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POLITICS (/TAGS/POLITICS)

What is the 'waka jumping' bill?

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[Daniela Maoate-Cox \(/authors/daniela-maoate-cox\)](#), The House, Senior producer
[dmaoatecox \(https://twitter.com/dmaoatecox\)](https://twitter.com/dmaoatecox) [✉ danielamaoatecox@gmail.com \(mailto:danielamaoatecox@gmail.com?\)](mailto:danielamaoatecox@gmail.com)
 subject=What%20is%20the%20%E2%80%98waka%20jumping%E2%80%99%20bill%3F

Controversial, contentious, and cavalier have been used to describe the Electoral (Integrity) Amendment Bill (<http://www.legislation.govt.nz/bill/government/2017/0006/latest/whole.html#DLM7478608>), or 'waka jumping' bill as it's more commonly referred to, but what is this bill that's got MPs all fired up?



'Waka jumping' is a play on 'jumping ship' and refers to MPs leaving or switching political parties. Photo: 123rf

Stripped right back the Bill is about adding ways that a vacancy can be created in the House or in other words, ways an MP leaves Parliament; whether it's by choice or by force is part of the debate.

There are lots of ways for a seat to be emptied (<http://www.legislation.govt.nz/act/public/1993/0087/128.0/DLM308531.html>). Resigning is the obvious option (recent examples are Bill English (<https://www.radionz.co.nz/national/programmes/the-house/audio/2018634474/bookends-for-a-career>), Jonathan Coleman (<https://www.radionz.co.nz/news/political/354832/coleman-gives-valedictory-speech-amid-govt-attacks>), and Steven Joyce (<https://www.radionz.co.nz/news/political/353515/steven-joyce-gives-valedictory-speech>)).

Not turning up for a Parliamentary term (three years) is also enough to vacate a seat, as is dying, being convicted of a crime punishable by two or more years in prison, or becoming mentally disordered (<http://www.legislation.govt.nz/act/public/1993/0087/128.0/DLM308554.html#DLM308554>).

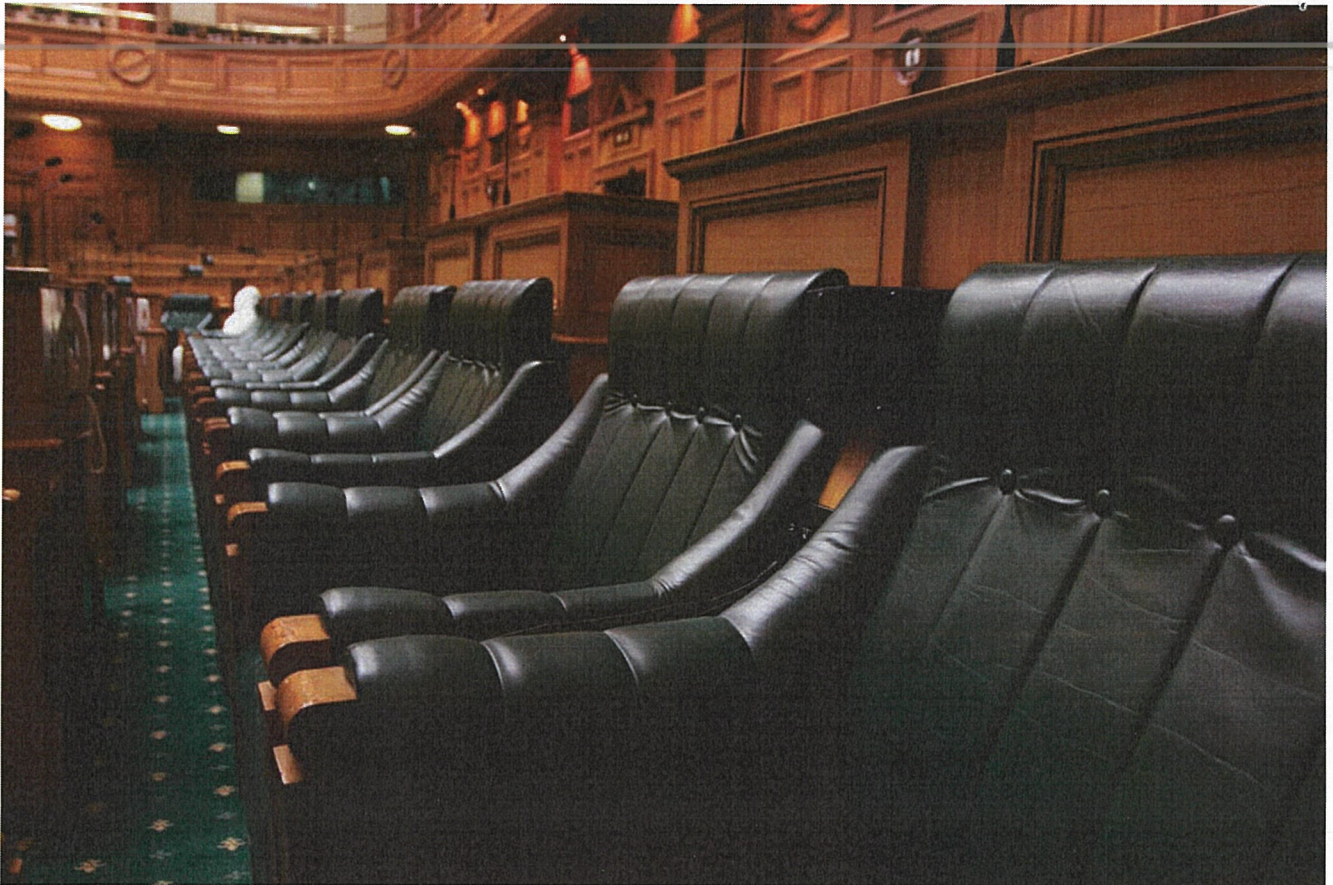
This Bill will add quitting a party to the list of ways an MP's seat can be vacated.

Why all the bother?

/ Daniela Maoate-Cox

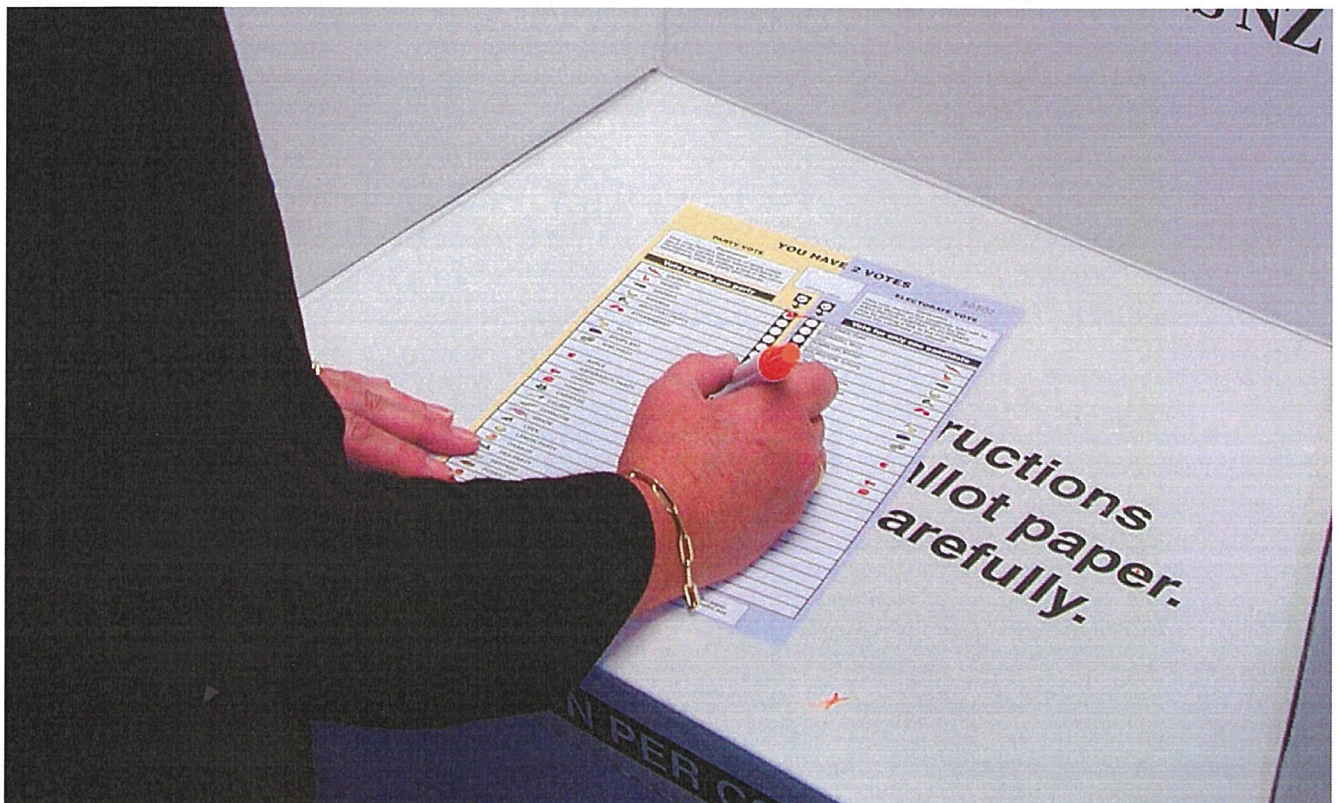
the two types of MPs in Parliament.

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Type A is an electorate MP and as their title suggests, it's someone who was persuasive enough to convince people in one of the country's electorates to vote for them. If you're familiar with voting in a general election, that's the part of the voting paper where you vote for the individual person.

Type B is a list MP and their seat in Parliament is dependant on how many votes their party received at the election (this is the part of the voting paper where you pick your favourite colour which is hopefully matched to your preferred Party to lead the country).



A voter picks their favourite colour, no sorry, preferred party, which in this case is fruit based as this is an example of a voting paper from the electoral commission. Photo: Electoral Commission

Regardless of whether they're Type A or B, once they've got their seat in Parliament they are officially a Member of Parliament and can vote and speak in the House on equal footing.

The fight starts when an MP decides to leave their party, because currently there's no requirement for them to also leave Parliament.

This Bill aims to change that and says the defecting MP would have to give up their seat.

If they wanted to keep their seat, an electorate MP would have to head back to the people that voted them in and ask them to vote for them again, what's formally known as a by-election.

A list MP wouldn't have that option. They would have to leave their seat and the next person on the party list would enter Parliament in their place.

Is that it?



A party leader could expel an MP from their party if they meet certain conditions. Picture: National leader Simon Bridges (left) and Labour leader Jacinda Ardern (right). Photo: VNP / Daniela Maoate-Cox

No, the other change this Bill makes is giving power to a party leader to boot an MP from a party if they reasonably believe the MP is distorting the proportionality of Parliament.

Exactly what "distorting the proportionality" means is, again, the subject of much debate across the House, we'll come back to this soon.

The details for expelling an MP:

A party leader would need two thirds of their caucus (all the MPs from their same party) to agree,

They have to be able to give reasons how the MP has acted in a way that distorts the proportionality of Parliament and is likely to keep doing it. (If the MP appeals the decision they may need to convince a court of those things).

The offending MP has to be told that their leader and party think they've been acting out and given 21 days to respond. After that, the party leader can notify the Speaker of the vacancy.

They also have to follow their own party's rules (which may be more restrictive about how to expel a member).

Back to distorting the proportionality of Parliament. Aotearoa has a proportional representation system called mixed-member proportional, better known as MMP.

It's designed to make sure the number of MPs a party has in Parliament roughly equals the support they received at the most recent general election (when you ticked your favourite colour/party on the ballot). Anything that would skew proportionality, without the approval of the voters, is the concern (like an MP switching parties for example).

Should anyone but an MP care?

Good question, it may look like MPs are just worried about keeping their jobs and that may be true, but it's more about how they got their job in the first place. MPs campaign and are elected based on their policies and values.

Many candidates are attached to a party which makes it easier for voters to recognise what they stand for. Whether an MP should be allowed to keep their seat if they've left the party the voters associated them with, particularly if they're a list MP, is the moot point.

For fans of official language, here's the bills summary: "This bill amends the Electoral Act 1993 (<http://www.legislation.govt.nz/act/public/1993/0087/128.0/DLM307519.html>) in order to enhance public confidence in the integrity of the electoral system by upholding the proportionality of political party representation in Parliament as determined by electors."

Where is this bill at the moment?

It's in its committee stage (<https://www.parliament.nz/en/visit-and-learn/how-parliament-works/how-laws-are-made/how-a-bill-becomes-law/>) which is the second to last stage of a bill's journey through the House before it's sent off to the Governor General for royal assent.

The committee stage is one of the lengthier parts of debate in the House as MPs work through the Bill in detail, discussing each clause and proposed amendments.

An MP can speak up to four times (with a 5 min time cap) on most sections. For example, the first clause up for debate is the title of the bill, any MP can try to speak four times on just the title of the bill but they must stay on topic and make new points each time. On this Bill, MPs debated the use of the word "integrity" (https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20180807_20180807_12) in its title.

Is this a first?

Nope. Legislation of the same name was introduced in 2001 (http://www.nzlii.org/nz/legis/hist_act/eea20012001n105328.pdf) with a sunset clause which meant it expired in 2005.

In 2003 the ACT Party expelled one of its list members who then took the issue to court. Ultimately, in 2004, a Supreme Court decision (<http://www.courtsofnz.govt.nz/cases/richard-prebble-and-ken-shirley-v-donna-awatere-huata-1/@images/fileDecision>) said that MP could not keep their seat and had to leave Parliament.

What are the MPs saying?

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Labour, New Zealand First, and the Green Party support (<https://www.radionz.co.nz/news/political/362771/green-party-co-leader-marama-davidson-on-waka-jumping-bill-we-have-to-compromise>) the Bill. National is opposed.

The Bill has been debated numerous times in the house and below is a small taster of what has been said.

Andrew Little, Labour List MP and Minister of Justice

Photo: VNP / Daniela Maoate-Cox

"This legislation is about enshrining a principle. When you come to Parliament as an MP, this is not a place where you get to indulge your personal habits. You're here on a point of principle, and you're here to fulfil the bargain that every single one of us—those of us who are at least principled and understand what a principle means—subscribes to and offered ourselves to the electorate as upholding, which is the values of our party." - from the first reading of the bill

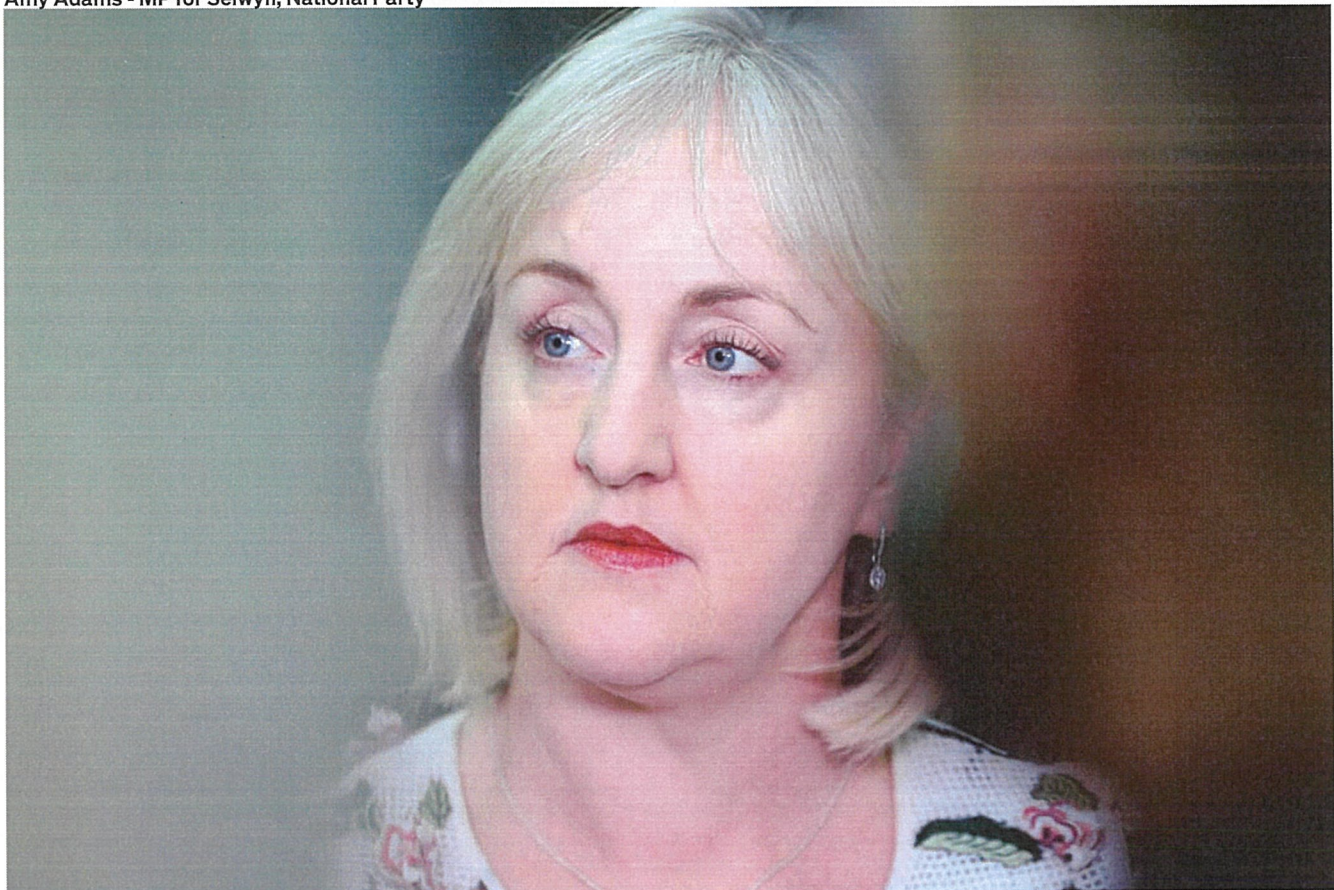
(https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20180130_055687000/little-andrew-tolley-anne)

"It is about the integrity of the collective expression of the electorate when it votes in a general election about how it wants this House to be made up. That's the integrity that counts. It's the integrity of the voters' choice." from the committee stage.

(https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20180808_126900000/little-andrew)



Nick Smith - MP for Nelson, National Party



National MP Amy Adams Photo: VNP / Phil Smith

“I am not going to let this opportunity go by without making it absolutely clear that these laws that they propose take our democracy backwards. There is no doubt in any sensible person's mind that the only reason this bill is here is because it is the price of governing with Winston Peters and the New Zealand First Party.” from the first reading of the bill (https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20180130_056100000/adams-amy).

Nick Smith - MP for Nelson, National Party
Photo: VNP / Phil Smith



“In my 28 years as a member of Parliament, I have never witnessed a bill that is so inappropriately named. To call a bill the Electoral (Integrity) Amendment Bill when it is not even supported by a majority of the House is a true disgrace.” - from the committee stage (https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20180807_055237000/smith-nick)

“It says that a member of Parliament will be dismissed if they act in a way that has distorted proportionality. What the hell does that mean? What the heck does that mean? So if a member of Parliament puts a press release out and says that "Actually, I've got a slightly different view to the leader", does that mean they are acting in a way that distorts the proportionality of Parliament?” from the committee stage (https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20180808_119925000/smith-nick).

Golriz Ghahraman - Green Party List MP



Green MP Golriz Ghahraman on the Foreign Affairs, Defence, and Trade select committee. Photo: VNP / Daniela Maoate-Cox

“The difficult decision on this bill is not typical of the kinds of decisions that we’ve had to make in joining this Government. What does make this decision uniquely difficult is the strong competing principles. The first is that the Green Party has spoken out vehemently against a bill like this in 2001 and 2005. The competing principle is that the Green Party is now committed to this new, multi-party Government, built on the merging of three parties’ priorities in the first truly multi-party MMP Government” - from the second reading of the bill. (https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20180802_057375000/ghahraman-golriz)

Darroch Ball - New Zealand First List MP



NZ First MP Darroch Ball chairing the transport committee Photo: VNP / Phil Smith

“On this side of the House we recognise as a basic fundamental that we represent the people of this country, that we represent the views and the wants and the needs of the people of this country and how they voted. Anyone else that is going to vote against that legislation disagrees with the statement I just made—disagrees with the fundamental basics of an MMP environment in this country.” from the second reading (https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20180802_055800000/ball-darroch)

Full transcripts of the debates can be found on the Parliament website here (https://www.parliament.nz/en/pb/hansard-debates/rhr/drilldown/HansD_20180808_20180809/HansDeb_20180808_20180809_12?Criteria.PageNumber=1) and the proceedings can be watched on demand here (<https://www.parliament.nz/en/watch-parliament/>).

There's no report from the Justice Committee on this Bill but all of the submissions are published online (https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_75706/tab/submissionsandadvice).