

A retrospective analysis of the people's representatives approving Crown levies and appropriations in New Zealand

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Abstract

Ministers responsible for finance portfolios in the governments of many countries around the world stand before their nation's legislature each year and present on behalf of the governments in question a bill for the consideration of these legislatures to permit the governments to levy and appropriate money. This paper presents a retrospective analysis of this annual occurrence and its associated "Arrangements" in New Zealand in 2010. The subject is addressed in the broader context of accounting in organisations and society. The analysis illuminates how and why these Arrangements have evolved, including similarities and differences to other similar systems in use in many countries. Among the social, economic and political issues that have spurred on this spread are global and regional developments in forms of government, political, economic and social policy, and accounting and finance. This is the first longitudinal study of these Arrangements. The findings have multifarious consequences for citizens, politicians, officials of multilateral organisations and governments, and others. There is much scope for further research.

Keywords

Norman England, modern New Zealand, Crown and Parliament, Budget, path dependency

Introduction

At a conference being held in the seat of the Government New Zealand (GNZ) about *Accounting and the State*, it is appropriate to inquire into the history of an event that occurred here on Thursday 20 May 2010. The setting for the event was the House of Representatives of the New Zealand Parliament, which many would regard as exemplifying democracy. The Honourable Bill English, as Minister of Finance, came before this House to deliver the Budget of the GNZ, and so seek the approval of the Legislature for appropriations and, on this occasion, tax changes proposed by the Executive. Known as Budget Day (Treasury, 2010), this is a significant annual occurrence in New Zealand, the date varying slightly from year to year. It is broadcast around New Zealand on television, including on the Parliament Channel, and radio, and, without fail, features subsequently on the front-page of newspapers published in print and on web pages throughout New Zealand. As with all Parliamentary debates, it also recorded and reported via Hansard (New Zealand Parliamentary Debates, 2010).

While the matters that grab the Budget Day headlines for being significant to most people interested in New Zealand are changes to taxes, spending on public services and macroeconomic interventions for the ensuing year or so (see Kay, 2010), this paper is about the significance of the arrangements associated with Budget Day (hereafter “the Arrangements”) to governance practices for society, seen from a critical accounting perspective and as a product of a history that will matter in the years ahead. This significance is international because of equivalent Arrangements involving governments and popularly elected legislatures of many other countries around the world (see Pelizzo, Stapenhurst and Olson, 2005), and because of the policy of the United States of America (USA) and its allies to crusade for what its leaders label *democracy* in still more places

(see de Borchgrave, 2005), of which one would expect such Arrangements to be a significant and visible part. Thus, this paper considers the questions of how and why the Arrangements came about, including their place alongside great political developments. These developments include growths of international significance in the past century of democracy, of corporate power and of corporate propaganda as a means of protecting corporate power against democracy (see Carey 1995, as cited in Gaffikin, 2008); the founding of New Zealand as a Crown Colony of the United Kingdom of Great Britain and Ireland (1841-1907), a Dominion (1907-1953) and a Realm (1953-present); and the origins in England and in the United Kingdom of laws and institutions that have been replicated during this founding.

The structure of the paper is as follows. A short note about method is followed by more details of Budget Day and related events, processes and structures. The core of the paper is a retrospective analysis of the Arrangements now associated with Budget Day, put in order chronologically. A reflective summary is then provided, conclusions drawn and suggestions for further research made.

Method

The approach in this study is to investigate temporal processes, the Arrangements associated with Budget Day, in present day New Zealand in order to provide a retrospective analysis. The approach is predicated on “Placing politics in time – systematically situating particular moments (including the present) in a temporal sequence of events and processes – can greatly enrich our understanding of complex social dynamics” (Pierson, 2000, p. 72), and is often associated with the maxim *History Matters*, for which, as Pierson points out, answers to the questions of why, where and when are vital. Among precedents associated with materials significant in this study is the approach taken to study of *Magna Carta* (the Great Charter) by McKechnie, who argued that “The

genesis of the Charter cannot be understood apart from its historical antecedents” (1914, p. 3), which he then recounted. This involved going back to the early struggles to found the English nation under Guillaume le Bâtard (William I, also styled the Conqueror), being several generations before the person whose wrongdoings with which the Charter is popularly associated, namely, Jean Sans Terre (or John Lackland) (e.g. see Hindley, 2008; Turner, 2003).

Several studies in the accounting literature have inspired this approach (e.g. Dillard, Brown and Marshall, 2005; Jacobs, Jones and Modell, 2007; Kearins and Hooper, 2002, Miller and Napier, 1993; Rahaman and Lawrence, 2001). The purposes, forms and orders that are referred to as organisations and institutions are dynamic social constructions, resulting from social interactions, negotiations and constrictions, occurring in the past and present, among protagonists participating in the particular constructions or influencing them from near or far. Analysing present day aspects of them, for example their current accounting practices, entails inquiring into details of how, why and when practices evolved and making sense of them in the context of their time and the present. Matters for inquiry include conditions arising from time to time that either made changes possible or prevented changes; and participants’ perceptions of existing structures, processes and related matters that conditioned the choices inherent in changes that were made and precluded other possibilities. Particular attention is paid to often disputed meanings that various protagonists ascribed to the circumstances from which elements of practices emerged.

Budget Day and Related Events, Processes and Structures

Delivery of the Budget as outlined above entailed the Minister of Finance making the Budget Speech (GNZ, 2010b) to MPs and putting before them the Appropriation (2010/11 Estimates) Bill, a bill they passed almost immediately and that received the Royal Assent a week later as the

Taxation (Budget Measures) Act 2010, and various other documents for consideration (e.g. GNZ, 2010a). Anticipating this event, the Minister delivered to the House, on 15 December 2009, the Budget Policy Statement for 2010 (GNZ, 2009a). In this, he outlined the overarching policy goals of the Crown (i.e. the Executive branch of the GNZ), seemingly and officially for two reasons, as far as Budgeting as a policy and legislative process is concerned. First, he was making the House aware of the issues being used to guide Budget decisions among those who comprise the Executive branch. They are the Prime Minister, and Ministers in the Cabinet and other Ministers of the Crown, whom, by constitutional convention, the Prime Minister appoints from among members of the House; and beneath them, a myriad of governmental bodies, including ministries and other public service departments, and Crown entities. Second, he was clarifying for all concerned the priorities in the Budget. On Budget Day, the Minister further explained how the Executive branch's budget decisions relate to its overarching policy goals, including their likely macro-economic and social consequences for New Zealand (see GNZ, 2010b, 2010d).

From Budget Day until late August 2010, members of the House will debate the Appropriation (2010/11 Estimates) Bill, including the extensive series it contains of proposed expenditures analysed by policy areas (e.g. Education, Economic Development and Immigration) and called Votes (e.g. Vote Education) (see GNZ, 2010c). During this period of debate, to permit MPs to scrutinise each proposed Vote, other Ministers of the Crown will come before the House and its Committees. Each Minister will elaborate budget decisions, policy goals, policies and consequences relating to the proposed Vote for which s/he has specific responsibility, take questions and hear comments about these matters, and provide answers, explanations, justifications and other forms of responses.

At the end of this period, the House is expected to pass the bill, so lending its constitutional authority to the decisions, policies and related matters of the Crown. In this likely event, on about 1 September 2010, the bill will go to the New Zealand Parliament's other arm to receive the Royal Assent. Conversely, should the House not pass the bill, the Honourable John Key, the Prime Minister, would be obliged probably to tender his resignation to the Governor-General, the Honourable Sir Anand Satyanand. In this event, the Governor-General would likely wait to see whether someone else in the House could form a majority coalition of MPs and then invite that person to be Prime Minister. However, if there was no such person, he would most likely dissolve the House and call a General Election. The circumstances of a taxation or an appropriation bill not being passed and a Prime Minister stepping down, or being stepped down, has not occurred in New Zealand in recent memory, but it did arise in Australia in 1975, when in controversial circumstances Gough Whitlam was dismissed as Prime Minister by the Governor-General, Sir John Kerr, after his government's budget proposals were rejected by the Opposition-controlled Senate (see Whitlam, 2005).

In practice, rather than the Royal Assent being exercised by New Zealand's formal head of state, Her Majesty Queen Elizabeth I of New Zealand, it will be exercised by the Governor-General, as Her Majesty's personal representative in New Zealand. The prospect of the Governor-General not according the Royal Assent to the bill after it has been approved by the House is unimaginable, particularly following the Balfour Declaration of 1926 and the lessons derived from the Kerr-Whitlam episode mentioned above. In the extremely likely event of the bill being approved by Parliament's two arms, it will become the Appropriation (2010/11 Estimates) Act 2010.

Based on precedents set in its forerunners (e.g. see equivalent legislation for the previous year, the Appropriation (2009/10 Estimates) Act 2009), the 2010 Act will have as its first-stated purpose the authorising of the Crown and the Offices of Parliament (i.e. the Controller and Auditor-General, the Ombudsmen and the Parliamentary Commissioner for the Environment) to incur expenses and capital expenditure during the financial year ending with 30 June 2011 under each Vote by appropriating expenses and capital expenditure for that financial year. As to the revenues to finance the cash flows arising because of the expenses so authorised, the Crown is authorised to assess and collect direct and indirect taxes and other revenues under various Acts (e.g. Goods and Services Tax Act 1985; Income Tax Act 2007; Taxation (Urgent Measures and Annual Rates) Act 2008). New rates for various taxes were set in the Taxation (Budget Measures) Act 2010.

Estimates of the amounts of these revenues for the year in question appear among the budget documents that the Minister of Finance tabled in the House on Budget Day (GNZ, 2010a). Similar applies to finance needed to meet the cash flows arising from authorised capital expenditures. The 2010 Act, if precedent is adhered to, will also serve the purpose of listing appropriations and classes of outputs that are subject to the reporting requirements of section 32A of the Public Finance Act 1989.

Reflected in the above description would seem to be an application to New Zealand of the principle of *trias politica* or a separation of powers of the state. Making laws in the legislature is separated from carrying out the matters under the laws by the executive and, although not referred to above, from interpreting, applying and enforcing laws by the judiciary, all this under the formal umbrella of the head of state. And so it is officially nowadays, under the Constitution Act 1986, but before that it was a matter of constitutional principle, doctrine and convention, which is how

most of New Zealand's unwritten constitution still stands (see Palmer and Palmer, 2004). Up to the point at which the bill is approved by the House of Representatives, said description of the process accords by and large with the diagram in Figure 1, which has been replicated from a web site of The Treasury that was last updated in May, 2009.

[INSERT FIGURE 1 ABOUT HERE]

Claiming to outline the relationship between Executive and Parliamentary roles in the Budget, the place of the Monarch in the New Zealand Parliament and the need for a bill to obtain the Royal Assent in order to become a statute are omitted from this official diagram in Figure 1. Omitting this information may be valid for all practical purposes nowadays but as a matter of form the diagram becomes inaccurate and leaves out clues to understanding how and why the Arrangements associated with Budget Day have come about. Moreover, this information might be important in the future, such as if an impasse should arise between the House of Representatives and the Executive, or if New Zealand was to change from being a constitutional monarchy to a republic, in which the head of state was also the head of government (e.g. as in USA or Kiribati), rather than a republic in which the head of state plays a largely ceremonial and apolitical role (e.g. as in Ireland or Germany).

A further important aspect of the Arrangements alluded to earlier is how democracy is exemplified by the House of Representatives of the New Zealand Parliament, the main arena in which the Minister of Finance plays out his/her Budget Day role. The Representatives, who are known as Members of Parliament (or MPs), are elected by New Zealand citizens and residents according to a mixed-member proportional (MMP) representation system. Suffrage is almost universal, with the right to vote being not restricted by such factors as race, gender, belief, wealth, social status and

residence, although persons under 18 years of age are excluded. Thus, the People would seem to have some influence, as the following claim indicates, although it was not actually said recently about New Zealand but in 1788 about the fledgling United 13 States of America:

The House of Representatives cannot only refuse, but they alone can propose, the supplies requisite for the support of government. They, in a word, hold the purse that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure (Madison, 2004).

As to who comprises the People, this is a less precise entity than Parliament and the Crown, but it can be taken as a multitude comprised mostly of New Zealand citizens and residents, who share such characteristics as possessors of rights to vote in elections of the House of Representatives and local bodies, payers of taxes, duties and similar used to fund the Executive and other public bodies, and possessors of other rights, obligations and responsibilities under the laws. Moreover, the People is a dynamic entity, in size, substance and arena of action, as exemplified in the media that featured in Budget Day 2010 compared with, for example, Budget Day 1990, before there were Internet access to documents and television broadcasts, or Budget Day 1935, before there were radio broadcasts. These are part of now far more prominent processes than hitherto that operate in an arena of action beyond Parliament. Moreover, compared with earlier periods in New Zealand

and Britain, far greater numbers of the People of this arena act more like consumers and citizens than they do subjects. These trends and many other size and substance changes have affected direct relations between the People and the Crown, and these have had implications not only for indirect relations between the People and the Crown through the House but also for relations between the Crown and the House. The People's influence on the Crown's Budget seems to be now far more direct but the formal Arrangements associated with Budget Day play a significant part in facilitating this influence by causing prospective information to be published, policy proposals to be defended, and criteria to be generated that appear subsequently in reports of actions and results.

The latter are exemplified in the Crown Financial Statements (see Treasury, 2009b), whose evolution traces from the 1970s, although they have only been in their present form since 1992 (Lye, Rahman and Perera, 2005). Their evolution was facilitated by and has been part and parcel of widely reported reforms in New Zealand, where as elsewhere the terms Structural Adjustment and New Public Management have been applied to changes to the nature and mix of the economy (see Cronin, 2008) and changes to the how public services are governed, organised, financed and accounted for (see Ellwood and Newberry, 2007; Newberry and Pallot, 2005). In the zeal of these changes, the rhetoric was along the lines of old, bad, inefficient and ineffective public institution administration being replaced since 1984 (when the Lange Government won the general election, Muldoon had to be removed from office, and Rogernomics was given its head) by new, good, corporate-like, profitable public service management. As this zeal peters out, perhaps it is appropriate to reconsider recent events in among the longer history, enduring nature and

significance of the Arrangements, which have perhaps been lost sight of, as one is apt to lose sight of the woods when one is in the trees. The rest of this paper might facilitate this reconsideration.

Retrospective Analysis of the Arrangements Associated with Budget Day

As exemplified above, the Arrangements concern the People and the Executive and Legislative branches of GNZ. Turning first to Parliament, it consists of the Monarch of New Zealand and the New Zealand House of Representatives: before 1951, it also included the New Zealand Legislative Council. Of these three, the first to begin its evolution was the Monarchy. The bulk of the territories that now comprise New Zealand were annexed in 1841 as a Crown Colony of the United Kingdom. As the territory was a colony, the first Monarch, Victoria, held the title Queen of the United Kingdom of Great Britain and Ireland. Annexation was effected through the Treaty of Waitangi 1840 between Victoria as the personification of the Crown of the United Kingdom and a proliferation of persons characterised as Maori Chiefs, and a Royal Charter issued by Victoria in November 1840. The circumstances of Victoria being Monarch with the title, Queen of the United Kingdom also applied to her son, King Edward the Seventh (VII) after the Conquest (i.e. of England in 1066 or thereabouts), until 1907, when New Zealand was created a Dominion and he also became King of New Zealand. The present monarch is his great-grand daughter and the fifth holder of this newer title. All are from a long line of monarchs associated with England, and then the United Kingdom and various others of its colonies besides New Zealand. Their status has depended variously on military actions, hereditary principles, civil processes and Divine Right. The Arrangements as they evolved in these other jurisdictions and that are relevant to New Zealand are dealt with in the next subsection.

Staying with the Arrangements in New Zealand from the inception of the Crown Colony as they have evolved to the present day, the first two monarchs and their immediate successor, King George V of the United Kingdom (and I of New Zealand), were represented in New Zealand by a series of Governors of New Zealand (see List of Governors-General of New Zealand, 2010).

William Hobson, the first appointee, was already in the territory as a Lieutenant Governor of the New South Wales Colony, representing its Governor. Under Hobson and his several immediate successors, government separate from that of the United Kingdom began evolving. This was amidst episodes of settlement, mainly from the British Isles or of people from Australia, North America and elsewhere of British and other European descent, and much of it organised (e.g. re Canterbury, see Hight, Straubel, Gardner and Scotter, 1957-71); demands by settlers for *responsible government* (McLean, 2006; Ward, 1987) and disputes, conflicts and wars among various factions in the Crown Colony (e.g. Maori, labourers from the Asia-Pacific region, missionaries, whalers, traders, miners and agricultural settlers of European descent) (see Sinclair with Dalziel, 2000).

The evolution included institutions based on the principle of a separation of powers of the State. In particular, under United Kingdom legislation “to Grant a Representative Constitution to the Colony of New Zealand”, namely the New Zealand Constitution Act 1852, a national General Assembly was inaugurated in 1853. It consisted of the New Zealand Legislative Council, appointed by the Governor; and a New Zealand House of Representatives, elected directly by males of particular descent, a certain age range and possessing some property. However, between the 1850s and 1870s, in addition to the Governor the more substantial form of imported (as distinct from indigenous) government was territorial, having jurisdiction over several provinces into to

which the Colony was divided, the governing bodies being known as provincial councils (the peoples who have since been categorised as Maori continued to have their own forms of government).

By the 1870s, the national circumstances had come to the fore of a General Assembly or Parliament, with three elements, from which an Executive Council was drawn (the term General Assembly was not formally dropped until the Constitution Act 1986). Still in place, however, were provincial or local circumstances: although the then nine provincial councils were abolished in 1876 and some of their functions were taken over in the capital city of Wellington, many of their formal and de facto duties, responsibilities and functions were assigned to or assumed by local government bodies, including territorial authorities, which have had assorted names over the years since (e.g. counties, boroughs, cities, districts, regions and unitary bodies). Further overarching changes at national level were that in 1907, the Crown Colony was re-created as a Dominion, consequent upon which were changes to the status and powers of the office of Governor. In 1917, the title was altered to the present one of Governor-General. In 1926, under the Balfour Declaration of that year, any remaining inferences that the office-holder was the agent of the British Government were removed, and such agency functions were vested in a British High Commission. From the late 1940s, the label Realm gradually replaced Dominion; and from 1951, Parliament was reduced to its present two elements (McIntyre, 1999).

The Arrangements under the early governors, the provincial councils and the General Assembly/Parliament for specified periods are considered in turn in subsections below. The phenomenon of the People of New Zealand is addressed across these subsections. First, however, the Arrangements as they evolved in relation to England and the United Kingdom are considered.

Evolution of the Arrangements under Victoria's Predecessors

Victoria was part of a long line of monarchs whose status depended variously over time and whose rule applied at various times to Wessex and other parts of England, Normandy and other parts of modern-day France, Wales, Ireland, Scotland, and the United Kingdom and various British colonies. Popular folklore has it that it was during the rule of one of these, John Lackland, that an event occurred marking the beginnings of the present-day Westminster (site of the English/United Kingdom Parliament) version of the Arrangements. The event in question occurred at Runnymede (west of London) in 1215, when bad King John was brought to book for various misdeeds and abuses of power, including over-taxing the People. He was obliged by powerful aristocrats to seal *Magna Carta*, and so cede some of the absolutist authority of the monarchy and provide for aristocratic oversight of the monarch. This took governance of the kingdom along a path that led to the establishment of, on the one hand, the Royal Court, the Privy Council of England and, today's Her Majesty's Most Honourable Privy Council; and, on the other hand, the Parliament and its House of Lords Spiritual and Temporal (the so-called Upper House) and House of Commons (the so-called Lower House). The equivalents of these in New Zealand today are the Executive Council of New Zealand, whose role officially is to advise the Governor-General and whose membership comprises Ministers of the Crown and overlaps greatly with the Cabinet; and the House of Representatives, being once the Lower House but now the only House, following abolition of the Legislative Council. Moreover, as *Magna Carta* is one of the oldest of New Zealand's extant laws, one might suppose that this folklore applies to the New Zealand version of the Arrangements. However, delving into these circumstances shows the issues to be more complicated and more illuminating of the present day in New Zealand.

First, Jean Sans Terre was indeed pressed by members of the largely Anglicised-Norman aristocracy to seal *Magna Carta* in 1215, making various concessions to them for the time being, including that save with the consent of his Royal Council he might not levy or collect any scutage; that is, commutations of military service at the monarch's discretion into payments that could then be used to pay mercenaries, among other things. However, as referred to earlier, McKechnie (1914), while opining that the Charter was precipitated by this particular king's behaviour, shows that its provisions had their genesis in struggles of building an English nation, which incidentally could just have easily given rise to a nation in which England was included but which was centred on Normandy and neighbouring parts of what is now France (Daniell, 2003; Holt, 1997). The sealing of this particular charter was a mere event in the arising of England as a country, and most of those involved were concerned with the level of scutage that was being demanded of them at that particular time than they were about securing a long lasting involvement in legislative, executive and judicial matters. Indeed, the charter contained no adequate sanction if the Jean were not to keep his promises, and it was mainly his death and the confirmation of many provisions in the charter by the regent of his eventual successor, Henry III, in order to stave off the threat of a rival claimant in Prince Louis of France, that led to its continuance, which in turn was not without struggles to have it enforced (McKechnie, 1914).

Second, the *Magna Carta* that survives in English law today and that is included still in New Zealand legislation (see Imperial Laws Application Act 1988; *Magna Carta* 1297) dates not from 1215 but from 1297, and is also known as the *Confirmatio Cartarum* 1297 (Confirmation of the Charters). It was sealed by Edward Longshanks, whose military campaigns around Great Britain and elsewhere, including subduing Wales and exercising suzerainty over Scotland, brought him

into conflict with his lords spiritual and temporal because of the high levels of taxation needed to fund them, as discussed next.

Third, the clauses in *Magna Carta* 1297 that pertained to the Arrangements back then were overtaken by subsequent English and United Kingdom legislation before New Zealand was annexed and it was this legislation that came to apply in New Zealand, the most fundamental of which, namely, the Bill of Rights as passed by the English Parliament in 1689, that applies to the present day, as follows:

Levyng money—That levyng money for or to the use of the Crowne by pretence of prerogative without grant of Parlyament for longer time or in other manner then the same is or shall be granted is illegall (Bill of Rights 1688, p. 2).

Fourth, not only is it simplistic to regard the sealing of *Magna Carta* 1215 and *Magna Carta* 1297 merely as monarchs being popularly chastised, with consequences that their absolutist authority and that of their successors were relinquished, but also it is too neat to suppose that this relinquishment gave rise naturally to the English or United Kingdom equivalent of the Arrangements and in a linear fashion. Similarly, it is naïve to suppose that these equivalent Arrangements were put into practice in New Zealand without further human conflict.

Fifth, it is apathetic and could be perilous to suppose that the Arrangements as they have evolved as part of New Zealand's constitutional democracy and parliamentary democracy are irreversible, incapable of improvement, or unable to be changed with other purposes or intentions in mind. The latter part of the fourth point and this fifth point are dealt with in subsequent sections, after the material below to clarify the earlier points.

Significant in the line of monarchs preceding Victoria is Guillaume le Bâtard. Through conquest and military occupation (hence his usual modern English name of William the Conqueror), he furthered what legal claims he had to be the legitimate successor to Edward the Confessor, and established a monarchy, with a small aristocracy in support, over much of what is now England; and some of his supporters carried on north to Scotland. This intervention from Normandy played a significant part in the continuing formation of England, although as Loyn (1984) shows, that had been going on for six centuries back to the first 100 years of intensive Anglo-Saxon settlement. The military and civil governmental apparatus that he and his Norman and Plantagenet successors of the 11th to the 15th centuries (see also Brown, 1989; Warren, 1987) melded out of Anglo-Saxon and Norman elements has come, retrospectively, to be referred to as the Feudal System. The system incorporated knights' fees of military service, or of scutage in lieu of personal service, which was used to employ mercenaries; and was otherwise resourced through other feudal dues. Their assessment and collection were enabled in part through the preparation of an inventory of inhabitants, landholdings and related assets in the form of the Book of the Exchequer, or the Domesday Book, which also played a part in sustaining the system and the monarchical control entailed in the system, including accountability of subjects to their monarch (Godfrey and Hooper, 1996).

Although aristocracy was critical to this system and the administration of government, the rhetoric of these monarchs included claims to rule by virtue of Divine Right, being absolute and subject to no earthly authority (re this notion, see Burgess, 1992), as distinct from deriving the right to rule through the will of the People or a segment of them (e.g. the aristocracy), as seemed to have been the trend in the days of Edward the Confessor (see Loyn, 1984). Of significance is that this

rhetoric of Divine Right is reflected in the motto of the Royal coat of arms of the monarch of New Zealand, namely, *Dieu et Mon Droit*, whose most common translation is “God and My Right” (see “Dieu et mon droit”, 2010). In particular, the motto is inscribed on the steps of New Zealand’s Parliament buildings, among other places in the Realm, and symbolises present day links that this Parliament has with its Anglo-Norman predecessors, where the Arrangements in question evolved before being migrated to New Zealand. Incidentally, the present-day motto is a modern French version of the Norman French original *Dieut et mon droict* (see “Dieu et mon droit”, 2010). Norris (1999) attributes this original usage to Richard Coeur-de-Lion (Richard I the Lionheart), although according to “Dieu et mon droit” (2010), it was Henry V (of Agincourt fame) who adopted it as the sovereign’s motto. Its Norman French form arises from that being the primary language of Norman and Plantagenet royal courts (i.e. the forerunner of today’s Executive branch of government) and aristocracy. Latin was also used at this time in official documents (e.g. *Magna Carta* 1297), and an alternative expression is the Latin, *Dei Gratia*, which appears as “by the Grace of God” in the present-day form of the Royal Proclamation (e.g. see template for a Writ of Habeas Corpus in the schedule to Habeas Corpus Act 2001).

In practice, quite apart from the overt and often violent challenges to it not only from aristocrats and similar but also because of disputes as to who should be the monarch (e.g. Étienne (Stephen) de Blois or Mathilde in the mid 12th Century, the Yorkist or Lancastrian branches of the Plantagenets for most of the 15th century – see Warren, 1987, and Brown, 1989) , the claim of Norman and Plantagenet monarchs to hold absolute power was at odds with being able to govern and manage a growing realm, especially as the monarchs themselves varied in age, personality, ability and predilection for the work of government. The growing was not so much in territories,

following the division from Normandy and other parts of France in the 13th century and non-sustained attempts at recovering them for the next two centuries and despite various excursions into Wales, Ireland and Scotland, but in terms of population, technology, wealth, social and political sophistication, and religious reformation. As intimated above, the feudal system itself was founded on devolved responsibility and accountability to what in those days were localities at some distance in terms of communication and transportation from the somewhat itinerant Royal Household, whence the monarch conducted government.

As the centuries passed, so the system transformed into agrarian capitalism (see Byres, 2009) and urban centres of population grew around trade, labour exchange and manufacture. These social and economic developments were consequential to the status of the People; to relations between them and the monarchistic government, including their right to representation in local and national government; and to the system of taxation, including the right of their representatives to assent to all taxation (Brown, 1989). Meanwhile, as its governmental work grew, including in administrative and financial sophistication, the Household became the Royal Court and was increasingly resident in or around London. Various Institutions, Officers and Offices of State were continued or created (e.g. the Lord Chancellor/Chancery, Chancellor of the Exchequer/Exchequer, Lord President of the Council/King's Council, Lord Treasurer/Treasury), and although they were still under the authority of the monarch's office, they began to have a separate formal existence (Brown, 1989; Lander, 1976). These developments inside the Household/Court and between it and the parts of the transforming kingdom gave rise to structures and processes reflecting the principle of separation of powers of the state.

A further factor was the basis of the succession of one monarch after another being not purely a matter of heredity but also of election, assent or affirmation by aristocrats and powerful commoners, sometimes in parliament, and by God's vindication in battle. It also entailed the monarch swearing to a coronation oath that until 1689 included confirmation of laws, customs and liberties granted by his/her predecessor, and, from 1308, granting to hold and preserve laws and customs assented to by his/her subjects, which eventually came to mean legislation put by the monarch/executive before a parliament/legislature comprising aristocrats and representatives chosen by gentlemen commoners, and assented to by the latter, including legislation imposing taxes (Brown, 1989).

One piece of legislation of particular long lasting significance was *Confirmatio Cartarum* 1297, which contained the following in regard to the right of persons, usually in the form of a parliament, to consent to taxes:

6. Moreover we have granted for us and our heirs, as well to archbishops, bishops, abbots, priors, and other folk of holy church, as also to earls, barons, and to all the communalty of the land, that for no business from henceforth we shall take such manner of aids, tasks, nor prises, but by the common assent of the realm, and for the common profit thereof, saving the ancient aids, and prises due and accustomed. (Sources of British History, 1997)

Edward Longshanks sealed this as a sign of goodwill towards disaffected nobles, in return for which they agreed to join a military campaign he was mounting in Scotland, following the English defeat at the Battle of Stirling Bridge. Edward had already faced resentment, political opposition, a constitutional crisis, in the shape of the Remonstrances of 1297, and a papal bull, *Clericis Laicos*, over the demands he was making for military service and the amounts of taxes he wanted to levy

from the laity and clergy (a second papal bull, *Scimus, Fili*, declared his occupation of Scotland illegal). However, *Confirmatio Cartarum* 1297 should probably be viewed in the wider context of the steps he had taken for perhaps more laudable aims than only to expand the basis of finance at his disposal. These included widening provisions for representation through means of a national English Parliament of lords and of commoners, who were drawn from rural and urban constituencies. The functions of the so-called Model Parliament were taxation and legislation. He also provided that the King's Council should be drawn from this Parliament (McKechnie, 1914; Prestwich, 1980, 1997).

As indicated above, *Magna Carta* 1297 is not the present day New Zealand legislation containing the clauses underpinning the Arrangements. By 1841, when New Zealand was founded as a Crown Colony, the relevant English laws had moved on and were now encompassed in the Bill of Rights 1688. It is still that English legislation that forms the backbone of the present-day Arrangements in New Zealand, albeit supplemented nowadays with legislation of New Zealand origin (see below).

Relevant clauses of the Bill of Rights 1688 are:

The Heads of Declaration of Lords and Commons, recited.

WHEREAS the late King James the Second by the assistance of diverse evill Councillors Judges and Ministers imployed by him did endeavour to subvert and extirpate the Protestant religion and the lawes and liberties of this Kingdome.

...

Levying Money.

By levying money for and to the use of the crown by pretence of prerogative for other time and in other manner then the same was granted by Parlyament.

...

utterly and directly contrary to the knowne lawes and statutes and freedome of this Realme.

The Subject's Rights.

And thereupon the said Lords Spirituall and Temporall and Commons pursuant to their respective letters and elections being now assembled in a full and free representative of this nation takeing into their most serious consideration the best meanes for attaining the ends aforesaid doe in the first place (as their auncestors in like case have usually done) for the vindicating and asserting their auntient rights and liberties, declare

...

Levying money—That levying money for or to the use of the Crowne by pretence of prerogative without grant of Parlyament for longer time or in other manner then the same is or shall be granted is illegall.

Reference to James Stuart and his evil counsellors provides a clue to the context of the Bill of Rights. It was a condition of the succession of Willem Hendrik, Prins van Oranje (William of Orange) and Mary Stuart as joint rulers, following the Glorious Revolution, in which James II of England and VII of Scotland was deposed and William III and Mary II came to rule with the support of the English Parliament and Scottish Parliament. The Bill was a declaration of rights made by the new rulers on taking office and the following year was passed as law by the English Parliament. A significant development alluded to in the above extract is the often violent struggles

for supremacy between the Roman Catholic church and the Established Protestant churches of the two kingdoms, which traces back to the Reformation in the 16th Century and carries on today in certain respects (e.g. Roman Catholics are precluded from being the monarch of New Zealand, celebrations are conducted in New Zealand annually on 5 November to commemorate a failed terrorist attack by Roman Catholic fundamentalists that would have seen the Palace of Westminster destroyed during the King's Speech to Parliament in 1606).

The extract also infers that the provision in *Confirmatio Cartarum* 1297 about the levying of taxation having to have the common assent of the realm had been violated, at least by James Stuart. In point of fact, this issue and that of the status of Parliament and of the Monarch, and their interrelationships, were rarely absent from one reign to the next. For example, the Stuarts seem to have had quite different ideas to the Tudors, particularly Elizabeth I of England, about the authority of the monarch, and the status of Parliament, and when James Stuart succeeded her as James I in 1603, he and his counsellors seem to have been surprised at the differences between England and Scotland, which he and several of his successors ruled separately. Both James I and Charles I's views clashed with Parliament over this authority (see James VI and I, 1994). Charles Stuart in particular was deposed and executed on order of the Rump Parliament in 1649 after, among various other transgressions, agreeing to and then ignoring the Petition of Right 1628 (Sources of British History, 2010), which contained similar provisions to *Confirmatio Cartarum* 1297 on levying taxes.

During the Commonwealth and Protectorate, Lord Protector Cromwell helped set up an English Parliament that he tried to model on the Elizabethan version, but failed for want of understanding of the significance of Parliamentary patronage and management (Coward, 2002; Trevor-Roper,

1956). This issue is taken up by Cromwell (1968) in analysing how, from the 18th Century, United Kingdom parliamentary time was given less to voting on supply and airing grievances and more to the Cabinet's legislative programme, resulting in Parliament not exercising real control over government spending and often giving way to demands to approve supply without proper scrutiny. Her analysis subsumes the circumstances that the provisions made by Lord Protector Cromwell reappeared in the English and then United Kingdom Parliaments after the Glorious Revolution, which goes some way to explaining why Cromwell's statue stands outside the Palace of Westminster today, notwithstanding his remains having been exhumed and hanged after the Restoration of the English monarchy in 1660. In the meantime, Cromwell in the last few years of the Protectorate, Charles II and James II/VII seem to have paid less heed to Parliament, including over supply. In James's case, there were violent clashes with many of the select group of people to whom Parliamentary representation was then restricted, mainly over religion, hence his deposition and the succession of William and Mary to the two thrones in 1688.

Before moving on to the Arrangements as they came to be in New Zealand, it is appropriate to take in events in some older British colonies, where, during the 18th Century, a motto came into being consistent with provisions in *Confirmatio Cartarum 1297* and the Bill of Rights 1688 on levying taxes. It was *no taxation without representation* (an alternative was *taxation without representation is tyranny*), and it was associated, among other things, with dissatisfaction over taxes and various other interferences on trade and political economy among the settlers in the colonies (Slaughter, 1984). The settlers revolted and triumphed in the ensuing war. A federation of independent states was established after this triumph, taking the alarming form of a federal

republic (alarming that is for many monarchies in Europe). The motto anticipated a provision in the constitution of the republic, as follows:

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time. (Constitution of the USA, 1787, Article 1 Section IX)

Evolution of the Arrangements under the early Governors

Although British officials from New South Wales had occasionally spent time in New Zealand before its annexation, legal authorities of New South Wales twice ruled in the 1830s that New Zealand was in no sense a dependency of the New South Wales Colony. The context of these rulings was that the British Government was reluctant to annex New Zealand and much of the rest of the south west Pacific, despite pressures in New Zealand (e.g. from commercial and missionary interests), the South West Pacific (e.g. the authorities in the New South Wales Colony) and Britain (e.g. the New Zealand Association). Annexation was contrary to that Government's policy of minimum intervention in this and other parts of the world, which stemmed in significant part from fears about the probable expense that a colony would have on the British Exchequer (Morgan, 1980; Ward, 1946).

It transpired that despite this policy and similar ones pertaining up to the late 1920s, not only was New Zealand annexed but so too were many other Pacific territories, as far north as Butaritari in the Gilberts (1892), as far west as Ducie in the Pitcairns (1902) and as far north west as Washington in the Line Islands (1889). However, given the concern over the expense of colonies, the British Government put in place measures such that each colony would be self-financing,

including that the economic and social development of each would be a matter of private means and not something the British authorities in situ would finance or generally become involved. The measures usually meant control at a distance from London, and the control at its uppermost layers were part of the Arrangements described above, under the United Kingdom Parliament, after the Union Acts of 1707. This control would have formed part of relations between the Crown Colony Governor and, first, the War and Colonial Office (1801-1854) and then the Colonial Office (1854-1925). Colonies that proved able to be self-financing were relieved of some of the burdens of this control (Bush and Maltby, 2004; Dixon and Gaffikin, 2009; Kearins and Hooper, 2003; Macdonald, 1982; Morgan, 1980; Ward, 1946). In New Zealand's case, this seems to have coincided with granting of a representative constitution to the Colony in 1852 under the New Zealand Constitution Act.

As already indicated about New Zealand, annexation was effected through the Royal Charter of 1840 and the Treaty of Waitangi 1840, some of whose principles are still subject to observance and confirmation under the Treaty of Waitangi Act 1975. Although McHugh (1991) has discussed this treaty as being the Maori *Magna Carta*, it contains no reference to taxation or expenditure. Moreover, like so many previous documents of this ilk, to have a document was one thing, to implement and continue its provisions was quite another. Quite apart from means to effect economic and social development, lack of finance meant colonial officials were often placed in situations with little military backing, apart from occasional visits by Royal Naval warships patrolling the Pacific. This lack of a military option was one reason for signing treaties with indigenous peoples, as an expedient if not a trick, which may account for the Treaty of Waitangi and its subsequent breaches, the often violent disputes that then arose, in among the use of

accounting means to in substance confiscate land, and the protracted grievance procedures now in train (Graham, 1997; Hooper and Kearins, 2008; Palmer and Palmer, 2004). In addition, the British authorities raised revenue in New Zealand by including in the English-language version of the Treaty the exclusive right to Victoria of preemption over land that its indigenous occupiers might want or be obliged to sell, purchasing such land at derisory prices (and confiscating other land deemed unoccupied or as reparations) compared to its real value to settlers, and selling it in smaller parcels of this land at higher prices to the waves of arriving settlers, usually through settler organisations. Although not classed legally as some form of capital taxation, that in substance is probably what it was, being used to fund the Colony government operations and finance any infrastructure development undertaken by the Colony government (Hooper and Kearins, 2003). Anticipating the analysis in the next two subsections, the capital taxpayers were mostly without representation in the General Assembly until after 1867 and were disproportionately low in representation thereafter (see Joseph, 2008). Similar applied in regard to provincial government bodies. For more about Crown Colony government, see McLintock (1958).

Evolution of the Arrangements under Provincial Councils

Although provinces had formed part of government in the first 10 years of the Colony, with first three than two provinces, it was 1853 before the idea took root among the growing number of settlers. By then numbering over 50,000, and their settlements being more organised and formal, they were able to use provisions in the New Zealand Constitution Act 1852 to establish provinces and provincial councils. Initially, the provinces were Canterbury, Otago, Nelson, Auckland, New Plymouth (known as Taranaki from 1861) and Wellington. In the next eight years, three more

were added: Hawke Bay (by separation from Wellington), Marlborough (by separation from Nelson) and Southland (by separation from Otago).

Each had a legislation and taxation body along the lines of a parliament and known as a Provincial Council; and an executive, which was headed by a Superintendent, who was assisted and advised by an Executive Council. The Superintendent was also empowered to assent to legislation, known as ordinances rather than acts. Councillors and the Superintendent were directly elected, and although at first the suffrage was restricted to white males who satisfied certain qualifications expressed in terms of property holding or property occupation, the reality was that of male settlers who might have wanted to vote only a few were not qualified (Griffiths, 2000; Martin, 2005).

Mirroring the Arrangements in the United Kingdom in the 19th century, before the Provincial Superintendent could levy provincial taxation (e.g. a poll tax, in the case of Nelson Province – see Fowler and Smith, 2008) and spend money, he had to have the authorisation of the Provincial Council. This is exemplified in annual ordinances to appropriate the revenue of the Province of Canterbury, such as the Appropriation Ordinance 1854, to which the Superintendent also had to assent. The appropriations approval process also entailed the preparation and scrutiny of annual estimates, of which Fowler (2009) gives an account in relation to the Nelson Province.

Notwithstanding these Arrangements, some of the Provinces got into financial difficulties from time to time, and needed support from the Crown Colony Government.

Evolution of the Arrangements up to the 1980s

Related above are that under the New Zealand Constitution Act 1852, a national General Assembly was inaugurated in 1853, and that its pre-eminence increased as provincial councils declined; and that although the term was dropped in 1986, the idea carries on in the form of the

New Zealand Parliament. The original Assembly was bicameral, although only its House of Representatives was elected, with the New Zealand Legislative Council being a body of members appointed by the Governor. The notion of a bicameral legislature seemingly derived from the system in the United Kingdom (see above), and similar were established in other colonies (e.g. New South Wales since 1856; the Gilbert and Ellice Islands from 1967 to 1979) and/or were continued/established after independence from the imperial power (e.g. the federal parliament of the Commonwealth of Australia since 1901; the federal congress of the USA since c. 1789), or were discontinued and the legislature became unicameral (e.g. the Republic of Kiribati).

A unicameral Assembly was instituted in New Zealand from 1951, when the Legislative Council had declined in stature and was abolished; except that the Legislative Council Chamber is still used for the Speech from the Throne (equivalent to the Monarch's Speech at the opening of the United Kingdom Parliament), as following tradition there, the Monarch may not enter the elected House of Representatives. This abolition is may be seen as part of a trend in the New Zealand system that parallels or has been paralleled by a trend in the United Kingdom system, of authority gradually passing from the body nearer the monarch/governor to the body nearer the people as citizens and electors. In the United Kingdom case, authority passed from the largely hereditary House of Lords to the largely directly elected House of Commons, and membership of the Lords was later reconstituted. In the New Zealand case, authority passed from the appointed-for-life (later appointed until a stipulated age for retirement) Legislative Council to the House of Representatives, before the Legislative Council was abolished.

A significant element in this transition of authority from one to the other was the authority to introduce, deal with and/or delay bills pertaining to finance, which authority was gradually lost by

the Lords and Legislative Council respectively to the directly, democratically elected other chamber. However, as Brown (1989), McKechnie (1914) and others opine, since the summoning of commoners to represent the community of the realm in the 12th or 13th century, the views of these commoners probably took precedence over other persons in the estate assemblies or parliaments in matters of taxation if not in matters of legislation. Then, however, these commoners were regarded by the monarch as his/her subjects, and probably regarded themselves as such. They had duties, responsibilities and rights under laws of England, then of the United Kingdom, including when in New Zealand, where United Kingdom laws applied, as supplemented with Provincial and Crown Colony Ordinances. Alongside the transition from Colony, through Dominion and onto Realm, the descendants of the subjects seem largely to have adopted roles of at least citizens of the parliamentary democracy and, since the 1980s reforms, extended that to customers of New Zealand Government Limited.

Considering aspects of the General Assembly in more detail, its original authority seems to have been quite limited and somewhat incidental to that of the Governor, who governed with advice and assistance from an Executive Council. The persons who could take part in the elections were restricted at first in a similar way to the Provincial Councils but over the course of its first five decades property qualifications were relaxed and then abolished, and the suffrage was extended to all adult males, including Maori ones, and to all adult women.

Meanwhile, the position of a Prime Minister began emerging in the late 1850s, largely a matter of constitutional convention, but there were no political parties, and so anyone attempting to form a governing administration had to win support directly from individual MPs. This explains for the office having been held one or more times by about 13 different persons for about 24 periods in

the first 35 years of the House's existence. The beginning of party politics was marked by the formation of the First Liberal Government in 1891, since when there have been 13 party administrations led by 25 persons, three of whom held office for two separate periods (see List of Prime Ministers of New Zealand, 2010). As to the authority of the Prime Minister, this too has developed largely a matter of constitutional convention, including by the transfer of authority originally vested in the Governor. Of significance is that the Executive Council that once advised the Governor has evolved into the Executive Council of New Zealand and that in reality the Prime Minister appoints the Ministers of the Crown who comprise its members, and most of these form the Cabinet.

One such member is the Minister of Finance who as related above presents the Budget on behalf of the Executive to the House of Representatives. This office has evolved from that of Colonial Treasurer and Collector of Customs, which was established in 1841 to support the Governor (Cyclopedia Company Limited, 1897). The first office holder was an official in the Colony Treasury, which saw to the Colony's day to day financial affairs. When the office of Prime Minister emerged and a Cabinet was formed for the first time in the mid-1850s, Colonial Treasurer became a Cabinet position. The change of name to Minister of Finance coincided with New Zealand's change in status from Colony to Dominion. Meanwhile, the Treasury also evolved, first into a body that oversaw spending of other departments that formed part of the Dominion government structure and government borrowing; then into one that advised the GNZ on economic policy, especially from when Keynesian and other interventionist economic policies became ascendant; and, most recently, into a body prominent in driving through Structural Adjustment and New Public Management (McKinnon, 2003; Newberry and Jacobs, 2008).

Regarding the Arrangements, they soon grew out of the principles that, on the one hand, expenditure of public money could only be made on behalf of the Executive after appropriation by an Act of the General Assembly; and, on the other hand, the General Assembly could not pass any Bill providing for the appropriation of public money unless recommended to by the Executive. Furthermore, the demands of the Executive for expenditure, or supply, had to be set out in annual estimates prepared by its members, and overseen by the Treasury, and submitted to the General Assembly. The details of estimates were aggregated for each service and the total sums of money for each service for a year were referred to as Votes. After the year was completed, accounts were prepared and audited comparing for each Vote the amount appropriated and the amount expended. Among relevant legislation were the Public Revenues Acts of 1926 and 1953.

Evolution of the Arrangements after the General Assembly

As indicated above, the term General Assembly was formally dropped in the Constitution Act 1986. This Act also enshrined in modern New Zealand law provisions referred to in the previous paragraph, modernising provisions that previously relied on the Bill of Rights 1688 and New Zealand Constitution Act 1852. Extracts are as follows:

Parliament and Public Finance

Section 21 Bills appropriating public money — The House of Representatives shall not pass any Bill providing for the appropriation of public money or for the imposition of any charge upon the public revenue unless the making of that appropriation or the imposition of that charge has been recommended to the House of Representatives by the Crown.

Section 22 Parliamentary control of public finance — It shall not be lawful for the Crown, except by or under an Act of Parliament,—

- (a) To levy a tax; or
- (b) To borrow money or to receive money borrowed from any person; or.
- (c) To spend any public money.

While the above provisions are a fundamental to the Budget Day behaviour of the Minister of Finance and the House of Representatives, they form only part of the legal backdrop to the Arrangements that are economic, social and, above all, political in nature. Of further legal significance are provisions contained nowadays in the Public Finance Act 1989 following many amendments since it was first given the Royal Assent, including the Fiscal Responsibility Act 1994 (subsequently repealed) being incorporated in it. Relevant provisions in the latter Act and their incorporation with other provisions into the 1989 Act are scrutinised by Newberry and Pallot (2003, 2005). Matters they raise include actions entrusted in these Acts to the Crown that the Crown might be able to then do “out of sight of parliament and the public at large” (2005, p. 270). They link these with several aspects of Structural Adjustment and New Public Management, including accrual accounting and reporting, private financing of public service infrastructure and facilities, and the transformation from public sector to public services, including the disaggregation of policymaking, regulation, purchasing and operations into separate functions carried out by a variety of public and private bodies (see also Broadbent and Guthrie, 2008). The 1989 Act was originally assented to when Structural Adjustment and New Public Management were introduced by the Labour Governments under David Lange, Roger Douglas

Geoffrey Palmer and others in the 1980s (see Newbury and Jacobs, 2008), although these particular terms had not quite emerged then – the common term was Rogernomics. They were carried on by the National Government under Jim Bolger, Ruth Richardson and others. The Act claims to have certain purposes that reflected a different philosophy of government to that which went before, purposes that might be seen as over and above those reflected in the Arrangements through the history covered in this paper. The Act reflected these people’s intent of changing the laws governing the use of public financial resources. In addition to scrutinising the Government's expenditure proposals, their Act claims to aspire to a framework for parliamentary scrutiny of the Government's management of its assets and liabilities. This was part of having lines of responsibility for effective and efficient management of public financial resources; of having principles for responsible fiscal management in the conduct of fiscal policy, including regular reporting on the extent to which the Government's fiscal policy is consistent with those principles; having (at least?) minimum financial and non-financial reporting obligations of Ministers, departments, Offices of Parliament, and other specified organisations (Public Finance Act 1989, Section 1A). Relevant extracts are as follows:

Section 4 Expenses or capital expenditure must not be incurred unless in accordance with appropriation or statutory authority

- (1) The Crown or an Office of Parliament must not incur expenses or capital expenditure, except as expressly authorised by an appropriation, or other authority, by or under an Act.
- (2) In this section, expense does not include an expense that results from—
 - (a) a remeasurement of an asset or a liability; or

- (b) an operating loss incurred by—
- (i) a Crown entity named or described in the Crown Entities Act 2004; or
 - (ii) an organisation named or described in Schedule 4; or
 - (iii) a State enterprise named in the Schedule 1 of the State-Owned Enterprises Act 1986; or
 - (iv) the Reserve Bank of New Zealand; or
 - (v) any other entity whose financial statements must be consolidated into the financial statements of the Government to comply with generally accepted accounting practice.

It is self-evident that while some provisions descend from Magna Carta, the Bill of Rights, etc. others are new, particularly mentions of assets, expenses, financial statements and losses, all of which stem from the move to accrual accounting and reporting, the disaggregation of functions in various legal and reporting entities, and the consolidation of various of these entities' accounts in the whole-of-government accounts, or Crown financial statements, which are the subject of Lye et al. (2005). Related changes are the inclusion in other parts of the Act references to such concepts as outputs, being goods or services that are supplied by a department, Crown entity, Office of Parliament, or other person or body; and outcome, being a state or condition of society, the economy, or the environment.

A further interesting twist, stemming among other things from policy advice being an output, is the following statement that is now part of the Budget papers put before Parliament:

Statement of Responsibility

On the basis of the economic and fiscal information available to it, the Treasury has used its best professional judgement in supplying the Minister of Finance with this Economic and Fiscal Update. The Update incorporates the fiscal and economic implications both of Government decisions and circumstances as at 4 May 2010 that were communicated to me, and of other economic and fiscal information available to the Treasury in accordance with the provisions of the Public Finance Act 1989.

John Whitehead Secretary to the Treasury 11 May 2010

This Economic and Fiscal Update has been prepared in accordance with the Public Finance Act 1989. I accept overall responsibility for the integrity of the disclosures contained in this Update, and the consistency and completeness of the Update information in accordance with the requirements of the Public Finance Act 1989. To enable the Treasury to prepare this Update, I have ensured that the Secretary to the Treasury has been advised of all Government decisions and other circumstances as at 4 May 2010 of which I was aware and that had material economic or fiscal implications.

Hon Bill English Minister of Finance 11 May 2010

(Source: Government of New Zealand, 2010a, p. 58)

As regards the economic, social and political, the situation that the various conventions and statutory provisions outlined above continue to require is, among other things, the Minister of Finance's presence in the House on Budget Day. This can be interpreted as still a significant feature of public accountability of the Executive, and not only for public money but also public policy and public service production, distribution and social and economic consequences. Here, he

or she, and the Government he/she represents, face not only their political adversaries but also their supporters, whose support may not be taken for granted, especially since the MMP voting system has meant that since the mid-1990s Governments are not just coalitions of individuals within a single political party but also coalitions of a few parties, whose formal coalition agreements include explicit reference to supply. In addition, the proceedings are in an arena that is now very public because of the broadcast, Internet and print media. The Budget debate in House culminates in voting on the Appropriation Bill and, almost certainly, its passing into law as an Appropriation Act, so permitting the GNZ to spend money, acquire assets and inputs, and generate outputs. This may not be how Edward Longshanks and his subjects saw his military campaigns but times have changed.

The provisions for reporting seem to have arisen alongside the provisions to obtain authority for appropriations but are clearer here than in Magna Carta, as are sanctions that the Parliament can impose if the GNZ varies from its promises. Reports include Appropriation reports to the House during the Budget approval period, an annual Whole of Government report to the House and individual ministry and public body reports to the House. An audit of these annual reports is carried out by the Controller and Auditor-General on behalf of Parliament, and the House can scrutinise expenditure proposals, interim accounts and final reports via its committees, debates and questions to Ministers, the latter being answerable to House for their actions and those of the entire Executive. Interactions between Ministers, MPs, political parties, media, pollsters, corporations, pressure groups, public, etc. make for much control within and outside Parliament. The People also get their opportunity for a formal say at general elections of the House and thereby of the Government at 3-year intervals.

Conclusion

The purpose of this paper is to consider the history of the present-day situation of ministers responsible for finance portfolios in the governments of many countries around the world standing before their nation's legislature each year and present on behalf of the governments in question a bill about appropriations for the consideration of these legislatures. Among the social, economic and political issues that seem to have spurred on this spread are global and regional developments in forms of government, political, economic and social policy, and accounting and finance. The paper presents a retrospective analysis of this annual occurrence and its associated "Arrangements" in New Zealand, where the Minister of Finance stands before the House of Representatives on Budget Day to propose an Appropriation Bill. The subject is addressed in the broader context of accounting in organisations and society. Analysed are the "Arrangements" back to the founding of the Realm, and before that the Dominion and the Crown Colony in New Zealand, and before that and elsewhere the United Kingdom and England. This is the first longitudinal study of these Arrangements. The analysis, although still exploratory and largely uncritical, illuminates how and why government revenues and expenditure have come to be specified, recorded and controlled using the Arrangements in New Zealand. Still to be explored are the similarities and differences to other similar systems in use in many countries. The findings are likely to have multifarious consequences for citizens, politicians, officials of multilateral organisations and governments, and others. There is much scope for further research, particularly examining the documentation that has been part of the Arrangements to see how and why it has changed, and the records of debates, meetings and other interactions for similar reasons.

References

Appropriation (2009/10 Estimates) Act 2009 No 28, Public Act [Online]. Available:

<http://www.legislation.govt.nz/act/public/2009/0028/latest/whole.html#d1m2099404>

(accessed 19 June 2010).

Appropriation (2010/11 Estimates) Bill 158-1 (2010), Government Bill [Online]. Available:

[http://www.legislation.govt.nz/bill/government/2010/0158/latest/whole.html?search=ts_bill](http://www.legislation.govt.nz/bill/government/2010/0158/latest/whole.html?search=ts_bill_Appropriation+(2010%2f11+Estimates)+Bill_noresel&p=1#d1m2983301)

[_l_Appropriation+\(2010%2f11+Estimates\)+Bill_noresel&p=1#d1m2983301](http://www.legislation.govt.nz/bill/government/2010/0158/latest/whole.html?search=ts_bill_Appropriation+(2010%2f11+Estimates)+Bill_noresel&p=1#d1m2983301) (accessed 19

June 2010).

Appropriation Ordinance of 1854 (Canterbury Provincial Council: Session II February to April 1854) [Online]. Available:

http://christchurchcitylibraries.com/Heritage/Digitised/Ordinances/Ordinances_13-186.pdf

(accessed 12 April 2010).

Balfour Declaration of 1926 [Online]. Available:

http://www.foundingdocs.gov.au/resources/transcripts/cth11_doc_1926.pdf (accessed 17

March 2010).

Bill of Rights. No. 2 of 1688 [Online]. Available:

[http://www.legislation.govt.nz/act/imperial/1688/0002/latest/DLM10993.html?search=qs](http://www.legislation.govt.nz/act/imperial/1688/0002/latest/DLM10993.html?search=qs_act_imperial_resele)

[act_imperial_resele](http://www.legislation.govt.nz/act/imperial/1688/0002/latest/DLM10993.html?search=qs_act_imperial_resele) (accessed 21 March 2010).

Broadbent, J. and Guthrie, J. (2008), "Public sector to public services: 20 years of "contextual" accounting research", *Accounting, Auditing & Accountability Journal*, Vol. 21 No. 2, pp. 129-169.

Brown, A. L. (1989), *The governance of late medieval England, 1272-1461*. London: Edward Arnold.

Burdon, R. M. (1965), *The new dominion: A social and political history of New Zealand, 1918-39*. London: Allen & Unwin.

Burgess, G. (1992), "The Divine Right of kings reconsidered", *English Historical Review*, Vol. 107, pp. 837-861.

Bush, B. and Maltby, J. (2004), "Taxation in West Africa: Transforming the colonial subject into the "governable person", *Critical Perspectives on Accounting*, Vol. 15, pp. 5-34.

Byres, T. J. (2009), "The landlord class, peasant differentiation, class struggle and the transition to capitalism: England, France and Prussia compared". *Journal of Peasant Studies*, Vol. 36, No. 1, pp. 33 – 54.

de Borchgrave, A. (2005, 7 July), Bush's Crusade for Democracy. *Newsmax.com* [Online].

Available: <http://archive.newsmax.com/archives/articles/2005/7/6/162136.shtml> (accessed 19 June 2010).

Carey, A. (1997), *Taking the risk out of democracy: Corporate propaganda versus freedom and liberty*. Urbana, IL: University of Illinois Press.

Constitution Act. No 114 of 1986 [Online]. Available:

http://www.legislation.govt.nz/act/public/1986/0114/latest/DLM94204.html?search=ts_act_constitution+act_resele&p=1 (accessed 12 April 2010).

Constitution of the United States of America (1787) [Online]. Available:

http://en.wikisource.org/wiki/Constitution_of_the_United_States_of_America#Article_I

(accessed 27 February 2010).

Coward, B. (2002), *The Cromwellian Protectorate*. Manchester: Manchester University Press.

Cromwell, V. (1968), “The losing of the initiative by the House of Commons”, *Transactions of the Royal Historical Society*, Vol. 18, pp. 1-23.

Cronin, B. (2008), “Economic restructuring in New Zealand: A classical account”, *Critical Perspectives on Accounting*, Vol. 19, 340-382.

Cyclopedia Company Limited. (1897), Mr. George Cooper [Online]. Available:

<http://www.nzetc.org/tm/scholarly/tei-Cyc01Cycl-t1-body-d3-d7-d4.html#name-413742-mention> (accessed 24 June 2010).

Daniell, C. (2003), *From Norman Conquest to Magna Carta: England 1066-1215*. London
Routledge.

“Dieu et mon droit”. (2010), [Online]. Available: http://en.wikipedia.org/wiki/Dieu_et_mon_droit
(accessed 21 March 2010).

Dillard, J., Brown, D. and Marshall, R. S. (2005), “An environmentally enlightened accounting”,
Accounting Forum, Vol. 29, pp. 77–101.

Dixon, K. and Gaffikin, M. (2009), “*Attributing consequences to accountancy: Pacific insights*”,
8th Australasian Conference on Social and Environmental Accounting Research [Online].
Available: <http://www.bsec.canterbury.ac.nz/csear2009/proceedings.html> (accessed 13
March 2010).

Ellwood, S. and Newberry, S. (2007), "Public sector accrual accounting: Institutionalising neo-liberal principles?", *Accounting, Auditing and Accountability Journal*, Vol. 20 No. 4, pp. 549-573.

Fowler, C. (2009), "Performance management, budgeting, and legitimacy-based change in educational organisations", *Journal of Accounting and Organizational Change*, Vol. 5 No. 2, pp. 168-196.

Fowler, C. and Smith, A. M. C. (2008), *Can a poll tax ever be acceptable?: evidence from colonial New Zealand* [Online]. Available <http://ssrn.com/abstract=1108727> (accessed 17 March 2010).

Gaffikin, M. (2008), *Accounting theory, research, regulation and accounting practice*. Upper Saddle River, NJ: Pearson Educational/Prentice-Hall.

Godfrey, A. & Hooper, K. (1996), "Accountability and decision-making in feudal England: Domesday Book revisited", *Accounting History*, Vol. 1, pp. 35-54.

Goods and Services Tax Act. No. 141 of 1985 [Online]. Available: http://www.legislation.govt.nz/act/public/1985/0141/latest/DLM81035.html?search=ts_act_tax_rese&p=1&sr=1 (accessed 28 February 2010).

Government of New Zealand. (2009a), *Budget policy statement 2010* [Online]. Available: <http://www.treasury.govt.nz/budget/2010/bps/01.htm> (accessed 10 March 2010).

Government of New Zealand. (2010a), *Budget economic and fiscal update 2010* [Online]. Available: <http://www.treasury.govt.nz/budget/forecasts/befu2010> (accessed 19 June 2010).

Government of New Zealand. (2010b), *Budget speech* [Online]. Available:

<http://www.treasury.govt.nz/budget/2010/speech> (accessed 19 June 2010).

Government of New Zealand. (2010c), *Estimates of appropriations for the Government of New Zealand for the year ending 30 June 2011* [Online]. Available:

<http://www.treasury.govt.nz/budget/2010/estimates> (accessed 19 June 2010).

Government of New Zealand. (2010d), *Fiscal strategy report* [Online]. Available:

<http://www.treasury.govt.nz/budget/2010/fsr> (accessed 19 June 2010).

Graham, D. (1997), *Trick or treaty?* Wellington: Victoria University of Wellington, Institute of Policy Studies.

Griffiths, G. (2000), *New Zealand's Nine Provinces (1853–76)* (Friends of the Hocken Collections Bulletin No. 31) [Online]. Available:

http://www.library.otago.ac.nz/pdf/hoc_fr_bulletins/31_bulletin.pdf (accessed 12 April 2010).

Habeas Corpus Act. No 31 of 2001.

Hawke, G. R. (1985), *The making of New Zealand: An economic history*. Auckland: Cambridge University Press.

Hight, J. (1905), *The governance of New Zealand: Its origin, establishment and early development*. Unpublished thesis available from University of Canterbury (formerly Canterbury College), Christchurch.

Hight, J., Straubel, C. R., Gardner, W. J. and Scotter, W. H. (Eds.) (1957-71), *A history of Canterbury* (3 vols.). Christchurch: Canterbury Centennial Historical and Literary Committee and Whitcombe & Tombs.

Hindley, G. (2008), *A brief history of the Magna Carta: the story of the origins of liberty*. London: Robinson.

Holt, J. C. (1997), *Colonial England, 1066-1215*. London: Hambledon.

Hooper, K. C. and Kearins, K. (2003), "Substance but not form: Capital taxation and public finance in New Zealand, 1840-1859", *Accounting History*, Vol. 8, pp. 101-119.

Hooper, K. C. and Kearins, K. (2008), "The walrus, carpenter and oysters: Liberal reform, hypocrisy and expertocracy in Maori land loss in New Zealand 1885-1911", *Critical Perspectives on Accounting*, Vol. 19, No. 8, pp. 1239-1262.

Imperial Laws Application Act. No. 112 of 1988 [Online]. Available:

http://www.legislation.govt.nz/act/public/1988/0112/latest/DLM135091.html?search=qs_a ct_imperial_rese1 (accessed 14 March 2010).

Income Tax Act. No. 97 of 2007 [Online]. Available:

http://www.legislation.govt.nz/act/public/2007/0097/latest/DLM1512301.html?search=ts_a ct_tax_rese1&p=1&sr=1

http://www.legislation.govt.nz/act/public/2007/0097/latest/DLM1512301.html?search=ts_a ct_tax_rese1&p=1&sr=1 (accessed 28 February 2010).

Jacobs, K., Jones, K., and Modell, S. (2007), "Parliamentary financial oversight and accountability in the Antipodes", in *Fifth Asia Pacific Interdisciplinary Research in Accounting*

Conference: Internet Conference Proceedings, available at:

<http://www.mngt.waikato.ac.nz/ConferenceManager/report.asp?issue=5http://blackboard.canterbury.ac.nz/webct/urw/lc9140001.tp0/cobaltMainFrame.dowebct> (accessed 22 October 2009).

James VI and I (King). (1994), “Basilikon Doron”, in King James VI and I (Author), and Sommerville, J. (Ed.). *Political Writings* (pp. 1-61). Cambridge: Cambridge University Press.

Joseph, C. (2008), The Maori Seats in Parliament [Online]. Available:

<http://www.nzbr.org.nz/documents/publications/Maori%20Seats%20in%20Parliament.pdf> (accessed 23 June 2010).

Kay, M. (2010, 20 May), Budget - Income tax down, GST up. *Stuff.co.nz* [Online]. Available:

<http://www.stuff.co.nz/business/budget-2010/3718296/Budget-Income-tax-down-GST-up> (accessed 19 June 2010).

Kearins, K. and Hooper, K. (2002), “Genealogical method and analysis”, *Accounting, Auditing and Accountability Journal*, Vol. 15, pp. 733-757.

Lander, J. R. (1976), *Crown and nobility 1450-1509*. London: Arnold.

Lienert, I. (2007), British influence on Commonwealth budget systems: The case of the United Republic of Tanzania (IMF Working Paper WP/07/78) [Online]. Available:

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=979032# (accessed 8 April 2010).

List of Governors-General of New Zealand. (2010), [Online]. Available:

http://en.wikipedia.org/wiki/List_of_Governors-General_of_New_Zealand (accessed 17 March 2010).

List of Prime Ministers of New Zealand. (2010), [Online]. Available:

http://en.wikipedia.org/wiki/List_of_Prime_Ministers_of_New_Zealand (accessed 23 June 2010).

Loyn, H. R. (1984), *The governance of Anglo-Saxon England, 500-1087*. London: Edward Arnold.

Lye, J., Perera, H. and Rahman, A. (2005), “The evolution of accruals-based Crown (government) financial statements in New Zealand”, *Accounting, Auditing and Accountability Journal*, Vol. 18 No. 6, pp. 784-815.

Macdonald, B. K. (1982), *Cinderellas of the empire: Towards a history of Kiribati and Tuvalu*. Canberra: Australian National University Press.

Madison, J. (2004), “Federalist No. 58: Objection that the number of members will not be augmented as the progress of population demands considered”, in *Project Gutenberg Etext of The Federalist Papers* [Online]. Available:
<http://www.gutenberg.org/dirs/etext91/feder16.txt> (accessed 8 April 2010).

Magna Carta of 1297 [Online]. Available:

http://www.legislation.govt.nz/act/imperial/1297/0029/latest/DLM10926.html?search=ts_a ct_magna+carta_resel&sr=1 (accessed 14 March 2010).

Martin, J. E. (2005), *The House: New Zealand's House of Representatives, 1854-2004*. Wellington: Dunmore.

Martin, J. E. (2005), "Political participation and electoral change in nineteenth-century New Zealand", *Political Science*, Vol. 57 No. 1, pp. 39-58.

McHugh, P. G. (1991), *The Maori Magna Carta: New Zealand law and the Treaty of Waitangi*. Auckland: Oxford University Press.

McIntyre, W. D. (1999), "The strange death of dominion status", *Journal of Imperial and Commonwealth History*, Vol. 27, No. 2, pp. 193-212.

McKechnie, W. S. (1914), *Magna Carta: A commentary on the Great Charter of King John* (2nd ed.). Glasgow: James MacLehose.

McKinnon, M. (2003), *Treasury: the New Zealand Treasury, 1840-2000*. Auckland: Auckland University Press.

McLintock, A. H. (1958), *Crown colony government in New Zealand*. Wellington, Government Printer.

McLean, G. (2006), *The governors: New Zealand's governors and governors-general*. Dunedin: Otago University Press.

Miller, P. and Napier, C. (1993), "Genealogies of calculation", *Accounting, Organizations and Society*, Vol. 18, pp. 631-647.

Morgan, D. J. (1980), *The official history of colonial development*_(Vols. 1-5), London: Macmillan.

New Zealand Constitution Act. No. 72 of 1852 (United Kingdom).

New Zealand History Online. (2010), *Panorama: Steps of Parliament* [Online]. Available: <http://www.nzhistory.net.nz/media/interactive/steps-of-parliament> (accessed 10 March 2010).

New Zealand Parliamentary Debates. (2010), *Hansard (debates)* [Online]. Available: <http://www.parliament.nz/en-NZ/PB/Debates/Debates/> (accessed 12 April 2010).

Newberry, S. and Jacobs, K. (2008), "Obtaining the levers of power: The Treasury and the introduction of New Zealand's public sector financial reforms", *Advances in Public Interest Accounting*, Vol. 13, pp. 115-150.

Newberry, S. and Pallot, J. (2003), "Fiscal (ir)responsibility: Privileging PPPs in New Zealand", *Accounting, Auditing and Accountability Journal*, Vol. 16 No. 3, pp. 467-492.

Newberry, S. and Pallot, J. (2005), "A wolf in sheep's clothing? Wider consequences of the financial management system of the New Zealand central government", *Financial Accountability and Management*, Vol. 21 No. 3, pp. 263-277.

Norris, H. (1999), *Medieval costume and fashion*. Mineola, NY: Dover. [originally published in 1927].

Palmer, G. and Palmer, M. (2004), *Bridled power: New Zealand's constitution and government* (4th ed.). Auckland: Oxford University Press.

Pelizzo, R., Stapenhurst, R. and Olson, D. (Eds.). (2005), *The role of parliaments in the budget process* [Online]. Available: <http://siteresources.worldbank.org/PSGLP/Resources/TheRoleofParliamentsintheBudgetProcess.pdf#page=8> (accessed 8 April 2010).

Pierson, P. (2000), "Not just what, but when: Timing and sequence in political processes", *Studies in American Political Development*, Vol. 14, pp. 72-92.

Pojer, S. (2010), English Constitutional Monarchy [Online]. Available:

<http://www.pptpalooza.net/PPTs/EHAP/DevelopmentOfEnglishConstitutionalMonarchy.ppt> (accessed 22 March, 2010).

Prestwich, M. (Ed.). (1980), *Documents illustrating the crisis of 1297-98 in England*. London: Royal Historical Society.

Prestwich, M. (1997), *Edward I* (new ed.). New Haven: Yale University Press.

Public Finance Act 1989 Act. No. 97 of 2007 [Online]. Available:

http://www.legislation.govt.nz/act/public/1989/0044/latest/DLM160809.html?search=ts_act_public+finance_rese&p=1 (accessed 12 April 2010).

Public Revenues Act. No. 13 of 1926

Public Revenues Act. No. 12 of 1953.

Rahaman, A. S. and Lawrence, S. (2001), "A negotiated order perspective on public sector accounting and financial control", *Accounting, Auditing & Accountability Journal*, Vol. 14 No. 2, pp. 147-165.

Sinclair, K. with Dalziel, R. (2000), *A history of New Zealand* (rev. ed.). Auckland: Penguin.

Slaughter, T. P. (1984), "The tax man cometh: Ideological opposition to internal taxes, 1760-1790", *William and Mary Quarterly*, Vol. 41, No. 4, pp. 566-591.

Sources of British History. (1997), *Confirmatio Cartarum 1297* [Online]. Available:

<http://www.britannia.com/history/docs/cartarum.html> (accessed 11 April 2010).

Sources of British History. (2010), *Petition of Right, 1628* [Online]. Available:

<http://www.britannia.com/history/docs/petition.html> (accessed 11 April 2010).

Taxation (Urgent Measures and Annual Rates) Act. No 105 of 2008.

Taxation (Budget Measures) Act 2010 No 27, Public Act [Online]. Available:

http://www.legislation.govt.nz/act/public/2010/0027/latest/whole.html?search=ts_act_taxation+2010_noresel&p=1#dml2981007 (accessed 19 June 2010).

Treasury. (2009a), *Budget process* [Online]. Available:

<http://www.treasury.govt.nz/budget/process> (accessed 10 March 2010).

Treasury. (2009b), *Financial Statements of the Government of New Zealand for the Year Ended 30 June 2009* [Online]. Available:

<http://www.treasury.govt.nz/government/financialstatements/yearend/jun09> (accessed 19 June 2010).

Treasury. (2010), *Budget 2010* [Online]. Available: <http://www.treasury.govt.nz/budget/2010> (accessed 25 June 2010).

Treaty of Waitangi Act. No 114 of 1975.

Trevor-Roper, H. R. (1956), "Oliver Cromwell and his Parliaments", in Pares, R., Namier, L. B. and Taylor, A. J. P. (Eds.) *Essays presented to Sir Lewis Namier* (pp. 1-48). London: Macmillan.

Turner, R. V. (2003), *Magna Carta: Through the ages*. Harlow: Pearson Longman.

Union with England Act. No. 7 of 1707 (Scotland).

Union with Scotland Act. No. 40 of 1707 (England).

Ward, J. M. (1946), *British policy in the South Pacific (1786-1893)*. Sydney: Australasian Publishing.

Ward, A. (1987), "Exporting the British constitution: Responsible government in New Zealand, Canada, Australia and Ireland", *Cultural Trends*, Vol. 25, pp. 3-25.

Warren, W. L. (1987), *The governance of Norman and Angevin England 1086-1272*. London: Edward Arnold.

Whitlam, G. (2005), *The truth of the matter* (3rd ed.). Melbourne: Melbourne University Press.

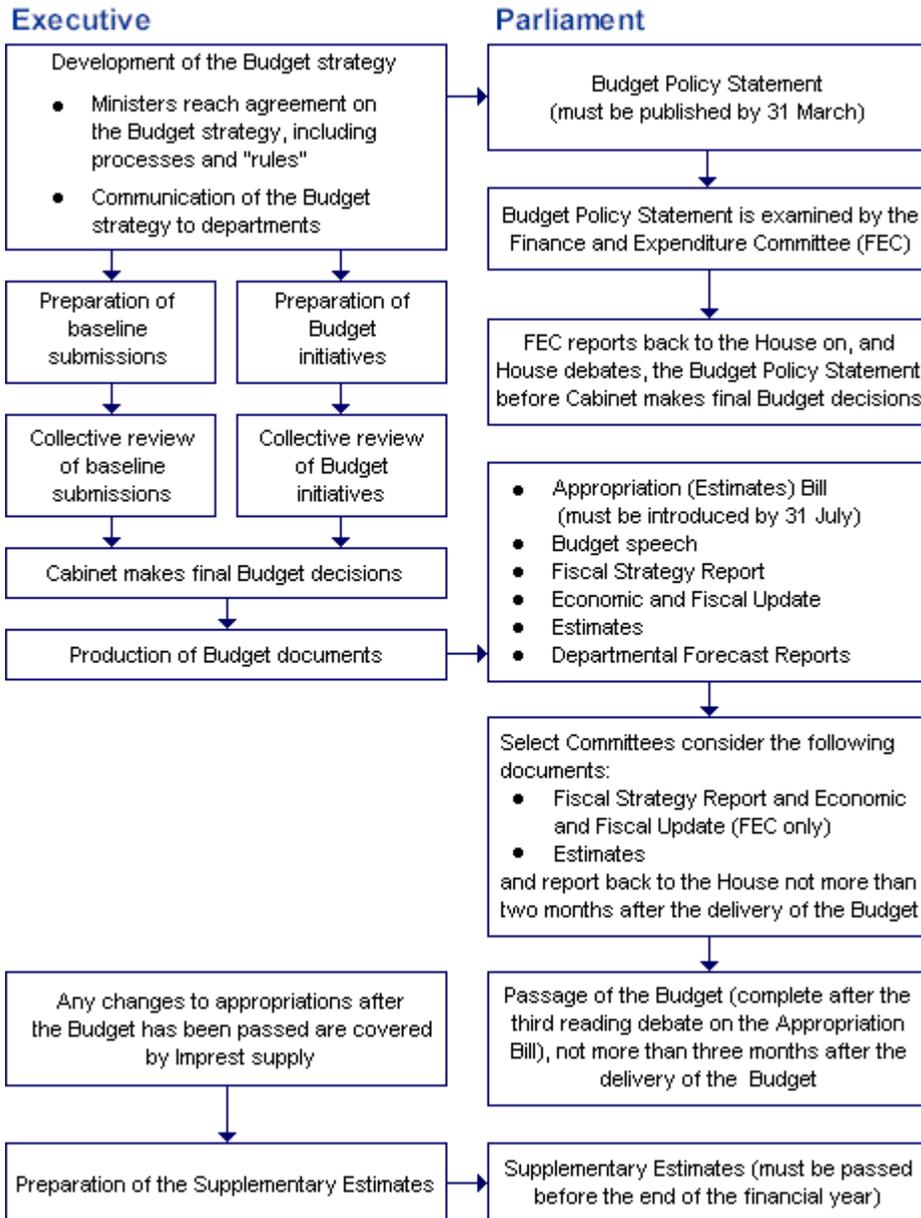


Figure 1 Diagram of Key Phases of the Budget (Source: Treasury, 2009a)