

Senators are elected for a term of six years. Half the Senate retires every three years. Whenever possible, these elections are held at the same time as the election for the House of Representatives. All members of the House of Representatives must be elected every three years. The Senate therefore provides stability as well as ongoing membership.

Role of the Senate

The key functions of the Senate include the following.

- **Making laws**  A Bill must be passed by both the House of Representatives and the Senate before it can become law. Most laws are proposed by the government and therefore start in the House of Representatives, but proposed new laws can also start in the Senate.

- **Reviewing laws**  The Senate provides for the review of legislation passed by the House of Representatives. Historically, the upper house has the responsibility to check legislation passed by the lower house. For this reason the Senate is sometimes referred to as the ‘house of review’. In addition, the Senate can originate, amend or reject any proposed law.

- **Providing for representative government**  A function of the Senate is to safeguard the interests of the states. This form of representation protects the interests of the States. As each state elects an equal number of senators, the Senate provides for equal representation among the states. For this reason the Senate is sometimes called the ‘states’ house’.

- **Providing for responsible government**  The party, or parties in coalition, with a majority in the House of Representatives does not need a majority in the Senate to form government. When the Senate is not composed of a majority of senators from the party forming government it may force the government to account for its actions. In addition, individual senators have the opportunity to present petitions and to raise issues during question time.

- **Scrutinising government**  Like the House of Representatives, the Senate has the responsibility for supervising administrative laws, protecting the rights of the citizen, presenting conflicting views in open debate, and gathering and disseminating information. However, as the government may not necessarily hold a majority of seats in the Senate, the Senate may more effectively question government actions.
Do we really need a Senate?

THE Commonwealth Parliament consists of two chambers—the Senate and the House of Representatives. The Senate is the house of review and provides a check on the power of the government. The House of Representatives forms governments and initiates legislation. They act in tandem to pass legislation.

Pressures to legislate
The pressures on modern parliaments are enormous, due to the considerable volume of legislation. In 1901, the first year of the Commonwealth of Australia, parliament passed 17 laws. That year, parliament passed an Act every 16 or 17 days. In its first 10 years, it averaged about 23 laws a year. In 1952, the parliament passed more than 100 Acts. Now the House of Representatives spends, on average, two or three hours on each Bill it considers.

With this pressure on parliaments, the existence of the Senate is sometimes questioned. This usually occurs when legislation being blocked in the upper house frustrates a government. When this situation occurs, there are often public debates about the effectiveness of the Senate and the cost of having a second chamber.

The role of the Senate
The writers of the Constitution believed that the primary role of the Senate was to protect the interests of the less populous states by giving representation to all states. It has virtually equal power with the House of Representatives to make laws. Although the government is formed by the party, or coalition of parties, with a majority in the House of Representatives, they do not have to hold a majority of seats in the Senate. The upper house can therefore force the government to account for its actions. It can withhold finance by rejecting the money Bills, which impose tax or appropriate revenue in other ways.

The Senate checks government by scrutinising Bills, delegated legislation, government administration and government policy. This is done through procedures in the Senate chamber, and through the operation of the Senate committee system.

Strengths of the Senate
The Senate has a number of strengths. Besides the power to veto legislation, the Senate:

- reviews legislation to improve Bills with amendments or to defeat unwise legislation
- has been mostly outside the control of the government of the day—be it Liberal or Labor. The government of the day does not necessarily have a majority in the Senate
- provides a broader sense of representation. Residents of small states and supporters of opposition parties receive better representation in the Senate than in the House of Representatives
- allows for input from small parties by providing opportunities for them to discuss their ideas for new policies. Small party representation helps to foster respect for the diversity of the Australian community
- provides a committee process that allows time for detailed study of issues
- effectively allows citizens to express their views to parliament through the presentation of petitions. This function can be more effective in the Senate where party discipline is less strict, where there is a tendency for minor parties to be represented and where the committee system is better developed
- sits longer and devotes more time to legislation than the House of Representatives. The Senate considers more amendments from senators representing the opposition and minor parties.

Weaknesses of the Senate
The Senate is not a perfect institution. It does have weaknesses and these include:

- senators vote according to party policies—this may override the original function of the Senate to represent the interests of the states
- empowering the small parties—such as the Greens—who may effectively have the power to veto laws supported by the majority party in the lower house
- the disproportionate representation of small states and territories. Tasmania, with a relatively small population, has 12 senators. The ACT and Northern Territory each have two senators. A senator from NSW represents about 551 000 people, while a Tasmanian senator represents 39 500. There is also the question of the cost of providing such representation
- six-year terms protect senators from the full impact of changes in the popular view of the electorate. This diminishes the degree to which senators are answerable to the electorate.
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Activity

The role of the Senate

Read the article ‘Do we really need a Senate?’ and answer the following questions.
1. Outline the differences between the role of the House of Representatives and the role of the Senate.
2. What do you consider to be the two most important strengths of the Senate? Justify your view.
3. What do you consider to be the two most significant weaknesses of the Senate? Explain.
4. How do you think the bicameral structure of parliament provides for effective law-making?

The Crown

The governor-general represents the Crown. The Queen, on the recommendation of the prime minister, appoints the governor-general. The governor-general exercises those powers and functions given by the Constitution. The Crown acts on the advice of the ministers of state, who are elected members of parliament.

Role of the governor-general

The powers of the Crown include:
- to grant royal assent to legislation
- to appoint the times for the holding of parliament
- to bring to an end a session of parliament without dissolution (to prorogue the parliament)
- to dissolve the House of Representatives and bring about an election
- to cause writs to be issued for the general election of members of the House of Representatives
- to grant pardons or remit fines for offences against the laws of Australia
- to appoint officers in the diplomatic and consular services of Australia
- to choose and summon executive councillors and to appoint ministers of state for Australia.

The governor-general has wide powers as a representative of the Crown. The governor-general can dissolve both houses of parliament. This action effectively dismisses the elected government and results in an election. This happened in 1975 when governor-general Sir John Kerr dismissed the Whitlam Government.
Crown or republic?
The Crown is formally the Head of State in Australia. There has been a continuing debate in Australia about the appropriateness of the Queen still holding this position. In 1998, a Constitutional Convention was held to consider alternatives. Following the Convention, a referendum was held in 1999. Australians were asked to vote on whether Australia should become a republic. The referendum proposal was not successful.

Ten years later the republic debate was raised again. In 2009 a Senate committee investigated a proposal for a plebiscite referendum on the issue. A plebiscite or advisory referendum would require a simple ‘Yes’ or ‘No’ to a question. In the event of a ‘Yes’ vote, the details of a model for a republic would be determined later. The Committee recommended a further education campaign on the issue.

How is government formed?
The political party, or parties in a coalition, with a majority of members elected to the lower house (House of Representatives) forms the government. The minority party or parties form the opposition. The state government is formed in the same way.

2.4 Parliament and the formation of government

How is a prime minister selected?
The leader of the party that holds a majority in the House of Representatives becomes the prime minister. At a state level, the premier is selected in a similar manner.

What is a minister?
The prime minister recommends other members of the majority party (or parties in coalition) to the governor-general to be appointed as ministers of state.

A minister is responsible and answerable to parliament for the actions of a government department. (For example, the Minister for Industry, Tourism and Resources is responsible for the Department of Industry, Tourism and Resources.) A minister
must be a member of parliament; they may be a member of either of the House of Representatives or the Senate. Each minister has a portfolio. A portfolio is a special area of responsibility.

The minister is responsible to the governor-general, the prime minister and to the members of both houses. A minister can be asked to answer questions on all aspects of the departments for which they are accountable. This is a key feature of responsible government. At a state level, ministers are responsible to the governor, the premier and the parliament.

**What is Cabinet?**

Cabinet is a meeting of ministers. Members of Cabinet form the Executive Council. Most members of Cabinet are ministers ‘with portfolio’. This means that they are in charge of important government departments. The members of Cabinet determine the general policy of the government. Most proposed Bills are approved by Cabinet.

The way Cabinet works is not set out in the Constitution. Cabinet operates according to practices inherited from the Westminster system. These practices are conventions designed to reflect the principles of responsible government. They include the following.

- The governor-general will act on the advice given by ministers in Cabinet.
- Ministers who are members of Cabinet come from the party that has a majority in the House of Representatives. Therefore, Cabinet represents the interests of the majority of people.
- Ministers are expected to resign if their house of parliament passes a motion of no confidence in them.
- Ministers are responsible to parliament for the activities and decisions of their government departments. They are expected to answer questions during question time in parliament.

All ministers are responsible for the decisions made by the Cabinet. This is known as collective responsibility.

**What is the Executive Council?**

The Commonwealth Constitution provides for a Commonwealth Executive Council. The governor-general acts on the advice given by this Executive Council. It consists of the ministers of state and the governor-general.

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**Victorian Parliament**

The Victorian Parliament is a bicameral parliament. It consists of the Legislative Assembly (lower house), the Legislative Council (upper house) and the Crown.

**The Legislative Assembly**

The Legislative Assembly is the lower house of the Victorian Parliament. It consists of 88 representatives. Members are elected from electorates. Each electorate represents an area within Victoria of approximately the same population. Members of the Legislative Assembly are elected every four years.
2.5 Victorian State Parliament

The role of the Legislative Assembly

The Legislative Assembly performs a similar role to the House of Representatives. The key functions include the following.

- **Making laws** The main function of the Legislative Assembly is to make laws. To become a law, the proposal must receive the approval of both houses of parliament.
- **Determining government** The party, or parties in coalition, with a majority in the lower house forms government.
- **Providing for representative government** Members of the Legislative Assembly are elected to represent areas of approximately the same number of electors. The electoral system ensures that the Legislative Assembly represents the interests of the majority of voters.
- **Providing for responsible government** Individual members of the Legislative Assembly have the opportunity to put forward the views of their electorate by presenting petitions or raising issues with ministers during question time.
- **Scrutinising government** The Legislative Assembly plays an important role in providing for responsible government. Legislation is debated, ministers make policy statements, matters of public importance are discussed and ministers are questioned during question time.
- **Controlling government spending** The government can only collect taxes or allocate the spending of public money if a law is passed by parliament.

The Legislative Council

The Legislative Council is the upper house of the Victorian Parliament. It consists of 40 members representing eight regions. Each region is made up of 11 electoral districts of about 420,000 electors. Each region elects five representatives. Members of the Legislative Council are elected for four years.
The role of the Legislative Council

The role of the Legislative Council is to ensure that the interests of people in different areas of Victoria are equally represented. It also acts as a ‘house of review’. The key functions include the following.

- **Making laws** A Bill must be passed by both the Legislative Assembly and the Legislative Council before it can become law. Most laws are proposed by the government and therefore start in the Legislative Assembly, but proposed new laws can also start in the Legislative Council.

- **Reviewing laws** The Legislative Council provides for the review of legislation passed by the Legislative Assembly. The Legislative Council can originate, amend or reject proposed laws (except an appropriation Bill).

- **Providing for representative government** A function of the Legislative Council is to safeguard the interests of people in all areas of Victoria. As each region elects an equal number of representatives, the Legislative Council provides for equal representation of all areas in the state.

- **Providing for responsible government** The party, or parties in coalition, with a majority in the Legislative Assembly does not need a majority in the Legislative Council to form government. When the Legislative Council is not composed of a majority of members from the party forming government it may force the government to account for its actions. In addition, individual members have the opportunity to present petitions and to raise issues during question time.

- **Scrutinising government** Like the Legislative Assembly, the Legislative Council can supervise administrative laws, protect the rights of citizens, present conflicting views in open debate, and gather and disseminate information. However, as the government may not necessarily hold a majority of seats in the Legislative Council, it may more effectively question government actions.

Can the Legislative Council block supply?

The Legislative Council cannot block supply. The Council can debate and consider appropriation Bills. The Legislative Council has one month to consider the Bill. If in that time the Legislative Council does not pass the Bill, it will automatically be presented to the governor for ‘royal assent’.

The Crown

At a state level, the Crown is represented by the governor. The role of the governor is similar to the role of the governor-general.

The role of the governor

The powers of the governor include:

- to grant royal assent to legislation
- to appoint the times for the holding of parliament
- to bring to an end a session of parliament without dissolution (to prorogue the parliament)
Representative government

The idea of representative government is central to democracy. Representative government refers to a government that represents the views of the majority of people. Government is formed from an elected and representative body. Members of the government come from the party with a majority of members elected to the lower house of parliament. Therefore, the government represents the views of the majority of people. If members of the government fail to represent the interests of the community, they will not be re-elected to parliament.

The bicameral structure of the parliament also contributes to the representative nature of government. The lower house represents the will of the majority of people. The upper house provides equal representation for each state or region. In theory, this means that a range of interests is represented in parliament and therefore brought to the attention of the government.

Responsible government

The idea of responsible government is also crucial to a democracy. Responsible government means that government is answerable to the parliament, and therefore to the people. There is a number of ways in which government is responsible. These include the following.

- **Ministers are responsible to the parliament** for the actions of their government departments or portfolios. Annual reports outlining the activities of government departments are tabled in parliament. Ministers are expected to answer questions asked during question time. They must be able to explain and justify their actions to the parliament. A minister may be called upon to resign if they cannot answer a question about the operation of their government department or portfolio in parliament.

- **Members of government are responsible to the parliament** and to the people who elected them. They are directly answerable to the community through the electoral process. If members fail to respond to the needs of the community, they will not be re-elected.

- **Government is formed from members of parliament** representing the political party with the majority of seats in the lower house. If citizens are dissatisfied with the government they may decide not to vote for them at the next election. Therefore, the executive function of government is responsible to the democratically elected parliament.

- **The opportunity for public scrutiny** is one way in which government is held responsible for its actions. The government can be held accountable for its actions during parliamentary debates. Sittings of parliament are open to the public and to public comment. The proceedings in parliament are recorded in *Hansard*.

- **Parliament can establish committees** to scrutinise government actions and expenditure. In most instances, the meetings of these committees are open to the public and are also recorded.
Activity

Functions of parliament

1. Draw up a chart like the one below. Suggest the differences and similarities between the Commonwealth Parliament and Victorian Parliament for each feature listed.

<table>
<thead>
<tr>
<th>Similarities</th>
<th>Differences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper house</td>
<td></td>
</tr>
<tr>
<td>Lower house</td>
<td></td>
</tr>
<tr>
<td>Crown</td>
<td></td>
</tr>
<tr>
<td>Executive government</td>
<td></td>
</tr>
</tbody>
</table>

2. What do you consider to be the key functions of the Commonwealth Parliament?

3. To what extent do you believe that government and parliament in Australia are responsible? Explain.

4. To what extent do you believe that government and parliament in Australia are representative? Explain.

Activity

Parliament online

Using the Parliament of Australia homepage <www.aph.gov.au>, complete the following research on the role of the Commonwealth Parliament.

1. Go to ‘House of Representatives’. Go to ‘Introduction’.
   - The House of Representatives is sometimes called the ‘people’s house’ or the ‘house of government’. Explain.
   - How often are elections held for the House of Representatives?
   - Design a diagram to explain of the House of Representatives.

   - Explain the role of the government and the opposition in the House of Representatives.
   - How is government selected?
   - Describe the role of the following: prime minister, leader of the opposition, ministers, whips, backbenchers and shadow ministers.

3. Go to ‘Senate’. Go to ‘Introduction’. Go to ‘More about the Senate’.
   - What is the role of the Senate?
   - How often are elections held for the Senate?

4. Prepare a written response to the following by drawing on the material covered in your internet research and notes taken from the text.
   - Describe the structure of the Commonwealth Parliament.
   - Describe the role and function of each house of the Commonwealth Parliament.
   - Prepare a chart to compare and contrast the role and structure of the Commonwealth Parliament with the role and structure of the Victorian Parliament.
   - Discuss one factor that limits the effectiveness of parliament in providing for representative and responsible government.
Summary checklist

Do your notes cover all of the following points?

- Australian parliamentary system
  - Australia is a federation of states.
  - The structure of parliament in Australia is based on the British Westminster model.
  - The Commonwealth Parliament and the Victorian Parliament are bicameral.

- Separation of powers
  - The legal system consists of three key functions—executive, legislative and judicial.
  - These roles are seen as being separate or independent and protect against the possible abuse of power.

- Commonwealth Parliament
  It consists of the House of Representatives (lower house), Senate (upper house) and the governor-general (Crown).
  - The Senate consists of 76 senators—12 from each state and two from each territory. The structure of the Senate provides for:
    - equal representation of all states
    - review of legislation passed by the lower house.
  - The House of Representatives consists of 150 members and is designed to represent the interests of the majority of people. Each member represents an electorate of approximately the same number of electors.

- The role of the Crown
  The Crown is represented by the governor-general (federal) or the governor (state). Powers include:
  - royal assent to legislation
  - appointing parliament’s sitting times
  - dissolving or proroguing parliament
  - issuing writs for general elections
  - granting pardons
  - appointing ministers and other officials.

- Victorian Parliament
  - It consists of the Legislative Assembly (lower house), Legislative Council (upper house) and the governor (Crown).
  - The Legislative Council consists of eight regions, each with five members, and provides for:
    - equal representation of all regions
    - review of legislation passed by the lower house.
  - The Legislative Assembly consists of 88 members and is designed to represent the interests of the majority of people. Each member represents an electorate of approximately the same number of electors.

- Representative government
  Government is formed by the party with a majority in the lower house and therefore represents the majority of people.

- Responsible government
  - Government is answerable to the parliament.
  - Ministers are answerable to the parliament.
  - Parliament is answerable to the electorate.
Revision questions

1. What is meant by the term ‘separation of powers’?
3. Distinguish between the role of the lower house, the upper house and the Crown in the Australian parliamentary system.
4. What is meant by the term ‘representative government’? How is this reflected in the structure of parliament and government in Australia?
5. What is meant by the term ‘responsible government’? How is this reflected in the structure of parliament and government in Australia?

Sample exam questions

The final examination is marked out of 60 marks. In the final examination you will be allowed 15 minutes’ reading time and 2 hours’ writing time. If you want to complete these questions under examination conditions, you should allow 7–8 minutes’ reading time and 1 hour’s writing time.

1. Outline the structure of the state and Commonwealth parliaments. [6 marks]
2. Identify two roles played by the Crown in the Australian parliamentary system. [2 marks]
3. Explain the role played by each of the houses of parliament and the relationship between the two houses. [6 marks]
4. Describe two ways that the lower house of parliament provides for representative government. [4 marks]
5. Explain how the role and structure of the Senate provides for responsible government. [4 marks]
6. ‘The Australian Parliamentary system consists of a number of checks and balances. The most important of these is the separation of powers.’ Do you agree? Justify your decision. [8 marks]