

THE ARCHITECTURE OF ELECTIONS IN NEW ZEALAND: A GOVERNOR-GENERAL'S PERSPECTIVE

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I. INTRODUCTION

I begin by greeting everyone in the languages of the realm of New Zealand, in English, Māori, Cook Island Māori, Niuean, Tokelauan and New Zealand Sign Language. Greetings, Kia Ora, Kia Orana, Fakalofa Lahi Atu, Taloha Ni and as it is the morning (Sign).

I then specifically greet you: Rt Hon Jim Bolger, Chancellor of the University of Waikato; Professor Roy Crawford, Vice-Chancellor; Professor Bradford Morse, Dean of Te Piringa – Faculty of Law; Distinguished Guests otherwise; Ladies and Gentlemen. Thank you for the invitation to give this public lecture for the Faculty of Law.

Before beginning, I want to welcome you, Professor Morse, in your new role as Dean of University of Waikato's Faculty of Law. With your previous experience at the University of Ottawa in Canada and your considerable scholarship in indigenous law in Canada, you bring to New Zealand a valuable perspective on our country, on particular issues relating to Māoridom.¹ I wish you well in your role.

You join the University at a time when it has come of age – and is celebrating the 20th anniversary of the establishment of the Faculty. You will find that the University and this Faculty has a strong and rewarding connection with the Waikato-Tainui iwi.

I understand the Faculty's Māori name, Te Piringa, was provided by the late Arikinui Dame Te Atairangikaahu, the then Māori Queen. Translated as “the coming together of people”, it links the Faculty to the manawhenua of Waikato-Tainui. Dame Te Ata's ancestor, the first Māori King, Pōtatau Te Wherowhero, predicted the need to know more of the law to benefit the people.²

With that in mind and within this audience, I have chosen to speak on “The Architecture of Elections in New Zealand—A Governor-General's Perspective”. I have been granted a unique insight over my five-year term, and now will endeavour to describe my understanding of the Governor-General's unique role in the triennial cycle that starts with a living and breathing Parliament, traverses the processes of legislating and governing through to its dissolution, an election, the formation of a government, and again to a living, breathing Parliament.

This topic, and to focus on the role of Governor-General, might surprise some people. After all, elections are about voting for and electing Members of Parliament. Elections, after all, are not the preserve of one, but of many. As the New Zealand Elections website points out:³

* Governor General of New Zealand, Public Lecture 22 March 2011, Te Piringa – Faculty of Law.

1 “New Dean has big plans for University of Waikato Law School” (2009) University of Waikato, Waikato News <www.waikato.ac.nz/news/archive.shtml?article=1101>.

2 “New name for Faculty” Te Piringa – Faculty of Law (2010) <www.waikato.ac.nz/law/faculty/te_piringa>.

3 “General Topics” Elections New Zealand <www.elections.org.nz/elections/concepts/>.

Individual voters are the core of representative democracy because, together, they choose those who will make decisions for all.

What is the role of an appointed Governor-General? Those with more of an interest in constitutional matters might also ask why as Governor-General I would not simply talk about government formation and the use of the Governor-General's reserve powers in appointing a Prime Minister.

These are fair points. Governors-General are indeed appointed and, by convention, do not vote whilst in office, although like all New Zealanders they are required to be on the electoral roll, and appointment of a new government is certainly a central duty of any Governor-General. However, as I have learned over these past few years, and hope to show today, the Governor-General's role, as the Sovereign's representative, continues throughout the electoral cycle in sometimes surprising ways. It can be expressed that the Governor-General is embedded deep within the DNA of New Zealand's electoral system.

The Governor-General's role is often hidden or forgotten; many things are obscured in this area. For example the phrases "Parliament", "Member of Parliament", "House of Representatives", and, less commonly, "Member of the House of the Representatives" can be used interchangeably.

II. CENTRAL ROLE OF GOVERNOR-GENERAL

In our constitutional arrangements, the term, "Parliament", has a specific meaning that does not necessarily fit with everyday usage. Section 14 (1) of the Constitution Act 1986 states that "There shall be a Parliament of New Zealand, which shall consist of the Sovereign in right of New Zealand and the House of Representatives".

Every volume of Hansard, the journal of Parliamentary debates, records that Parliament, as New Zealand's supreme legislative power, consists of the House of Representatives and the Governor-General. Likewise, the Act⁴ also emphasises the lineage of the House as the same body which was established by the 1852 New Zealand Constitution Act of the Parliament of the United Kingdom.

Most legislative power is centred in the House, but that does not mean the Sovereign, or her representative, does not play any role. As the life of each Parliament proceeds, there is constant connection between Parliament House and Government House as each piece of legislation comes to receive Royal Assent. In my experience, unless requested, this usually occurs without ceremony at Government House in Auckland or Wellington.

In practice this is played out by receipt of a Bill, which has been certified by the Clerk of the House as having been examined and of having been passed by a majority in the House, along with advice from the Attorney-General, stating that there are no reasons why Royal Assent should be withheld, and formal advice from the Prime Minister requesting that the Royal Assent should be granted.

By constitutional convention, the Sovereign and the Governor-General as her representative, acts on the advice of Ministers of the Crown. For all legislation that I have been asked to assent to by signing, I have scanned the text and have occasionally sought additional clarification. I have taken a similar approach to signing Regulations at Executive Council. My view is that I should be able to express to a 13 year old essentially what I have signed and the reasons for it. As can be imagined, this calls for an active but detached role, and the exercise of careful judgment to identify

4 Constitution Act 1986, s 10.

any risk to the Sovereign or the nation and yet to give due respect to the integrity of the process by which legislation and regulations have been created.

No British Monarch has refused to give the Royal Assent since Queen Anne declined to sign a Bill that would have established a Scottish militia in 1708.⁵ Nor have New Zealand's Governors-General ever refused assent.⁶

During the life of this present Parliament, assent has been given to a law that makes significant changes to the administration of elections and referenda in New Zealand. The Electoral (Administration) Amendment Act 2010 amended the Electoral Act 1993, by establishing a new Electoral Commission, which took over the responsibilities of the previous Commission and the Chief Electoral Officer. The aim of this initiative is to remove duplication and to enhance administration of New Zealand's electoral processes.

III. ELECTORAL (ADMINISTRATION) AMENDMENT ACT 2010

As Governor-General for four and a half years, I must now admit that I have lost count of the numbers of laws to which I have given assent since the first, the Coroners Act, which received Royal Assent on 29 August 2006. The Electoral (Administration) Amendment Act is one law of which I have no memory of giving assent—for the simple fact that I did not sign it!

The law received Royal Assent in the morning of 21 May last year when I was on an aircraft to Christchurch returning, via Darwin, from a State Visit to Singapore and Timor-Leste. Normally, such legislation would have been signed by the Chief Justice Rt Hon Dame Sian Elias, who would be serving as Administrator of the Government.

As Dame Sian was also overseas at the time, in accordance with the Letters Patent that establish the Office of Governor-General, the next most senior member of the judiciary, Supreme Court Judge Rt Hon Sir Peter Blanchard, was serving as Administrator and he signed it into law. I understand that there was some discussion in the Office of the Clerk of the House to ensure that it was signed before the wheels of the aeroplane touched the ground!

The Governor-General's role, however, does not end there with assent to law. Another key role is appointment of specific office holders as is set out in legislation. For example, the Electoral Commission is an independent Crown entity tasked with important electoral responsibilities. Underscoring that independence, the Act says that it must be directed, not by the Minister, but by an Electoral Commissioner to be appointed by the Governor-General on the recommendation of the House. This is one of a small group, the Ombudsmen, the Auditor-General and the Parliamentary Commissioner for the Environment, for example, who are not appointed on the advice of Ministers alone, but which call for a resolution of the House beforehand.

Documents for the appointment of people to official positions will generally include the candidates' curricula vitae, and reasons in support of the appointments. It was therefore a pleasure to appoint in August last year, Hon Sir Hugh Williams QC, a recently retired High Court Judge, as Chair of the Commission and Robert Peden as Chief Electoral Officer and member of the Com-

5 Philip Joseph *Constitutional and Administrative Law in New Zealand* (3rd ed, Thomson Reuters, Wellington) at 221.

6 *Ibid.*, at 309-310.

mission Board. I had received advice from the Minister of Justice that the House had recommended their appointment.⁷

The Act states that the Electoral Commission's objective is to:⁸

Administer the electoral system impartially, efficiently, effectively, and in a way that—(a) facilitates participation in parliamentary democracy; and (b) promotes understanding of the electoral system and associated matters; and (c) maintains confidence in the administration of the electoral system.

It will be, as Hon Simon Power, Minister of Justice said:⁹

a one-stop shop for all parliamentary electoral matters including services to electors, voters, political parties, candidates, Parliament, the media, overseas electoral agencies, and international institutions.

As a result of the impending 2011 general election, I am advised it was decided not to transfer the work immediately of the Chief Registrar of Electors in enrolling voters, although legislation to bring that into effect is currently before the Justice and Electoral Select Committee.¹⁰

However, the Commission will be kept busy enough dealing with requests for registration of political parties and their logos,¹¹ managing the election itself, including the provision of public information, applications for parliamentary election programmes under the Broadcasting Act 1989,¹² and then reporting to Parliament after the event on the conduct of the election and recommending any legislative or procedural changes.¹³

IV. REPRESENTATION COMMISSION

These are not the only key officials appointed by the Governor-General, who play a central role in New Zealand's electoral architecture. The members of the Representation Commission are also directly or indirectly appointed by the Governor-General, either on the advice of Ministers or the nomination of the House and confirmed by the relevant Minister.¹⁴ The Representation Commission, which is administratively supported by the Electoral Commission, has the responsibility of drawing New Zealand's electoral boundaries for the general and Māori electorates.

The members of the Representation Commission are the Surveyor-General, the Government Statistician, the Chief Electoral Officer, the Chair of the Local Government Commission, and the Chief Executive of Te Puni Kokiri, who are all appointed on advice from Ministers, and the Government and Opposition representatives, who are appointed by the Governor-General on a recommendation from the House confirmed by advice from the relevant Minister.¹⁵

7 Hon Simon Power (Minister of Justice) "Appointments – Electoral Commission" (2010) New Zealand Parliament <www.parliament.nz/en-NZ/PB/Debates/Debates/f/7/3/49HansD_20100818_00001235-Appointments-Electoral-Commission.htm>.

8 Electoral (Administration) Amendment Act (2010), s 4c.

9 Simon Power "New Electoral Commission Up and Running Today" (2010) Beehive.govt.nz <www.beehive.govt.nz/release/new-electoral-commission-and-running-today>.

10 Electoral (Administration) Amendment Bill (No 2).

11 Electoral Act 1993, part 4.

12 Broadcasting Act 1989, part 6.

13 Electoral Act 1993, s 8.

14 Surveyor-General, Government Statistician, Chair of the Local Government Commission, CEO of Te Puni Kokiri (appointed on advice from Ministers) and the Government and Opposition representatives (appointed on a recommendation from the House).

15 Electoral Act 1993, part 3, s 28.

Unlike other jurisdictions where electoral boundaries are decided by the legislature with occasional claims of gerrymandering, in New Zealand the Commission's decisions, after taking submissions from the public, are final.¹⁶ This innovative step of establishing an independent body to make what are politically sensitive decisions was adopted by New Zealand in 1887 and later adopted as a model in Australia and Canada.¹⁷

The Representation Commission undertakes its work after each Census is undertaken by Statistics New Zealand under the Statistics Act 1975.¹⁸ As will be known, Statistics Minister Hon Maurice Williamson decided to cancel this year's Census because of the Christchurch earthquake.¹⁹ Interestingly, while I signed the proclamation authorising the Census, and have signed a revocation, the process cannot be so easily undone. As the Statistics Act requires the Census to occur every five years²⁰ after 1976, the law will need to be amended to delay the Census to another year.

V. CALLING OF ELECTIONS

A key time in an electoral cycle is the announcement of the polling date. Unless the Prime Minister calls an early election, an election will be held about three years after the last one. However the choice of the specific date is a decision for the Prime Minister alone, within parameters set in the Electoral Act 1993 and s 17 of the Constitution Act 1986, which establishes three year parliamentary terms.

The power to decide when the election will occur obviously carries with it significant power and its use has occasionally provoked controversy both here and in other Commonwealth Realms. In the United Kingdom, for example, there is a proposal to move towards fixed terms, which would circumscribe the Prime Minister's power in this regard.

In New Zealand, in this year at least, there will be no such controversy because the Prime Minister, Rt Hon John Key, in February this year²¹ announced that the election would be held on 26 November. Mr Key called me beforehand to outline his intentions.

VI. DISSOLVING PARLIAMENT

The next step is the dissolution of Parliament and the putting in place of legal machinery for an election to be held. In early October, the Cabinet Office will prepare a proclamation dissolving the existing Parliament and another summoning its successor.

It may seem strange that one Prime Minister, who may not win re-election, should tell his or her successor when the House will reconvene. In reality, the summons date is nominal and does not commit the new Parliament to meeting on the day stipulated.

16 Reviewing Electorates – Frequently Asked Questions <www.elections.org.nz/elections/electorates/rep-comm-faqs.html>.

17 The Royal Commission on the Electoral System (1986) at 133. <www.elections.org.nz/voting/mmp/royal-commission-report-1986.html>.

18 Statistics Act 1975.

19 Maurice Williamson "Decision on 2011 Census" (2011) Beehive.govt.nz <www.beehive.govt.nz/release/decision-2011-census>.

20 Statistics Act 1975, s 23(1).

21 2 February 2011.

However, this long-standing practice of summoning at this stage recognises Parliament's constitutional continuity under the Constitution Act 1986. In other words, Members of Parliament may come and go, but the Governor-General and the House are always in existence.

The Governor-General then signs the two proclamations, dissolving and recalling Parliament,²² which are counter-signed by the Prime Minister. In addition a document authorising the public reading of the dissolution proclamation is signed. In mid-to-late October, a person authorised by the Governor-General will read publicly the proclamation before the Clerk of the House and two witnesses. In New Zealand, the proclamation is usually read by the New Zealand Herald of Arms Extraordinary, the current holder of that office being Phillip O'Shea.

The significance of the proclamation dissolving Parliament is well outlined by former Clerk of the House and now Ombudsman, David McGee QC, in his book, *Parliamentary Practice in New Zealand* where he says:²³

The Governor-General brings the life of Parliament to an end by issuing a proclamation dissolving it. The dissolution of Parliament is a legal power possessed by the Governor-General, although constitutionally the Governor-General exercises this, like the other legal powers of the office, on the advice of the Prime Minister. A proclamation dissolving Parliament generates a course of events which leads to the holding of a general election.

VII. WRIT DAY AND CONDUCT OF ELECTION

The next building block in New Zealand's electoral architecture is Writ Day, when the Governor-General signs the Writ authorising the Chief Electoral Officer to hold a general election. In the mechanical language that is the hallmark of the Electoral Act 1993 and I might add a number of New Zealand's laws of constitutional significance, it states:²⁴

Whenever Parliament is dissolved or expires, the Governor-General must, not later than 7 days after the dissolution or expiration, issue a writ in form 3 to the Electoral Commission requiring the Electoral Commission to make all necessary arrangements for the conduct of a general election.

The Governor-General's signing of the Writ, which is counter-signed by the Minister of Justice, is a public event to which media are invited to attend. As the final election results are later to be appended to the back of the Writ, it is a surprisingly large piece of paper!

Before the 2008 election, this ceremony, which was the last event at Government House Wellington before the closure for a major conservation project, was also an opportunity to encourage all New Zealanders to enrol and to vote. In particular, I emphasised how cherished and important the right to vote was and I quoted suffragette, Kate Sheppard, who had once said: "Do not think your single vote does not matter much. The rain that refreshes the parched ground is made up of single drops".²⁵

The election campaign proceeds and by convention the Governor-General keeps a low profile, avoiding events that might in any way be seen as having any political or controversial aspect.

22 Constitution Act 1986, s 18.

23 David McGee *Parliamentary Practice in New Zealand* (3rd ed, Dunmore Publishing Limited, Wellington, 2005) at Chapter 9.

24 Electoral Act 1993, s 125.

25 Kate Sheppard, as quoted in David McGill (ed) *The Reed Book of New Zealand Quotations* (Reed Publishing, Auckland, 2004) at 222.

VIII. FORMATION OF GOVERNMENT

Soon after election night, negotiations to form the new Government begin in earnest. The Governor-General plays no role in these negotiations because they are inherently political rather than constitutional matters as I will outline shortly.

In going on to appoint a Prime Minister after an election, the Governor-General uses what are called “reserve powers”. These powers have been defined as the Governor-General exercising independent judgment to appoint or dismiss a Prime Minister, to refuse a request for dissolution or to force dissolution, or to refuse assent to legislation,²⁶ although there is some dispute about the last.

New Zealand constitutional law academic Professor Philip Joseph, of the University of Canterbury, has however called the term “reserve powers” a “misnomer”. As he notes:²⁷

While these powers are exercised only in extremity, they are all aspects of the Governor-General's ordinary legal powers delegated by the Letters Patent, or re-enacted under the Constitution Act 1986. [These] situations are distinguished, not by an additional or exceptional power, but by the rejection or lack of ministerial advice.

Apart from the appointment of a Prime Minister, which inherently involves the use of this power, no New Zealand Governor-General has had to exercise any of the other reserve powers to intervene in the day-to-day politics of the moment. There have, of course, been incidents in other Commonwealth Realms where these powers have been used, including in 1975 in Australia when Sir John Kerr dismissed Gough Whitlam as Prime Minister.

Although it is an exercise of a reserve power, the Prime Minister's appointment is based on established principle. While some predicted the change to MMP might result in greater involvement by the Governor-General, that has not come to pass. The reason is that while the voting system has changed, the respective roles of the Governor-General and the leaders of the political parties in Parliament have remained the same. Recent election results in Canada, India, Australia, and in very recent times in the mother of all Parliaments, the United Kingdom, have shown that minority or coalition governments can also occur in nations that do not use proportional voting systems. This was often the case in New Zealand from 1912 through to 1935.

By convention, the Governor-General will always appoint as Prime Minister the person who has been identified through the government formation process as the person who will lead the party, or group of parties, that appears to be able to command the confidence of the House of Representatives.

The Governor-General expects that there will be clear and public statements that a political agreement has been reached, and that a government can be formed that will have the support of the new House. In appointing the Prime Minister, the Governor-General will abide by the outcome of the political process.

As government formation is a political matter, the speed with which a government will be formed will depend not on any intervention by the Governor-General, but by the pace at which the politicians are able to reach an agreement. Nor is it the Governor-General's role to “anoint” anyone, whether they are the incumbent prime minister or the leader of any other political party, to be the heir-apparent. The person who emerges from the negotiations as the leader is a political

²⁶ Philip Joseph *Constitutional and Administrative Law in New Zealand* (3rd ed, Thomson Reuters, Wellington) at 697.

²⁷ *Ibid.*

decision for politicians to decide. To become involved in either of these two ways, would threaten the neutrality and non-partisan nature of the Office of Governor-General.

As government formation is a political decision, it is also up to the politicians to decide with whom they want to negotiate and there are many examples from throughout the world where Prime Ministers have come from parties other than the largest one in the legislature.²⁸ Parties that say before an election that they will support another after the election may well face different choices once the election results are clear. Negotiations have to occur and political agreements have to be reached.

These agreements are often announced in a public ceremony, with the symbolic shaking of hands and the signing of agreements, and provide the Governor-General—and the New Zealand public—with evidence that is both “public” and “clear”. After the last election, Mr Key was quickly able to obtain the necessary confidence and supply agreements that ensured he could command a majority in the House.

On that basis, I was able, on 19 November 2008, to appoint him as an Executive Councillor and sign his warrant of appointment.²⁹ With Mr Key as Prime Minister, and once again being in the position of having an adviser on the discharge of my constitutional powers, he then recommended whom I should also appoint as Executive Councillors, that is Ministers of the Crown, thus completing his ministry.³⁰

The Executive Council, which is constituted by the Letters Patent,³¹ is the highest formal instrument of Government. It is the institution through which the Government collectively and formally advises the Governor-General.³² Apart from Acts of Parliament, Orders in Council (Regulations) are the main method by which the Government implements decisions that require the force of law.³³

The ceremony of swearing in the Government can occur before the Writs confirming who will be elected as members of Parliament have been returned. However, the Constitution Act³⁴ says a person who stood for election, maybe appointed as a member of the Council or as a Minister, on the condition that they will vacate the office if not confirmed as an MP within 40 days of their appointment as an Executive Councillor.

IX. FORMATION OF NEW PARLIAMENT

It is important to note too that this is not the end of the Governor-General’s role. With a new Prime Minister in place, under the Constitution Act the Cabinet Office prepares a new proclamation proroguing Parliament from the nominal date set before the election to that set by the new Government.³⁵ As with the earlier proclamations, it is signed by the Governor-General, again on the advice of the Prime Minister.

28 *Ibid.*, at 705.

29 Cabinet Office Cabinet Manual 2008 at [1.22].

30 *Ibid.*

31 Letters Patent Constituting the Office of Governor-General of New Zealand, s 7.

32 Above n 29, at [1.18].

33 *Ibid.*, at [1.20].

34 Constitution Act 1986, s 6.

35 *Ibid.*, s 18.

David McGee, writing in *Parliamentary Practice in New Zealand*, underscored the significance of this proclamation when he noted that:³⁶

The summoning of Parliament effectively breathes life into the House of Representatives which, although still in existence between Parliaments, can meet and transact business only while Parliament is in session. Because the House of Representatives is the working element of Parliament, the summoning of Parliament is really the calling of the House of Representatives into working mode.

At this stage, members of Parliament, having won their seats, either by winning a constituency seat or a seat from a party list, have yet to be sworn in. As well, through not having a Speaker, the House lacks a leader.

X. COMMISSION OPENING

On the advice of the newly appointed Prime Minister, the Governor-General signs Letters Patent authorising Royal Commissioners to attend the House of Representatives. At what is known as the Commission Opening of Parliament, the Commissioners, the Chief Justice as Chief Commissioner, and two other Judges,³⁷ tell the House of Representatives the date and time at which they are to meet for the State Opening, which is usually the following day. It is one of the few times, as David McGee notes, “when both elements of Parliament, the Crown and the House of Representatives, come together to discharge their duties”.³⁸

XI. APPOINTMENT OF SPEAKER

However, the Commissioners tell the members that before the State Opening may occur, they should choose a Speaker who should present him or herself to the Governor-General later that day. The Commissioners then withdraw and the Clerk of the House administers the oath or affirmation to the new parliamentarians, who in turn elect a Speaker.

After that step, the Speaker-Elect, along with the Clerk of the House, Deputy Clerk and the Serjeant-at-Arms, carrying the Mace in the crook of the arm, presents himself or herself to the Governor-General at Government House. The Speaker-Elect informs the Governor-General of the House's choice and asks for confirmation of that choice. As soon as the Governor-General confirms the House's choice of Speaker, the Serjeant-at-Arms raises the Mace, which is the symbol of the authority of the House, to the shoulder.³⁹

In time honoured tradition, newly elected Speakers usually show some resistance, at least initially, to their election. The role of Speaker is one with a colourful past that stretches back, not only into New Zealand's history, but as well to 14th Century England, where the “Speaker” was chosen to be the one who spoke for the House and to represent the House to the Crown. The Speaker often had to deliver news which the Monarch might not want to hear. Some never made it back to Parliament alive and hence the reluctance! No fewer than seven Speakers are recorded as having been executed!

36 David McGee, above n 23.

37 In 2008, the Royal Commissioners were Chief Justice Dame Sian Elias, Hon Justice William Young, President of the Court of Appeal, and Hon Anthony Randerson, Chief High Court Judge.

38 David McGee, above n 23, at Chapter 12.

39 *Ibid.*

The relationship was aptly summarised by Speaker William Lenthall in 1642 when King Charles I, with an armed guard, entered the House of Commons in order to arrest five Members of Parliament for treason. Lenthall refused to give their whereabouts, famously saying: “I have neither eyes to see, nor tongue to speak in this place, save as the House doth direct me.”⁴⁰ No Sovereign has set foot in the House of Commons Chamber ever since.

XII. STATE OPENING OF PARLIAMENT

It is for that reason that the formal State Opening of Parliament occurs in the House of Lords in the United Kingdom and in Legislative Council Chamber in New Zealand - the room where the abolished Upper House once assembled.

It is there that the Governor-General, as the representative of the Head of State, reads the Speech from the Throne, outlining the Government’s legislative agenda for the next three years. While the Governor-General’s speech refers to “my government,” it is a document written by the Prime Minister and in the Prime Minister’s Office.

The symbolism of the State Opening was well described by British journalist and author Robert Hardman. He said:⁴¹

The State Opening of Parliament is the moment when all the important elements of the British constitution remind each other—and the outside world—where they stand. The Monarch comes to Parliament in a fairy-tale carriage, puts on a crown and summons the elected representatives from the House of Commons to the unelected House of Lords where she announces her Government’s plans for the year ahead. But it is the elected lot, squashed in the back of the room, who have written her script. The message is very clear: Parliament derives its authority from the Queen, but the Queen abides by its democratic decisions. In other words, the Queen is in charge. The people are in control.

A New Zealand Governor-General does not wear a Crown and the Government House Jaguar is not a fairy-tale carriage but the same principles apply at the State Opening of our Parliament. In New Zealand, however, a State Opening occurs only once in the life of a Parliament and not every year as in the United Kingdom.

The House will then debate the Speech from the Throne, which is completed by a confidence vote in the new Government. This is known as the Address-in-Reply. The vote confirms the new Government’s majority. With the formalities complete, parliamentary business begins in earnest and the cycle is complete. From the end of one Parliament, the country thus once again has a living, breathing Parliament.

XIII. CONCLUSION

In conclusion, what I have attempted to show is the central role of the Governor-General, as the Sovereign’s representative and as an integral part of our Parliament. As Governments and Members of Parliament come and go, the Sovereign, and her representative, play a continuous stabilising role: setting processes in motion; appointing people to key positions; and bringing processes to their conclusion.

40 “Parliament Brief: Officers of the House” New Zealand Parliament. <www.parliament.nz/en-NZ/AboutParl/HowP-Works/FactSheets/c/c/9/00HOOCPubResAboutFactSheetsOfficers1-Parliament-Brief-Officers-of.htm>.

41 Robert Hardman *Monarchy: The Royal Family at Work* (Random House, London, 2007) at 173.

The Sovereign and her Governor-General can be described as the “glue” of our constitutional arrangements ensuring legitimacy in the transfer of power. My predecessor in office, Hon Dame Catherine Tizard, made this point well in a speech in 1993. Commenting on suggestions that the reserve powers should be used more widely she used a different, but equally appropriate metaphor:⁴²

[P]ower must be transferable if it is to be democratically accountable. In turn, the legitimacy that elevates power into authority, is sustained through its proper transfer. The Governor-General is the person who gains by successfully “passing the parcel”. Only in this way can a Governor-General embody continuity and properly witness that the government is legitimate.

On that note, it seems appropriate to thank you for your courteous attention, and to close - and to do so in New Zealand's first language, by offering everyone greetings and wishing everyone good health and fortitude in your endeavours. Nō reira, tēnā koutou, tēnā koutou, kia ora, kia kaha, tēnā koutou katoa.

42 Hon Dame Catherine Tizard “The Crown and Anchor: The Present Role of the Governor-General in New Zealand” (Turnbull Library, 1993) 26 June 1993.