

Constitutional Advisory Panel,
2013



Constitutional Advisory Panel

Te Ranga Kaupapa Ture

New Zealand's Constitution

A Report on a Conversation

He Kōtuinga Kōrero mō Te Kaupapa Ture o Aotearoa

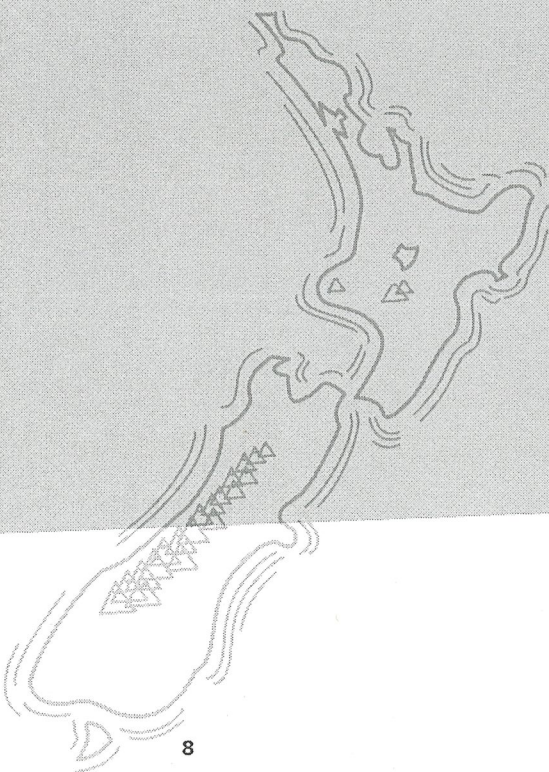
NOVEMBER 2013

New Zealand Government

Recommendations

The Panel recommends the Government:

- invites and supports the people of Aotearoa New Zealand to continue the conversation about our constitutional arrangements
- develops a national strategy for civics and citizenship education in schools and in the community, including the unique role of the Treaty of Waitangi, te Tiriti o Waitangi, and assign responsibility for the implementation of the strategy
- note the implementation of the strategy could include the co-ordination of education activities; resource development, including resources for Māori medium schools; and professional development for teachers and the media.



Letters Patent & Royal Instructions (1840)

Letters Patent of 16 November 1840, also known as the 'Charter for Erecting the Colony of New Zealand' brought the provisions of the New South Wales Continuation Act 1840 (UK) into force and led to the official proclamation of the new colony of New Zealand on 3 May 1841.⁸⁸ Letters Patent are issued by a monarch granting a right, monopoly, title or status to an individual or a body corporate.⁸⁹

In this instance they constituted an Executive Council and a Legislative Council for New Zealand.⁹⁰ The Executive Council was a small group consisting of the Colonial Secretary, the Attorney-General and the Colonial Treasurer.⁹¹ Those three would also sit on the Legislative Council with the Governor and three Justices of the Peace.⁹² The Letters Patent also empowered the Governor to constitute courts and appoint judges to administer justice in the colony.⁹³

The Supreme Court Ordinance 1841

An Ordinance for establishing a Supreme Court was passed by the Legislative Council on 22 December 1841, providing the beginnings of a domestic legal system.⁹⁴ On its creation the court would be comprised of one judge, called the Chief Justice of New Zealand, with further appointments to follow as advised.⁹⁵ It was modelled on the higher courts in the United Kingdom, except that it had a broader jurisdiction allowing it to preside over matters of equity as well as common law.⁹⁶

Resident Magistrates Court Ordinance 1846

This Ordinance was passed in 1846, establishing a lower court system 'for the more simple and speedy administration of Justice in the Colony of New Zealand'.⁹⁷ Resident magistrates could decide a limited range of criminal cases and civil claims which would ease the burden on New Zealand's two judges of the Supreme Court.⁹⁸

The Constitution Act 1846 (UK)

During the 1840s, settlers to New Zealand had increasingly been demanding a say in the affairs of government. The United Kingdom Parliament passed the New Zealand Constitution Act 1846 in answer to this pressure.⁹⁹ The Act established two provinces of New Zealand, New Ulster (the

⁸⁸ Ibid.

⁸⁹ Ministry of Culture & Heritage, 'History of the Governor-General', *New Zealand History Online* (<http://www.nzhistory.net.nz/politics/history-of-the-governor-general/patriated>).

⁹⁰ A. H. McIntock (ed.), 'New Zealand Becomes a Colony', *Te Ara - The Encyclopedia of New Zealand* (<http://www.teara.govt.nz/en/1966/history-constitutional/page-2>).

⁹¹ Anthony H. Angelo, *Constitutional Law in New Zealand* (Alphen aan den Rijn, The Netherlands: Kluwer Law International, 2011) p 16.

⁹² Ibid.

⁹³ Philip A. Joseph & Thomas Joseph, 'Judicial System - History of the Courts', *Te Ara - The Encyclopedia of New Zealand* (<http://www.teara.govt.nz/en/judicial-system/page-4>).

⁹⁴ An Ordinance for establishing a Supreme Court, 22 December 1841.

⁹⁵ Ibid.

⁹⁶ Philip A. Joseph & Thomas Joseph, 'Judicial System - History of the Courts'.

⁹⁷ Resident Magistrates' Courts Ordinance 1846, 10 Vict 16.

⁹⁸ Courts of New Zealand, 'The History of the Court System', <http://www.courtsofnz.govt.nz/about/system/history/overview> last accessed 23 October 2013. [see footnote 53]

⁹⁹ A. H. McIntock (ed.) 'Early Constitutions', *Te Ara - The Encyclopedia of New Zealand* (<http://www.teara.govt.nz/en/1966/history-constitutional/page-3>).

Kingitanga and the first Māori King (1858)

The Kingitanga movement is an enduring Māori political movement which emerged in the early 1850s and led to the crowning of King Potatau Te Wherowhero in 1858. Tamihana Te Rauparaha and Matene Te Whiwhi introduced the idea of a single Māori nation in 1852, and although the idea did not have the support of all iwi it did gather momentum by the late 1850s.¹¹⁷

Native Land Act 1862

The Act waived the Crown's right of pre-emption and established the Native Land Court to decide the ownership of Māori land.¹¹⁸ The Act's purpose was to attempt to formally define titles to Māori land in terms of private ownership in order to more closely assimilate ownership practices with British law. The courts were always to be presided over by a European magistrate, but otherwise left the details of membership up to the Governor.¹¹⁹ Due to the ongoing New Zealand wars the Act was not fully implemented.¹²⁰ Courts operated primarily in Northland, along with a select few other areas.¹²¹

Establishment of the Court of Appeal (1862)

Before the Court of Appeal was established, appeals from the then Supreme Court (now the High Court) were taken to the Privy Council in London.¹²² However, this was beyond the financial reach of many people and so it was determined that a new appellate court was necessary. Originally there were no permanent sitting judges on the Court of Appeal. Justices from the Supreme Court would hear appeals on a rotational basis.¹²³

Colonial Laws Validity Act 1865 (UK)

The Act was passed by the British Parliament to 'remove Doubts as to the Validity of Colonial laws'. It sought to remove inconsistencies between colonial and imperial (British) legislation by providing that any law properly passed by colonial legislatures was to have full effect unless it was inconsistent with British legislation.¹²⁴ This confirmed that the New Zealand Parliament had the power to make its own laws, but only in so far as those laws were consistent with British law.

Native Lands Act 1865

The Act was a much more comprehensive piece of legislation than the 1862 Act it replaced. In place of the slightly ad hoc appointment of courts, it established a formal court of record that would be presided over by the principal drafter of the Act, Francis Dart Fenton, as the first Chief Justice of the Court.¹²⁵

The intent of the Act, however, remained much the same. In the preamble to the legislation it made it clear that its purpose was to consolidate laws related to land governed by Māori proprietary customs, determine who the owners were under those customs, and to 'encourage the extinction of such proprietary customs' in favour of Crown title.¹²⁶

¹¹⁷ Ibid.

¹¹⁸ Ranginui Walker, *Ka Whawhai Tonu Matou: Struggle Without End* (Auckland, New Zealand: Penguin Books, 1990), p 135.

¹¹⁹ Native Lands Act 1862, s. 4, 5 & 6.

¹²⁰ Richard Boast, 'Te Tango Whenua – Māori Land Alienation – Establishing the Native Land Court', *Te Ara – The Encyclopedia of New Zealand* (<http://www.teara.govt.nz/en/te-tango-whenua-maori-land-alienation/page-5>).

¹²¹ Ibid.

¹²² Courts of New Zealand, 'The History of the Court of Appeal' (<http://www.courtsofnz.govt.nz/about/appeal/history>).

¹²³ Ministry of Justice, 'New Zealand Court of Appeal' (<http://www.justice.govt.nz/courts/court-of-appeal>).

¹²⁴ Joseph (2007) pp 115-116.

¹²⁵ Richard Boast, 'Te Tango Whenua – Māori Land Alienation – Establishing the Native Land Court'.

¹²⁶ The Waitangi Tribunal, *Report of the Waitangi Tribunal on the Orakei Claim* (Wellington, New Zealand: Brooker & Friend Ltd, 1987).



Representation Act 1900

The Act increased the number of seats in the General Assembly to 76, so including the Māori seats this meant total membership of 80 seats. The Act also provided that a Commission would determine how many of the six additional seats would be allocated to the North and South Islands respectively.

Māori Councils Act 1900 and Māori Land Administration Act 1900

The Māori Councils Act 1900 established a form of local government for Māori in response to ongoing conversations concerning the Kingitanga and Kotahitanga movements. The District Māori Councils were empowered particularly to control the 'health and welfare and moral well-being' of Māori. The Councils were to operate at a regional level, with an ability to pass bylaws within their boundaries, which were designed to reflect tribal boundaries.¹⁵⁹

Meanwhile the Māori Land Administration Act 1900 created a Māori Land Administration Department and several Māori Land Councils.¹⁶⁰ The Act allowed for Māori landowners to form committees to administer their land, and for the Land Councils to recognise some areas of Māori land as papakāinga blocks, which could never be sold.¹⁶¹

District Māori Councils and Māori Land Councils were under-resourced and lacked the full support of either Māori or settlers.¹⁶² Both types of Councils have been viewed variously as an effort to counteract Māori exclusion from political processes, and an attempt to counteract pan-Māori movements such as the Kotahitanga Parliament and work towards assimilation.¹⁶³



Dominion status acquired (1907)

Following the 1907 Imperial Conference, the New Zealand House of Representatives passed a motion respectfully requesting that His Majesty the King 'take such steps as he may consider necessary' to change the designation of New Zealand from the 'Colony of New Zealand' to the 'Dominion of New Zealand'.

A Royal Proclamation granting New Zealand Dominion status was issued on 9 September 1907 and took effect on 26 September 1907. Complete autonomy in foreign affairs was the only substantive feature of independence that the proclamation did not grant to New Zealand.¹⁶⁴

¹⁵⁹ Richard S. Hill, *State Authority, Indigenous Autonomy: Crown-Māori Relations in New Zealand/Aotearoa 1900-1950* (Wellington, NZ: Victoria University Press, 2004) p 50.

¹⁶⁰ Mere Whaanga, 'Te Kooti Whenua – Māori Land Court – The 'Taihoa' Policy, 1900-1920', *Te Ara – The Encyclopedia of New Zealand* (<http://www.teara.govt.nz/en/te-kooti-whenua-maori-land-court/page-4>).

¹⁶¹ Constitutional Arrangements Committee (2005) p 52; Mere Whaanga, 'Te Kooti Whenua – Māori Land Court – The 'Taihoa' Policy, 1900-1920'.

¹⁶² Ibid.

¹⁶³ <http://nzetc.victoria.ac.nz/tm/scholarly/tei-HillStat-t1-body-d2-d4.html>; Nan Seuffert, *Jurisprudence of National Identity: Kaleidoscopes of Imperialism and Globalisation from Aotearoa New Zealand* (Burlington, UK: Ashgate Pub, 2006) pp 65-67; Tina R. Makereti Dahlberg, 'Māori Representation in Parliament and Tino Rangatiratanga', *He Pukenga Kōrero*, Vol. 2, No. 1, 1996, p 64.

¹⁶⁴ Parliamentary Library, 'New Zealand Sovereignty: 1857, 1907, 1947, or 1987?', *Parliamentary Library Research Paper*, August 2007, p 5 (http://www.parliament.nz/NR/rdonlyres/54A39A34-32AA-4C23-AD7B-73BAB5624651/147179/NewZealandSovereignty185719071947or1987_3.pdf); Peter Marshall, 'The Balfour Formula and the Evolution of the Commonwealth', *The Round Table*, Vol. 361, 2001, p 542.

Letters Patent Constituting the Office of the Governor-General (1917)

Letters Patent dated 11 May 1917 reconstituted the Office of the Governor as the Governor-General to reflect New Zealand's increasing self-governance.¹⁷⁵ This change largely brought around the modern role of the Governor-General and would be the last change of substance to the office until 1983 when the office was patriated even further. Patriation is a process of constitutional change where a country gains or regains offices and powers which make it more independent.

Ratana movement begins (1918)

The Ratana movement was founded by Tahupotiki Wiremu Ratana who gained a reputation as a visionary and a faith healer.¹⁷⁶ The movement gained momentum throughout the 1920s and developed a distinct political dimension to add to its original religious focus. In a by-election in 1932 a Ratana candidate, Eruera Tirikatene, won one of the four Māori seats in the House of Representatives.¹⁷⁷ He was joined in 1935 by Haami Tokouru Rātana. By 1943 Ratana candidates held each of the four Māori seats available at the time.¹⁷⁸ Their alliance with the Labour party, cemented in 1936 when Wiremu Ratana presented Prime Minister Michael Joseph Savage with a series of gifts symbolising their relationship, meant that they exercised significant influence over national politics and Māori constitutional dialogue from that time.¹⁷⁹

Women's Parliamentary Rights Act 1919

This short piece of legislation made it possible for women to stand as candidates to become MPs. Three women contested seats in 1919 but none were successful.¹⁸⁰ It would not be until 1933 that a woman would be elected to the House of Representatives, when the Labour party's Elizabeth McCombs won a by-election in the seat of Lyttelton.¹⁸¹

Electoral Act 1927

The Act was the first consolidation of electoral laws in New Zealand. Before 1927 electoral law had been contained in a variety of electoral legislation.

Public Safety Conservation Act 1932

The Act is often cited as an example of one of the largest delegations of authority from Parliament to the Executive branch of government. The Act gave Cabinet the power to declare a state of emergency and make regulations it deemed necessary to ensure public safety during that time.¹⁸² Reasons for this change included Depression-induced riots and two major earthquakes in 1929 and 1931.¹⁸³ These powers were used for the first time at the outbreak of World War II and, more

¹⁷⁵ Constitutional Arrangements Committee (2005) p 54.

¹⁷⁶ McGuinness & White (2012) p 68.

¹⁷⁷ Claudia Orange (2004) pp 123-124.

¹⁷⁸ McGuinness & White (2012) p 68.

¹⁷⁹ Claudia Orange (2004) pp 123-124.

¹⁸⁰ Ministry of Culture & Heritage, 'Women's Suffrage Milestones – Women and the Vote', *New Zealand History Online* (<http://www.nzhistory.net.nz/politics/womens-suffrage/suffrage-milestones>).

¹⁸¹ Ibid.

¹⁸² Matthew Palmer, 'Constitution – The Rise and Bridling of Executive Power', *Te Ara – The Encyclopedia of New Zealand* (<http://www.teara.govt.nz/en/document/35921/public-safety-conservation-act-repeal-act-1987>).

¹⁸³ Ministry of Civil Defence, 'Civil Defence in New Zealand: A Short History' ([http://www.civildefence.govt.nz/memwebsite.nsf/Files/Short%20Historyof%20Civil%20Defence/\\$file/Short%20Historyof%20Civil%20Defence.pdf](http://www.civildefence.govt.nz/memwebsite.nsf/Files/Short%20Historyof%20Civil%20Defence/$file/Short%20Historyof%20Civil%20Defence.pdf)) p 3.

controversially, during the waterfront dispute of 1951.¹⁸⁴ When negotiations between shipping companies and the waterside workers broke down, the Government declared a state of emergency and granted itself very broad powers, including the ability to deregister unions.¹⁸⁵

✓ **Electoral Amendment Act 1934**

The Electoral Amendment Act 1934 amended the Electoral Act 1927 by extending the parliamentary term to four years.¹⁸⁶

✓ **Electoral Amendment Act 1937**

The Electoral Amendment Act 1937 repealed the amendments to increase the parliamentary term and restored the three-year electoral cycle.¹⁸⁷ It also provided for Māori to vote by secret ballot if they could answer a series of questions to ensure their eligibility.¹⁸⁸ Secret ballot voting had been in place since 1870 in non-Māori seats. The change had an immediate impact, with an 18.3% increase in the turnout for the Māori seats in the 1938 election than in 1935.

Te Heuheu Tukino v Aotea District Māori Land Board (1941)

This is a well-known case concerning a commercial agreement. The Privy Council ruled that the Treaty of Waitangi was enforceable only when referred to in legislation. This was seen as an affirmation of a long-held position, with the Law Lords saying, 'It is well settled that any rights purporting to be conferred by such a treaty of cession cannot be enforced in the Courts, except in so far as they have been incorporated in the municipal law.'¹⁸⁹ This remains the current position in New Zealand's legal system.

✓ **New Zealand joins the United Nations (1945)**

New Zealand was a foundation member when the United Nations was formally established at San Francisco in 1945.¹⁹⁰ Despite its small size, this country had played a valuable role in the establishment of the UN, with Prime Minister Peter Fraser devoting a substantial amount of attention to it. New Zealand's work with the UN represents its commitment to the principles of multilateralism, collective security, the international rule of law and dispute settlement.¹⁹¹

United Nations Act 1946

The Act gave the Governor-General, by Order in Council, the power to make regulations bringing into force Article 41 of the Charter of the United Nations. Article 41 provides that the United Nations Security Council 'may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the members of the United Nations to

¹⁸⁴ Matthew Palmer, 'Constitution – The Rise and Bridling of Executive Power'.

¹⁸⁵ J.F. Northey, 'The Dissolution of the Parliaments of Australia and New Zealand', *The University of Toronto Law Journal*, Vol. 9, No. 2, 1952, p 296.

¹⁸⁶ Electoral Amendment Act 1934

¹⁸⁷ Electoral Amendment Act 1937.

¹⁸⁸ Ibid; Parliamentary Library, 'The Origins of the Māori Seats', *Parliamentary Library Research Paper*, November 2003 (updated May 2009) p 13.

¹⁸⁹ *Te Heuheu Tukino v Aotea District Maori Land Board* [1941] NZLR 590.

¹⁹⁰ Ministry of Culture & Heritage, 'New Zealand and the United Nations', *New Zealand History Online* (<http://www.nzhistory.net.nz/politics/new-zealand-and-the-united-nations>).

¹⁹¹ New Zealand Ministry of Foreign Affairs & Trade, 'The United Nations: New Zealand and the United Nations' (<http://www.mfat.govt.nz/Foreign-Relations/2-International-Organisations/United-Nations/index.php>).

apply such measures.¹⁹² Section 2(2) of the Act states that regulations made under the Act cannot be deemed unlawful because of inconsistency with any other Act of Parliament.¹⁹³

Statute of Westminster Adoption Act 1947

The Act meant that New Zealand adopted full constituent powers which gave the ability to amend, suspend and repeal its own constitution. The Statute of Westminster 1931, passed by the British Parliament, made this possible in saying that 'No Act of Parliament of the United Kingdom passed after the commencement of the Act shall extend or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.'

New Zealand Constitution Amendment (Request & Consent) Act 1947

By enacting the Statute of Westminster Adoption Act 1947 New Zealand gained the ability to request and consent to the power to amend its own constitution.¹⁹⁴ It did this via the Constitution Amendment (Request & Consent) Act 1947. The Act requested, and consented to, the United Kingdom Parliament's enacting legislation 'in the form or to the effect of' the draft Bill set out in the schedule to the Act. The New Zealand Constitution (Amendment) Act 1947 (UK) provides: 'It shall be lawful for the Parliament of New Zealand by any Act or Acts of that Parliament to alter, suspend, or repeal, at any time, all or any of the provisions of the New Zealand Constitution Act, 1852; and the New Zealand Constitution (Amendment) Act, 1857, is hereby repealed.'

New Zealand adopts the Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on 10 December 1948. It sets out fundamental rights and freedoms, some of which are now regarded as having achieved the status of customary international law including the right to life, freedom from slavery, freedom from torture and the right to a fair trial.

As with the founding of the UN in 1945, New Zealand had played an active role in drafting the UDHR.¹⁹⁵ Peter Fraser's government established a Human Rights Committee to consider the draft Declaration and used the Committee's work as the basis for the Government's comments on that draft.¹⁹⁶ New Zealand remains strongly committed to the protection and promotion of human rights as embodied in the UDHR and other key international human rights treaties.¹⁹⁷

Legislative Council Abolition Act 1950

The Legislative Council was New Zealand's Upper House of Parliament from 1854 to 1950. Originally it had been intended to act like the British House of Lords, but after trying to play an active role in

¹⁹² United Nations Act 1946.

¹⁹³ Ibid, s. 2(2).

¹⁹⁴ Philip A. Joseph, 'Foundations of the Constitution', *Canterbury Law Review*, Vol. 4, 1989, p 58.

¹⁹⁵ Human Rights Commission, 'Universal Declaration of Human Rights' (<http://www.hrc.co.nz/human-rights-environment/resources-2>).

¹⁹⁶ Human Rights Commission, 'New Zealand's Contribution to the Early Post-War Development of International Human Rights' (<http://www.hrc.co.nz/human-rights-environment/resources-2/new-zealands-contribution-to-the-early-post-war-development-of-international-human-rights>).

¹⁹⁷ New Zealand Ministry of Foreign Affairs & Trade, 'Human Rights: New Zealand and Human Rights' (<http://www.mfat.govt.nz/Foreign-Relations/1-Global-Issues/Human-Rights/O-overview.php>).

Māori culture, and to work with various state departments and other Māori organisations.²⁰⁷ The Act also replaced tribal committees with committees representing broader Māori groups and areas based upon Māori Land Court jurisdictions.²⁰⁸

Referendum on the term of Parliament (1967)

(in Chapter 7)

Legislation passed in 1967 set up a referendum on whether the term of Parliament ought to be three years or four years. This was a non-binding referendum with no provisions in the legislation which would have been triggered in the instance of a specific result.²⁰⁹ Turnout for the vote was 69.7%, with the three-year term receiving 68.1% of the vote compared to the four-year term which received 31.9%.²¹⁰

Race Relations Act 1971

The Race Relations Act 1971 was the first legislation to explicitly introduce anti-discriminatory principles into New Zealand's legal framework.²¹¹ It prohibited discrimination on the grounds of race, nationality or ethnic origin. The Act also established the office of Race Relations Commissioner and created a formal process for laying complaints about racial discrimination.²¹² This legislation would later be joined by the Human Rights Commission Act 1977 and would eventually be superseded by the Human Rights Act 1993.

New Zealand Constitution Amendment Act 1973

The Act sought to address a gap in Parliament's law-making authority. Although full constituent powers had been acquired with the passage of the Statute of Westminster Adoption Act 1947 and the New Zealand (Constitution) Amendment Act 1947 (UK) this gap was identified in a 1968 High Court case.²¹³ Specifically, it addressed the question of whether the New Zealand Parliament had the ability to make laws with effect outside of New Zealand's territory.²¹⁴

Section 53 of the New Zealand Constitution Act 1852 (UK) authorised the General Assembly to 'make laws for the peace, order, and good government of New Zealand.' Following the 1968 High Court decision, a Law Reform Committee on Admiralty Jurisdiction suggested that the words 'peace, order, and good government of New Zealand' in section 53 imposed 'a legislative restraint in the absence of clear language to the contrary elsewhere.'²¹⁵ The New Zealand Constitution Amendment Act 1973 therefore declared the validity of legislation passed after 1947 and changed the wording of section 53 to 'The General Assembly shall have full power to make laws having effect in, or in respect of, New Zealand or any part thereof and laws having effect outside New Zealand.'²¹⁶

²⁰⁷ Māori Community Development Act 1962, s. 18.

²⁰⁸ Basil Keane, 'Kotahitanga – Unity Movements – Kotahitanga Movements in the 20th and 21st Centuries', *Te Ara – The Encyclopedia of New Zealand* (<http://www.teara.govt.nz/en/kotahitanga-unity-movements/page-4>).

²⁰⁹ http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/PPNZ/O/9/3/OOHOOCPNZ_41-Chapter-41-Referendums.htm

²¹⁰ Electoral Commission New Zealand, 'Referenda' (<http://www.elections.org.nz/voting-system/referenda>).

²¹¹ State Services Commission, 'The Gender Pay Gap in the New Zealand Public Service: 2.1 The Legislative Framework' (<http://www.ssc.govt.nz/node/7426>).

²¹² Human Rights Commission, 'Chapter 18: Human Rights and Race Relations Te tika tangata, me te whakawhanaunga a iwi', *Human Rights in New Zealand Today Ngā Tika Tangata O Te Motu* (<http://www.hrc.co.nz/report/chapters/chapter18/race01.html>).

²¹³ *R v Fineberg* [1968] NZLR 119.

²¹⁴ Ibid.

²¹⁵ New Zealand Constitution Amendment Bill 1973, Explanatory note.

²¹⁶ Jerome B. Elkind, 'A New Look at Entrenchment', *The Modern Law Review*, Vol. 50, No. 2, 1987, p 158.

A discussion document issued in 2000 led to two years of public consultation and policy development, culminating in the introduction of the Supreme Court Bill in 2003.²⁹³ The discussion document prompted approximately 70 submissions, which were evenly divided between support and opposition to the proposal to end appeal rights to the Privy Council.²⁹⁴

Passing the Supreme Court Act 2003 meant that no appeal could be made to the Judicial Committee of the Privy Council on any civil or criminal decision made after the Act's passage. By creating a locally operated two-tier appellate system, the Act also brought New Zealand into line with comparable Commonwealth nations. The new Supreme Court began its formal operations from the 1 January 2004.

Crown Entities Act 2004

Crown entities are the most numerous types of central government organisations and are typically created through a specific Act of Parliament. By the late 1990s concerns emerged that fragmentation of the public sector was making co-ordination difficult.²⁹⁵ Reform of Crown entities was seen as a positive step to improving co-ordination and consistency of objectives across the public sector.²⁹⁶

The Crown Entities Act 2004 was enacted to provide a consistent framework for the establishment, governance and operation of Crown entities as well as to clarify the relationships between Crown entities, their board members, responsible Ministers and Parliament.²⁹⁷ Section 7 outlines the five different types of Crown entity and establishes a different governance framework for each type. Differences in Crown entities usually involve the appointment and removal of board members, and whether the entity is required to *have regard* or *give effect* to government policy. Crown entities must produce statements of intent that set out their goals and funding, which are agreed with the responsible minister at the start of each financial year. Each Crown entity reports on their achievements to Parliament in their annual report.²⁹⁸

Constitution Amendment Act 2005

In 2003 the Standing Orders Committee had made a range of recommendations related to the business of the House of Representatives. Two of these uncontroversial, but fairly significant, recommendations were implemented through the Constitution Amendment Act 2005.²⁹⁹ It was passed as part of a Statutes Amendment Bill which made textual amendments to 20 Acts of Parliament.

The first of these changes altered the rules about parliamentary business (mainly Bills and petitions) lapsing between sessions of Parliament and for when it dissolves preceding a general election. It clarified that business before the House did not lapse between sessions of a Parliament, but that it did lapse upon its dissolution. However, the legislation provided for the House to reinstate the business by resolution when it next convened.

²⁹³ Advisory Group, 'Replacing the Privy Council: A New Supreme Court: Report' (Wellington, NZ: Office of the Attorney-General, 2002).

²⁹⁴ Ibid, p 14

²⁹⁵ Review of the Centre Advisory Group, 'Report of the Advisory Group on the Review of the Centre', November 2001, p 5.

²⁹⁶ Ibid, pp 5-6.

²⁹⁷ State Services Commission, 'Crown Entities Act 2004 and Amendment Act 2013' (<http://www.ssc.govt.nz/node/8517>).

²⁹⁸ Rob Laking, 'Crown Entities – How Are Crown Entities Governed?', *Te Ara – The Encyclopedia of New Zealand* (<http://www.teara.govt.nz/en/crown-entities/page-3>).

²⁹⁹ Morris, Boston & Butler (2011) p 21.