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**Electoral Systems and MMP
in New Zealand**

by

Gareth Griffith

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1. INTRODUCTION

The purpose of this paper is to set out a brief comparative analysis of selected electoral systems. It takes as its focal point the recent introduction of the Mixed Member Proportional (MMP) system in New Zealand which will receive its inaugural test on 12 October 1996. This account begins with an outline of some of the broader issues under debate where electoral systems are concerned and includes an account in general terms of the major categories of electoral systems. It then presents an overview of New Zealand's MMP system and compares this with the German Additional Member System from which it is derived. Subsequently, examples of the major alternatives to that system are considered.

It should be noted at the outset that the paper draws heavily on three main sources: the 1986 New Zealand Report of the Royal Commission on the Electoral System, *Towards a Better Democracy*, which first recommended the introduction of MMP in New Zealand and has since become a much-cited source in the field of comparative electoral studies; a highly regarded Current Issues Paper entitled, *Electoral Systems*, written by Gerard Newman in 1989 and published by the Commonwealth Parliamentary Library; and a 1992 background paper on *Voting Systems* published by the House of Commons Library. A 'glossary of terms' from this paper is set out in Appendix 'A'.

2. CRITERIA FOR JUDGING ELECTORAL SYSTEMS

Before looking at how voting systems work it may be useful to ask how any system is to be judged. In answer to this Newman sets out the following 'basic requirements that a truly representative system should have. Thus, an electoral system should: (i) result in a legislature that reflects the electorate's wishes; (ii) result in a government that reflects the majority opinion of the electorate; (iii) allow for stable government; (iv) ensure the election of members whose personal qualities best fit them for legislative responsibilities; (v) be easily understood by the electorate; (vi) ensure a quick result; (vii) allow effective constituent representation; (viii) allow elector choice of candidates. (Newman 1989: page 1)

The New Zealand Royal Commission used a similar but not identical list against which to compare different systems. Its key headings were as follows: (i) fairness between political parties; (ii) effective representation of minority and special interest groups; (iii) effective Maori representation; (iv) political integration (the system ensure that diverse groups are represented but at the same time encourages groups to respect other points of view and take into account the good of the community as a whole); (v) effective representation of constituents; (vi) effective voter participation; (vii) effective government; (viii) effective Parliament; (ix) effective parties; and (x) legitimacy (people should be able to endorse the system as fair and reasonable, even when they themselves prefer other alternatives). (New Zealand 1986: pages 11-12)

No electoral system will meet all these criteria; nor are they all of equal weight. To quote the New Zealand Royal Commission: 'Some of them, if carried to their full extent, are

mutually incompatible. Others overlap and none is independent...The best voting system for any country will not be one which meets any of the criteria completely but will be one which provides the most satisfactory overall balance between them, taking account of that country's history and current circumstances'. (New Zealand 1986: page 11) Newman writes in a similar vein, stating: 'The absence of some of these requirements in a system should not necessarily mean that the system does not have merit. Electoral systems should vary from country to country depending upon the individual circumstances prevailing at that time and place'. (Newman 1989: page 1)

For Arend Lijphart, a leading analyst in the field of electoral studies, the choice between electoral systems is in part a question of 'cultural background' and in part a matter of 'personal normative preference' - 'does one value minority representation and the principle of proportionality more highly than the two-party principle and government accountability, or the other way around?'. (Lijphart 1994: page 144)

The House of Commons paper notes that the Plant Report (the interim report of the British Labour Party working on electoral reform) looks at these issues in a similar way, though using different terminology. The Plant Report is quoted as saying that there cannot be an ideal electoral system: 'What is necessary is to come to a view about which system or systems do best against what are taken to be the most important criteria. This has to be a political rather than a technical judgement. The criteria considered are broadly speaking of two sorts: (i) *Procedural criteria*, which are essentially about fairness and which do not look to the outcomes and consequences of elections. What matters is that the system is "fair". If it is, then outcomes must also be accepted as legitimate; and (ii) *Outcome criteria*, which look much more to the consequences of electoral systems and their impact on such things as the environment within which public policy is developed, their impact on economic management, on the possibility of political parties achieving their ideological goals and so forth. (House of Commons 1992: page 2)

Further to the issue of political outcomes, the significance of electoral systems was underlined in the House of Commons paper where it was said that 'The electoral system is not a merely technical issue; it goes to the heart of a country's system of government'. (House of Commons 1992: page 1) Reeve and Ware are quoted as saying, 'Electoral systems are key variables in the political process in a democracy, because to a large extent they determine who gets what, when and how'. (House of Commons 1992: page 4)

3. CATEGORIES OF ELECTORAL SYSTEMS

Three categories of electoral systems: The point is made that the function of any electoral system is to convert the votes cast in an election into seats in the legislature. This can be achieved by a plurality of votes, a majority of votes, or proportionality. The three categories of electoral systems, therefore, are: Plurality; Majoritarian; and Proportional Representation. It should be stated here that the New Zealand MMP system is a Mixed System which seeks to incorporate the best points of the Plurality (First Past the Post) system and the List

systems of Proportional Representation.

The plurality system: This is the simplest to operate and understand. It awards the seat to the candidate who receives the most votes regardless of whether the candidate receives a majority of votes. The system is almost always used in conjunction with single member constituencies and is based on the idea that an MP should represent a geographical area (the electorate). The classic example of plurality is the First Past The Post System (FPP), which has been used till now in New Zealand, as well as in Britain, Canada, the US and India. Indeed, the point is made that plurality is used exclusively in countries with a broadly British political heritage. (Lijphart 1994: page 144) Newman offers the following example of its operation, in which candidate B wins the seat although not obtaining a majority of the votes.

Candidate	Votes	%
A	5000	31.2
B	7500	46.9
C	3500	21.9
Total	16000	100

The disadvantages of the First Past the Post system are well known. The New Zealand Royal Commission said it was 'grossly unfair to supporters of minor parties' and fails to ensure reasonable representation for significant minority and other special interest groups. (New Zealand 1986: 28) Its strength is usually said to lie in the area of effective government. It tends also to produce an effective Parliament, but on the other side tends to provide little to check a powerful executive.

Majoritarian systems: On the other hand, as the name suggests majoritarian systems require the winning candidate to receive more than half of the vote to ensure election. This can be achieved through a second ballot, which is a common method of electing heads of state in Europe (including Austria, France and Portugal); or by means of preference voting - that is, the *Alternative Vote system* which is used to elect the House of Representatives (since 1918) and the lower houses of all the Australian State Parliaments except Tasmania. One variation to note is that for NSW Legislative Assembly elections, for example, an optional preferential voting model is used (sometimes called 'contingent voting'), whereas House of Representatives elections employ a compulsory preferential model. The House of Commons research paper remarked in this respect that if the Alternative Vote system 'requires voters to rank all candidates, this may result in "votes" for candidates they positively dislike. Some areas (eg NSW) operate an "optional preferential" system to overcome this'. (House of Commons 1992: page 25) This optional preferential variant would seem to counter the criticism sometimes made of this system of voting that it can result in the election of the 'least unfavoured' rather than 'most popular' candidate.

Again, the Alternative Vote system is well adapted to single member constituencies but as Newman points out: 'The Alternative Vote system does not work well when applied to

multi-member constituencies because of the propensity of the system to return members of the same party to all positions'. It seems the system was used to elect members of the Senate before 1949 and the point is made that 'Under the Alternative Vote system representation in the Senate was grossly unequal. On three occasions 1925, 1934 and 1943 all Senators elected were from the same party or coalition of parties'. (Newman 1989: page 10)

The New Zealand Royal Commission did not favour the Alternative Vote system, stating that it does 'represent some improvement over plurality in single-member constituencies' but that, among other things, 'minority parties would likely remain under-represented'. (New Zealand 1986: 31) The experience of the Australian Democrats would seem to confirm this observation. For example, looking at NSW Legislative Assembly election results since 1984, the Democrat vote peaked at 5.36% in the 1991 election, but the party failed to win any seats. Another factor to consider in this regard is that of 'geographical concentration' under this system of voting. This can be illustrated by reference to the contrasting fortunes in the 1990 Federal election of the Australian Democrats, with a geographically dispersed vote, as against the National Party, whose vote is more concentrated in particular areas: the result was that the Democrats received 11.3% of the vote but no seats, whereas the National Party received 8.4% of the vote and 14 seats. Further, opponents of the Alternative Vote system say that, as with First Past the Post, many people may not have voted - directly or indirectly - for the elected MP and that there tends therefore to be a high number of wasted votes. (Catt, Harris and Roberts 1992: page 89)

Proportional representation systems: Both plurality and majoritarian systems are connected in their own way with the proportionality problems associated with single member constituencies. To overcome these problems, Newman says, 'a bewildering number of proportional representation systems have been developed'. (Newman 1989: page 12) These systems seek to relate the allocation of seats as closely as possible to the distribution of votes. Newman comments, 'By definition, this requires more than one vacancy, so multi-member constituencies are necessary. Constituencies can range from the whole Country or State to parts of the Country'.

One category of proportional representation are grouped under what are called *List Systems*. To achieve the goal of proportionality, these systems use different and complex computational arrangements. The most common are the d'Hondt method and the Sainte Lague method, the latter with several variations. Newman's account of these is set out at pages 13-15 of his Current Issues Paper.

Basically, a full party list system involves electors choosing between lists of candidates offered by political parties for an electoral district, be it the whole country or on a regional basis. Usually, the candidates on each party list are in an order determined by the party. In a 'closed' or 'rigid' list, the voters may be restricted to voting for a single party list without choice of candidates; alternatively, they may be able to indicate preferences for one or more candidates from one or more parties (an 'open' list). Seats are allocated to parties according to the proportion of the vote each has received, whether they are for the party as a whole

or for individual candidates on the party's list. Some list systems require a threshold of say 5% for a party to be entitled to a seat in the legislature. The New Zealand Royal Commission stated:

Scandinavia and Northern Europe remain the predominant areas where [lists] are used...The Netherlands and Israel operate the only examples of list systems where the electoral district covers the whole country. France introduced a closed list system for the 1986 elections to the National Assembly with proportionality applied within each departement. Closed lists are rare. The 'openness' of lists varies considerably, however, from the single choice permitted in Belgium to the opportunities the Swiss voter has to cast up to two votes for a single candidate, to delete names, or to make up a new list entirely by writing in names. Denmark and Sweden use pools of supplementary seats to correct disproportionate results from list elections in multi-member districts. (New Zealand 1986: page 35)

One conceptual difficulty with list systems is that they take the party and not the voter or the individual candidate as their starting point. This is even the case it seems where some voter choice is permitted in terms of preferring particular candidates within the list and to change the order given by the party. Writing in 1982 Enid Lakeman cited Switzerland as the best example of this more flexible approach, containing a larger personal element: 'There is no casting of votes for a party as such. The elector has as many votes as there are seats to be filled, and may distribute these among the candidates as he wishes, with or without regard to party. He may also cumulate two votes on one candidate...the returning officer first totals the votes cast for the candidates of each party and awards seats in proportion to these totals. Each party's seats go to the candidates with the highest votes: their position on the ballot paper is immaterial'. However, Lakeman adds that 'all party list systems share the defect that a vote given on purely personal grounds counts also for a party and therefore may contribute to the election of a candidate that voter does not want'. (Lakeman 1982: page 44) Other key considerations are the problems associated with the effective representation of constituents under any list system and the much-discussed tendency to encourage ineffective, coalition governments. Enid Lakeman notes, 'Italy is the country at present most often chosen by people seeking an example of bad effects resulting from proportional representation'. (Lakeman 1982: page 71) Indeed, it is interesting to note in this respect that Italy has recently moved from a list system of proportional representation to a modified FPP system, in which the lower house has 630 members, 475 elected in single-seat constituencies and 155 by proportional representation. (Castles 1994: page 161) The New Zealand Royal Commission added that the use of 'open lists' might also lead to destructive intra-party competition.

A second category of proportional representation systems are grouped under what are called *Single Transferable Vote Systems* (STV). These tend to be used in jurisdictions with some links with the UK; STV is sometimes characterised as the British form of proportional representation. STV was invented by Thomas Wright Hill in the nineteenth century and

modified in the 1850s by Carl Andrae in Denmark and Thomas Hare in England. It is used in one form or another for elections for the lower house in Ireland, in Malta, and for the lower house in Tasmania, as well as in the ACT. In Australia STV is more commonly called the quota preferential method and, with some variations, it is also used for 4 Australian upper houses (the Legislative Council in NSW, South Australia and Western Australia, as well as for the Senate). However, as explained below, the option of voting for a party box above the line in NSW Legislative Council and Senate elections means that in practice they operate as if they were using a party list method of proportional representation. (Green 1995: page 10)

STV is based on multi-member electorates in which it is necessary for voters to number their ballot papers 1,2, 3 etc. in order of their preference for candidates for election. A candidate must receive a quota of votes to be elected, the varying computational formulae for which are explained in Newman's Current Issues Paper. The most commonly used method is the Droop Quota, named after its inventor HR Droop, which is discussed later with reference to the Tasmanian electoral system.

STV does of course take the voter as its starting point and, in contrast to list systems, in theory at least it aims to minimise the influence of parties in the election of MPs; conversely, it tackles the problem of 'wasted votes' associated with the First Past the Post System. Furthermore, STV can also be said to be an electoral system which ensures that minority opinion is represented. It was endorsed by John Stuart Mill in the 1860s and has since been the favoured system of most advocates of electoral change operating in Britain and in other comparable jurisdictions. The former leader of the SDP in Britain, David Owen, said of it:

One advantage of choosing the single transferable vote is that it is a preferential system; the quality and views of the candidates are of considerable importance, and the voter can discriminate between candidates of a particular party or between parties...Critics of preference voting see it as undermining the authority of the party, encouraging individualism and reducing the power of the party whip. For many people this will be an advantage rather than a disadvantage. (Blackburn 1995: page 374)

While the New Zealand Royal Commission ultimately recommended the Mixed Member Proportional System, it was for the most part supportive of the Single Transferable Vote (STV), stating:

STV deserves further examination. All MP's are chosen by the voters, who also have a choice among each party's candidates and among the candidates of several parties. Thresholds need not be so low as to encourage proliferation of parties, yet need not be so high as to preclude small parties or independents with enough support from gaining a seat. The multi-member constituency means that constituents are likely to have a range of MP's to whom they can appeal for help. (New Zealand 1986: page 38)

Arguments against STV include: complexity; the tendency to create coalition governments (the merits or demerits of which are arguable); parties still tend to control candidate selection in practice; cumbersome constituencies are created where neither constituents nor their multiple members can develop a proper relationship; where all constituencies do not return the same number of MP's (as in Ireland) the quota of votes required to be elected can vary from one place to another; moreover, a situation where all constituencies do not return the same number of MP's can leave the system open to electoral manipulation; and STV can result in intra-party rivalry as members of the same party compete amongst each other for votes in a multi-member constituency. It is also said that STV works best in small electorates, such as Tasmania and the ACT, where the potential for the more personalised relationship between the voter and his/her representative can be realised. Whereas in larger electorates, such as those which operate in relation to the Australian Senate, the relationship between voters and their several representatives may be too impersonal for some of the goals of STV to be realised to any meaningful extent.

In some STV voting systems, such as for the Australian Senate since 1984, the problems of complexity and numeracy are modified by the option of voting for a party list, that is by voting "1" in a party box above a thick dividing line on the ballot paper, thus avoiding the requirement to fill in every (or a significant number) of boxes in numerical order of preference. This is a useful device, but it does re-assert the power of the political party in the electoral process and it does contradict the purpose of STV which is to give voters freedom of choice in the way they cast their votes. (Catt et al 1992: page 55)

The same point has been made by Antony Green with respect to elections for the NSW Legislative Council. In his comprehensive survey of such elections, which includes detailed technical comparisons with the Senate and Tasmanian voting systems, Green states:

In outlining the use of quota preferential voting, it was stated that the main advantage was the right given to electors to vote for individual candidates, rather than just for predetermined party lists. In practice, most of the electorate seem happy not to exercise this right, and elections for the Legislative Council have in fact operated as if they were conducted using a list system of proportional representation, with parties electing members of parliament in proportion to their level of vote, and the names and order of election of candidates determined by the party. (Green 1995: page 10)

To illustrate the point Green sets out the proportion of 'ticket votes' in relation to each political party for the 1988 and 1991 elections which show, among other things, that 84.70% of Labor and 93.56% of Liberal/National voters opted for the ticket vote in 1988 and that 92.60% of Labor and 91.87% of Liberal/National voters opted for the ticket vote in 1991. (Green 1995: page 12)

Green uses the NSW Legislative Council to illustrate a further issue. He writes, 'As a general rule, the more vacancies to be filled, the more likely that the proportion of members

elected will equal the proportion of the vote received. Increasing the number of Legislative Councillors from 15 to 21 is therefore likely to increase the proportionality of the Legislative Council. The quota for election will decrease from 6.25% for 15 members, to 4.55% for 21 members, under the new system'. One consequence of this is that the lower quota will make it easier for minor parties to win a seat. (Green 1995: page 17)

Green also mentions that the STV or Quota Preferential Method was used for elections to the NSW Legislative Assembly in the period 1920-27, a period which covered three elections in total (1920, 1922 and 1925). Taking up the theme, RS Parker explains that under that system there were 8 metropolitan electorates and one Newcastle electorate returning 5 members each, and 15 country electorates with 3 members each. He comments that the system 'was unpopular because of the burdens placed on voters, the difficulties created by enormous electorates, and the "political cannibalism" it encouraged among members of the same and allied parties'. (Parker 1978: page 19) Rydon adds that the system tended to place the balance of power in Parliament either with the Country Party or the Independents and that it 'aroused great hostility'. (Rydon 1956: page 76) In 1926 the Lang Labor Government restored the single-member system.

The Tasmanian STV system is considered after the New Zealand and German electoral systems have been outlined. Much of analytical literature in this field focuses on the Irish example. Writing in 1984 Bogdanor noted that there were 41 multi-member constituencies in Ireland, 13 returning 3 members, 13 returning 4 members, and the remaining 15 returning 5 members. (Bogdanor 1984: page 81) By 1992 there were 42 multi-member seats, 6 electorates with 5 members, 10 electorates with 4 members, and 26 electorates with 3 members (Newman 1992: page 23) In Tasmania, on the other hand, each multi-member electorate returns the same number of members (5). In the Irish system a vote is valid so long as there is a "1" placed beside the name of a single candidate (again unlike in Tasmania where at least 7 preferences must be indicated by the voter). However, it is to the voter's advantage to mark all preferences so as to maximize the chance of the vote being used to help elect a candidate. The method by which the votes are counted is similar to the Tasmanian model which is set out in detail below. As the New Zealand Royal Commission pointed out, historically the operation of STV in Ireland has provided a small bonus of seats to the larger parties (Fianna Fail and Fine Gael) when considered in relation to their overall party and first preference votes, but the disparities are nowhere near as great as under either FPP or the Alternative Vote System. It also noted that 'STV would not be as favourable as MMP to a small party with widely spread support which exceeded the lower MMP threshold'. (New Zealand 1986: pages 46-49)

4. MIXED MEMBER PROPORTIONAL SYSTEMS - THE NEW ZEALAND AND GERMAN MODELS

Mixed electoral systems have been developed in an attempt to overcome the difficulties associated with both pure Plurality and Proportional Representation systems. The most notable example is the German system, sometimes called the *Additional Member System*, which is the basis of the New Zealand MMP model (in essence, the difference is mainly one of terminology and henceforth the term MMP will be used in relation to both countries). Before describing the two examples of such systems in some detail it can be said that their key characteristic is that they combine the election of individual candidates from single member constituencies with the election of candidates from multi-member constituencies by a list system of proportional representation. On polling day voters are asked to enter two crosses on their ballot paper: the first one is for the candidate they support as their constituency MP; and the second vote is for their preferred political party. Both count as separate votes. A sample ballot paper is set out in Appendix B. To quote Newman: 'The requirement for direct constituency representation is met by the election of a single member constituency representative while the requirement for representation of all political opinion is met by the election of representatives under proportional representation. In order that the total number of candidates elected is in proportion with the votes cast, the candidates elected under the proportional representation component of the system "top up" candidates elected from single member constituencies'. (Newman 1989: page 18) To offer one example, suppose there are 120 seats in total, 60 elected in constituencies and 60 others selected from the Party List system. If Party A gets 55% of the List/Party vote and gets 38 of the 60 constituency seats, on a proportional basis it should then receive an extra 28 seats to bring it up to its entitlement of 66 seats in total (this being 55% of 120). These 28 seats are then selected from the Party List and in this way the list system tops up the constituency vote.

It is important to remember that the object of this mixed system is to compensate for such disproportionality as occurs from the constituency First Past the Post elections. Blackburn states that 'It does not determine who has won among the party list candidates as an isolated process, simply by allocating additional MPs from the party lists according to the percentage of votes cast for each party, but it does so by reference to the number of seats that have already been won in the constituency elections. The returning officers must therefore first calculate the results of constituency elections. If one party's candidates in the constituencies have polled disproportionately few seats, considering its overall level of electoral support, then it will be compensated by being allocated more or "additional" seats from the party lists of candidates than another party which gained a disproportionately high number of constituency MPs'. (Blackburn 1995: 377)

One important variant in such mixed electoral systems is whether the party lists are drawn up and voted on nationally or regionally. The New Zealand Royal Commission said that 'The advantages of regional lists are that they may lessen central party control, ensure balanced representation between regions and, because regional lists would contain fewer

names than national lists, be more easily opened up to voter choice'. Regional lists are used in Germany but they were not recommended by the New Zealand Royal Commission, which preferred instead a system based on nationwide party lists. In part, this was because New Zealand does not have 'clearly defined regions' and is not a federal state, in which it may be 'unnecessary and unwise to artificially create such divisions'. Another consideration was that regional lists may result in an undue concentration on local issues to the detriment of national issues. (New Zealand 1986: pages 68-69)

The MMP electoral system is best illustrated by more detailed comment on the New Zealand and German models.

5. NEW ZEALAND'S MIXED MEMBER PROPORTIONAL SYSTEM

The electoral system which has emerged in New Zealand after a rigorous process involving a Royal Commission and the electoral reform referenda of 1992 and 1993 can be outlined in the following terms. (For a detailed account of this process see Vowles et al 1995) Under MMP the New Zealand Parliament will have 120 seats. Half its members will be elected by First Past the Post (FPP) from general constituencies. The number of South Island general constituencies has been fixed at 16. This number is divided into the South Island population to provide a quota (after each census) by which the number of North Island and Maori constituencies can be determined. For the first MMP election there will be 44 North Island general constituencies, thus completing the 60 FPP general constituency seats. Separate Maori representation is provided for under the system. Thus 5 Maori seats were determined by dividing the electoral quota into the Maori electoral roll, following a roll taken in March and April 1994. The balance of 55 parliamentary seats will come from closed national lists. Thresholds for party parliamentary representation are 5% of the list vote or one FPP constituency. The Electoral Act 1993 provides that a select committee must be formed in April 2000 (after 2 MMP elections) and must report by June 2001 on the workings and shortcomings of the new electoral system. It may make recommendations for modification or even for another referendum.

A number of comments can be made on the final form of MMP. One is that the Royal Commission's recommendation to do away with separate Maori representation was rejected and therefore the new system had to accommodate this unique feature of New Zealand's traditional electoral system. The relevant issues are discussed in the Parliamentary Library's Briefing Paper 29/1995, *The Politics of Difference: The Political Representation of Racial and Ethnic Minorities*. Secondly, despite agitation for some form of 'open' list system, which would provide the voter with choice between preferred candidates, MMP will be based on closed national lists. Another comment is that the Royal Commission had noted that 'if a party is to be allowed to present a closed list, it is essential that this list is constructed in a democratic way with genuine involvement by the party's membership'. (New Zealand 1986: pages 68 and 241) In the event, section 71 of the *Electoral Act 1993* provides that each registered party must allow its members and/or their delegates to have a say in selecting its list and electoral candidates. (see Appendix C) Section 191 of the same

Act suggests that the calculation of the list vote is to be undertaken by what is called the Sainte Lague quota system, that is using odd numbers beginning at one (1,3, 5, 7 etc). What this achieves is to increase the size of the divisors, thus making it harder for the major parties to gain additional seats and so correcting the bias in the d'Hondt system (which uses the numbers 1, 2, 3, 4, etc as its divisors) towards major parties at the expense of minor parties. These are explained in Newman's Current Issues Paper (Newman 1989: pages 13-15), as is the Modified Sainte Lague system preferred by the New Zealand Royal Commission on the basis that it would lend further assistance still to minor parties. (New Zealand 1986: pages 71-75)

Behind the push for electoral reform in New Zealand were concerns about the level of democratic accountability in an adversarial political system lacking the checks and balances which go with either a written constitution or bicameralism. A leading commentator, Richard Mulgan, has said that people were attracted above all by the prospect of consensual as opposed to adversarial politics: 'many people seemed happy with coalitions if they would force governments into more transparent negotiation over policy. The argument that coalition parties would bargain away the voters' mandate rang distinctly hollow from political major parties which had themselves walked away [from] their own manifesto promises. The selection of party lists could hardly be less accountable than the present selection of individual party candidates'. (Mulgan 1995: page 93) The New Zealand general election results for the years 1935-1993 are set out at Appendix D.

The New Zealand Royal Commission considered MMP to be a substantial improvement over Plurality on almost every criteria set out above, including fairness between political parties, the effective representation of minority and special interest groups, legitimacy and effective voter participation. In terms of effective government, the Royal Commission noted 'we see MMP introducing changes because coalition or minority Governments may become more likely, though by no means inevitable'. (New Zealand 1986: pages 63-64)

Looking to the past, New Zealand has traditionally been seen an archetype of the two-party system based on the Westminster plurality model, of which Richard Rose thought it provided the only genuinely remaining example. (Ingle 1995: page 77) Conversely, on a speculative note, commentators have talked about the potential under MMP for a proliferation of parties and, summing up these speculative remarks, Ingle has said that there are at least three potential outcomes to New Zealand's electoral reforms: (i) the (re)emergence of left-right coalitions - the more permanent they become the more they resemble the old party structure; (ii) a system of weak, shifting coalitions which find it difficult to achieve continuity of office or policy; and (iii) a stable, representative coalition system encompassing the majority of citizens and sectional groups in long term policy making. (Ingle 1995: page 85)

6. GERMANY'S MIXED MEMBER PROPORTIONAL SYSTEM

The German electoral system was devised after 1945 with the express intention of avoiding the experience of the Weimar Republic which had operated with a system of proportional representation which maximised the opportunities for small parties and gave electors little personal contact with their MPs. (Bogdanor 1984: page 48)

Much of the analytical material dealing with the German system relates to West Germany in the pre-unification period. That system was outlined by Newman in 1989 in the following terms:

- The Bundestag consisted of 496 members, half elected from single member constituencies using the plurality (FPP) system, and the other half elected from multi-member constituencies (called the Land lists) using the d'Hondt version of proportional representation.
- Each voter had 2 votes. The first elected the single member constituency representative and the second the proportional representative candidates. It was the overall proportion of second votes that determined the total number of seats allocated to each party.
- Constituency members were topped up from party members elected from the second vote. For instance, in 1983 the SPD won 38.2% of second votes, which entitled it to 193 seats. They had won 68 seats on the first (constituency) vote, so they were able to add 125 more representatives.
- To qualify for representation in the Bundestag under the Land Lists a party had to win either three constituency seats or 5% of the second vote at the national level (Article 6(6) of the Federal Electoral Law). This threshold requirement was introduced to exclude small extremist parties. The result was a system which tended to slightly over-represent large parties. (Bogdanor 1984: page 54)
- If a party won more constituency seats than it was entitled to under the second vote, then it kept those seats and the Bundestag was temporarily increased. These were called 'overhang' seats.

It can be added that: party lists were drawn up on a regional (not national) basis; 'closed' party lists were used; constituency candidates could also be candidates on the lists, in which case where a candidate had won a constituency his/her name was deleted from the list; strict rules applied to the formation of party lists which required 'parties nominating candidates for both constituency and list seats to select those candidates either directly by the party membership of a given area, or by an assembly of delegates elected by the membership for that purpose'. (New Zealand 1986: page 68)

With some modification, this system has remained in tact since unification in 1990. Now under Article 1 of the Federal Electoral Law the Bundestag will normally consist of 656 members, 328 elected from constituencies and 328 from the Land Lists under proportional representation. These Land Lists are based on Germany's 16 Federal States. However, under the 'overhang' seats system that number can and does vary. Also, it seems that the 5% threshold was not applied to the new Lander (Federal States) during the first Bundestag election in 1990 following unification. At present there are in fact 672 members of the Bundestag, 328 elected from constituencies and 344 on a proportional basis. (Federal Republic of Germany 1995?: page 9)

Bogdanor has written of the pivotal role played by a centre party historically under MMP. Thus, the Free Democrats have been the only party able to form a coalition with either the Social Democrats or the Christian Democrats. For this reason, Bogdanor explained, between 1949 and 1984 the Free Democrats, whilst generally failing to secure more than one-tenth of the vote, have enjoyed a share in government in every period except 1957-1961 (when the Christian Democrats had an overall majority) and 1966-1969 (the years of the Grand Coalition of the Democratic Union of Germany (CDU), the Christian Social Union (CSU) and the Social Democratic Party of Germany (SPD) and presided over by Chancellor Kiesinger). Not only that, but the Free Democrats have been able to determine which of the two major parties was in government with them. (Bogdanor 1984: pages 60-61) Another issue discussed in detail by Bogdanor is the question of whether MMP creates 2 classes of MP's, in which the list member may be viewed by electors and constituency members alike as some kind of inferior sub-species. Bogdanor's view is that this kind of discrimination has not occurred in Germany. (Bogdanor 1984: page 56) In fact he concludes his review of the German system on a positive note, stating: 'the German system gives the voter a great deal of influence over the formation of coalitions. It has been shown to be perfectly compatible with stable and effective government, and there are many who would argue that the electoral system used in Germany, because it makes for stability and moderation, has actually been one of the main causes of that country's economic and social progress'. (Bogdanor 1984: page 74)

Bogdanor was writing before unification. It is said that since then the German party system has been less stable, not surprisingly perhaps bearing in mind the inevitable upheavals involved in unification. Indeed, Geoffrey K Roberts, a leading commentator in the field has written of a 'crisis' in the German party system after 1990, this being a combination of the tensions and complexities arising from unification itself, plus changes in political personnel, as well as a general sense of disillusionment with political parties (a phenomenon not confined to Germany in Roberts' view). Of the 1994 election, he notes that the governing coalition did manage to win 'but only just'. A major surprise is the survival and consolidation of the PDS in the former East Germany, with its connections to the old secret police - the 'Stasi' - and other apparently fatal electoral handicaps. In the event, the PDS obtained only 4.4% of the vote, but managed to by-pass the 5% threshold requirement by winning 4 constituency seats and thus obtained 30 seats in the Bundestag. Roberts concludes that 'the election of 1994 seems to have produced two rather different party systems, in east

and in west Germany'. (Roberts 1995: pages 139-140) Whether that proves to be the case in the long term, or merely a short term transitional phenomenon, remains to be seen.

7. TASMANIA'S SINGLE TRANSFERABLE VOTE SYSTEM

Elections for the Tasmanian lower house are organised on the basis of 5 multi-member constituencies, each of which elects 7 Members of Parliament. As noted the electoral system used is a variant on the single transferable vote system. The following account of the Tasmanian Hare-Clark model, which has been used since the 1909 election, is based on Gerard Newman's adaptation from the Tasmanian Yearbook 1985:

- (i) For an elector to cast a valid vote, he must express at least 7 preferences.
- (ii) Party groups are identified on ballot papers, with ungrouped candidates listed together on the right of the ballot paper. The position of candidates within groups is determined by a system of rotation so that in designated 'preferred' positions all candidates appear on the same number of ballot papers. This was introduced in 1979 and is known as the 'Robson rotation' ballot paper.
- (iii) To secure election, candidates must secure a quota in accordance with the Droop formula ; that is, the total first preference votes in the constituency divided by 8, plus one vote. This can be expressed by the formula, rounded up to the nearest whole vote:

$$\frac{\text{Votes}}{\text{Seats (7)} + 1} + 1 = \text{Quota}$$

Newman explains that the Droop quota represents the smallest number of votes that will ensure election. This can be illustrated in the case of an election for one vacancy with two candidates. One candidate is required to poll only one more vote than half to ensure election. Thus, with 100 votes, 51 votes would ensure election, which can be expressed by the formula: $\frac{100}{1 + 1} + 1 = 51$.

Similarly with 7 seats and (for example) 50,000 voters: $\frac{50,000}{7 + 1} + 1 = 6,251$

Note: once 7 members are elected the votes remaining are 6,243 which is less than the quota.

- (iv) Should a candidate secure an exact quota on first preferences, he is declared elected and his voting papers are set aside as finally dealt with.
- (v) Any candidates who secure a surplus of first preferences above the quota are declared elected.

- (vi) For each elected candidate, starting with the one with the largest surplus, a transfer value is calculated by dividing the successful candidate's number of surplus first preference votes by his total number of first preferences. All his voting papers are then re-examined and the number of next available choice votes for each of the non-elected candidates is determined and multiplied by the transfer value. The resulting numbers are added to the respective numbers of first preference votes for the non-elected candidates.
- (vii) Where a transfer raises the number of votes obtained by a candidate up to a quota, that candidate is declared elected. That particular transfer is then completed but no further votes of any other candidate are transferred to him.
- (viii) In the case of a candidate who reaches a quota through transferred votes, his surplus votes above the quota are divided by the number of voting papers transferred to him in the last transfer. A transfer value is thus calculated and his surplus votes are then transferred to the remaining unelected candidates according to the next available choices.
- (ix) When transfers have been completed for all candidates who obtained a surplus above the quota, the candidate who is lowest on the poll is excluded and his voting papers are distributed to the remaining non-elected candidates according to the next available choices.
- (x) Steps (4) and (9) are continued as necessary until either 7 candidates are elected or all candidates except 7 have been excluded. In the latter case, unelected candidates not already elected are declared elected. (Newman 1989: page 21)

Another feature to note is that traditionally casual vacancies have been filled by recount, thus avoiding the need for holding a by-election. However, under section 233 of the Tasmanian *Electoral Act 1985* provision is now made for by-elections to be held in some circumstances, that is, in the situation where no candidates remain of the same party as the out-going member. To date, this provision has not been used.

Commenting on this Tasmanian model, Antony Green states that the Hare-Clark system 'has thrived on and in fact encouraged a very personal form of politics. It produces the situation where candidates of the same political party compete against each other, with sitting members often defeated by candidates of their own party'. (Green 1995: page 9) Comparing this model with the voting system used for NSW Legislative Council elections, Green notes: 'The importance of personal as opposed to party voting produces a count substantially different in its conduct. The vote for a party is usually distributed widely across several candidates, and the preference of candidates elected or excluded also tend to spread widely. As a result, where in NSW it is usually possible to predict the order in which candidates will be elected, in Tasmania the conduct of the count will often produce surprises'. (Green 1995: page 9)

Historically, a particularly interesting feature of Tasmanian politics was the traditional dominance of the ALP which, apart from two periods, held government between 1916 and 1969. In light of this, the comment is made that Tasmania refuted the Duverger thesis that proportional representation leads to small unstable parties: 'Hare-Clarke induced an entirely competitive campaign system which encouraged candidates to build their own organisations and, perhaps, exploit the unreformed branch system to develop impregnable power bases'. (Davis 1983: page 60) What appears to have operated therefore is a highly individualised yet stable party system dominated by the ALP. However, by way of qualification, as far back as 1956 Joan Rydon commented that 'Majorities for Tasmanian Governments have...been small as a rule, and Governments have frequently been dependent upon the support of Independents'. (Rydon 1956: page 73) Indeed in 1959, in an attempt to avoid 'hung' or evenly divided Parliaments, the House of Assembly was enlarged from 6 to the present 7 members in each of the 5 electorates. With the advent of the Greens in recent years as a third force in Tasmanian politics the situation may now have changed to a point where coalition or minority governments may become the norm. In the February 1996 election the Tasmanian Greens polled 10.53% of first preferences and in the final analysis their vote translated into 4 parliamentary seats in a 35-seat House of Assembly (with 16 Liberals, 14 Labour and 1 Independent).

A detailed account of the history and operation of the Tasmanian Hare-Clark electoral system is found in Terry Newman's *Hare-Clark in Tasmania: Representation of All Opinions*, published in 1992.

8. CONCLUSIONS

Clearly, voting systems are a very significant feature of the political landscape. They can after all make or break a political party. (Taagepera and Shugart 1989: page 2) Also, as Sartori pointed out in his seminal article, 'Political Development and Political Engineering', compared to other components of political systems, electoral systems are the easiest to manipulate with specific goals in view. (Sartori 1968) Judged in terms of procedural and outcome criteria all the main electoral systems discussed in this paper have advantages and disadvantages. No system is perfect and it has been said that both normative and cultural factors must play a part in the choices made by individuals and societies alike in this regard. Apparently the debate is destined to revolve around the seemingly competing criteria of fair representation and effective government, proportionality and government accountability.

The issue of accountability, which appears to have been so important in the adoption of MMP in New Zealand, is central to the debate concerning the democratic process. Whether it is the kind of issue which can be resolved, in part at least, by the adoption of a different electoral system remains to be seen. Similarly, the merits and de-merits of a more consensual style of politics based on a multi-party system can be argued about at length, but can only be resolved in the arena of practical politics. As Ingle states, it is by no means certain that a stable consensus will emerge in New Zealand; but even if it does only time will tell whether it will provide the basis for a shared vision of the economic future which will prove 'socially

encompassing and economically enabling', or will it take the country 'out of the frying pan of over-rigorous adversarialism and into the fridge of multi-party indecision'. (Ingle 1995: page 90) In any event, the New Zealand 'experiment' with MMP is a fascinating development for a Westminster style political system, one that is certain to attract close attention from political scientists. As noted, in the past New Zealand was used in works analysing electoral systems as the archetypal representative of the 'Anglo-Saxon plurality rule'. It was said to be 'in some ways more British than Britain in its adherence to single-seat plurality elections and the two-party system that often goes with them'. (Taagepera and Shugart 1989: pages 6 and 38) All that is about to change on 12 October 1996. Setting its significance in a broader context, Richard Mulgan has said:

New Zealanders have decided to replace an essentially two-party parliament delivering single-party majority governments with a multi-party parliament potentially leading to coalition or minority governments. As commentators in Australia and elsewhere have already noted, this is a result which has significance beyond the shores of New Zealand. It raises a number of more general issues about the relative merits of two-party systems and multi-party systems, particularly in countries which share the Westminster tradition of parliamentary government with its preference for single-party government as the desirable norm. (Mulgan 1995: page 82)

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APPENDIX A - GLOSSARY
(from *Voting Systems*, House of Commons Library
Research Division, 1992)

E GLOSSARY

- Absolute Majority:* More than half the total number of votes cast.
- Additional Member System (AMS):* Mixed electoral system in which part of a legislative elected by first-past-the-post in single-member constituencies and the remainder of the members are added in such a way as to make the total result as proportionate as possible to the votes cast (subject, in some cases, to certain thresholds). Used in Germany. Hansard Society's 1976 variant provided for the additional members to be chosen from defeated constituency candidates rather than from party lists.
- Alternative Vote (AV):* ('Preferential system') Majoritarian system where person elected by absolute majority, usually in single-member constituencies. Voters number candidates in order of preference. Least favoured candidate is eliminated, and second preferences redistributed. Process continues until one candidate has absolute majority. Used in Australian House of Representatives (lower house).
- Andrae System:* Another name for single transferable vote (STV) system. (Carl Andrae of Denmark, 1855).
- Approval Voting:* Form of plurality system where voters can vote for as many candidates as they approve of.
- Apparentement:* Arrangement in party list systems where separate parties can declare themselves linked for the counting of votes and allocation of seats (used in France in 1951 and 1956, and Italy in 1953).
- Block Vote:* Plurality system in multi-member constituencies. Electors have same number of votes as there are candidates to be elected. Those candidates with highest number of votes win (i.e. 'multiple first-past-the-post').
- Constituency:* Geographical area into which a country is divided for electoral purposes. May be single or multi-member. Also known in UK as 'division' or 'seat'.
- Continuing Candidate:* In STV system, any candidate who is still in the running at any particular point, i.e. neither already elected nor eliminated.

- Cube Law:* Formula used to describe way in which first-past-the-post is said to exaggerate votes majorities into greater seats majority. Thus if votes divide in ratio X:Y, seats likely to be shared in ratio X³:Y³.
- Cumulative Voting:* Multi-member constituency voting system where electors can give a candidate more than one of their votes.
- D'Hondt System:* (also 'highest average' system). Used in list system to allocate seats; uses a series of divisors (1,2,3,4 etc) to ensure that next candidate to be elected is from the party with highest average vote (Victor d'Hondt, Belgium, 1882).
- Droop Quota:* STV allocation formula $\left(\frac{\text{votes}}{\text{seats}+1}+1\right)$ which states minimum number of votes required to ensure election of one Member.
- Electoral College:* Body of people chosen to elect another body or person (e.g. leader and deputy leader of Labour Party; President of USA).
- Elimination/ Exclusion:* In STV system, occurs to candidates who have too few votes to remain in the running for election. These votes then transferred to supporters' next preference(s).
- Exhaustive Ballot:* Majoritarian system, where no candidature receives absolute majority. Second and further ballots take place with least popular candidate excluded at each ballot until one candidate has absolute majority.
- First-Past-the-Post (FPTP):* (Also 'relative majority', 'plurality' system) - Candidate with largest number of votes wins, whether absolute majority or not. Oldest voting arrangement, used in UK, USA etc.
- Gerrymandering:* The drawing of constituency boundaries in such a way as to secure party advantage.
- Hare Quota:* Votes \div seats.
- Highest Average:* See 'd'Hondt system'.
- Imperiali Quota:* Votes \div (seats + 2).

<i>Largest Remainder System:</i>	Method used in list system most favourable to smaller parties. Seats allocated on basis of largest number of votes remaining after seats have been allocated by quota.
<i>Limited Vote:</i>	Majoritarian system in multi-member constituencies where electors have fewer votes than there are seats to fill (used in some UK constituencies 1868-1880).
<i>Majoritarian Systems:</i>	Winning candidate required to gain majority of vote (i.e. more than 50%), e.g. by second ballot or preferential system (AV).
<i>Modified D'Hondt System:</i>	Uses d'Hondt divisors to determine number of seats won by each party and STV to determine election of individual candidates.
<i>Minority Vote:</i>	Election of a candidate with fewer votes than opponents combined.
<i>Panachage:</i>	In list systems, where elector given opportunity to vary order of candidates on the list.
<i>Party List System:</i>	Electors choose from list of party candidates.
<i>Plurality:</i>	Relative majority, FPTP.
<i>Preferential Voting:</i>	Elector expresses a rank order of preferences between candidates, e.g. AV, STV.
<i>Proportional Representation (PR):</i>	Generic term for system which seeks to relate seats to votes as closely as is practicable. Uses multi-member constituencies, generally.
<i>Quota:</i>	The minimum number of votes required to ensure the election of one candidate.
<i>Sainte-Lague System:</i>	Highest average system, using series of divisors (1,3,5,7 ...) to ensure that next candidate elected is from party with highest average vote. Higher divisors than in d'Hondt system ensure greater proportionality. Used in Scandinavia. Modified by initial divisor of 1.4 rather than 1 to reduce any over-advantage to smaller parties.

- Second Ballot:* In single-member constituencies, run-off for candidates restricted by number or threshold where no candidate has absolute majority (e.g. France). Limited version of 'exhaustive ballot'.
- Single Transferable Vote (STV):* Preferential voting in multi-member constituencies. Electors number candidates in order of preference. Candidates achieving Droop Quota are elected, surplus votes redistributed, and if any seats remain unfilled candidates with lowest number of votes are progressively eliminated until all seats filled (Australian Senate; N Ireland; European and local elections).
- Surplus:* The number of votes by which votes of successful candidate exceed the quota.
- Threshold:* Minimum condition required to secure election or continuance in allocation process. May be a number or percentage of votes, or a quota. Limits pure PR results to deny representation to very minor parties.

- Sources: (i) Electoral systems, Current Issues paper 3 of 1989-90, Legislative Research Service of Australian Parliament, September 1989.
- (ii) Enid Lakeman, Power to elect, 1982.
- (iii) Vernon Bogdanor and David Butler (eds), Democracy and elections, 1983.

APPENDIX B - SAMPLE MMP BALLOT PAPER
(from *The New Zealand Politics Source Book*,
edited by Paul Harris and Stephen Levine, 1994)

SCHEDULES

Second Schedule

Section 150

Form 11
BALLOT PAPER FOR GENERAL ELECTION

PART A

OFFICIAL MARK

[Consecutive Number]

Electoral District
ELECTION OF MEMBER OF PARLIAMENT
Directions
(Read carefully before voting)

1. This ballot paper consists of two separate pieces. Part A names the constituency candidates. Part B names the parties. This Part is Part A.
2. In this Part vote for only one candidate.
3. Vote by putting a tick immediately after the name of the candidate you choose.
4. After voting, fold this piece of the ballot paper and the other piece so that their contents cannot be seen and place them in the ballot box.
5. If you spoil either of the pieces of the ballot paper, return both pieces to the officer who issued them and apply for another ballot paper.
6. You must not take either of the pieces of the ballot paper out of the polling booth.

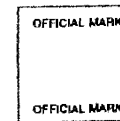
Vote for only one candidate.



ARNOLD, Krsteena Wendy Jane LABOUR	○
BABBINGTON, Santaana NEW ZEALAND PARTY	○
CAPSTEEN, Timothy John Albert CITIZENS AGAINST POLITICAL PARTIES	○
CHRISTENSEN, Christopher INDEPENDENT	○
HIGGINSON, Florence Joan McGILLICUDDY SERIOUS	○
NIGHTINGALE, Kenneth DEMOCRATS	○
O'SULLIVAN, Samantha NATIONAL	○
PHILLIPS, Joshua NEW LABOUR	○
SEARANKE, John MANA MOTUHAKE	○
SHAW, Denis IMPERIAL BRITISH CONSERVATIVE	○

SECOND SCHEDULE – *Continued*

Form 11 – *Continued*
BALLOT PAPER FOR GENERAL ELECTION – *continued*
Perforations



PART B

[Consecutive Number]

Directions
(Read carefully before voting)

1. In this Part vote only for one party.
2. Vote by putting a tick immediately after the name of the party you choose.

Vote for only one party.



Party A	○
Party B	○
Party C	○
Party D	○
Party E	○
Party F	○

Section 191 (3)

Form 15

WORKING SHEET IN RELATION TO CANDIDATES WHOSE NAMES ARE INCLUDED IN PARTY LISTS

Name of Party	Party A	Party B	Party C	Party D	Party E
Total Votes received under Part B					
<i>Enter totals under relevant heading</i>					

QUOTIENTS OF DIVISIONS

Name of Party	Party A	Party B	Party C	Party D	Party E
Total Votes					
Divided by					
1					
3					
5					
7					
9					
11					
13					
15					
17					
.					
.					

Enter quotients of divisions here under the columns for each party

**APPENDIX C -
EXTRACTS FROM THE NEW ZEALAND
ELECTORAL ACT 1993**
(from *The New Zealand Politics Source Book*,
edited by Paul Harris and Stephen Levine, 1994)

- (d) Any person –
- (i) Who is qualified to be registered as an elector of the district; and
 - (ii) Who is registered as an elector of the district as a result of having applied, since the last preceding election and not later than writ day, for registration as an elector of the district or, where a change of boundaries has intervened, of some other district in which that person's then place of residence within the first-mentioned district was then situated:

[...]

61. Special voters

- (1) A person who is qualified to vote at any election in any district may vote as a special voter if –
- (a) That person's name does not appear on the main roll or any supplementary roll for the district or has been wrongly deleted from any such roll;
 - (b) The person intends to be absent or is absent from the district on polling day;
 - (c) The person intends to be outside New Zealand on polling day or is outside New Zealand on polling day;
 - (d) The person is, by reason of illness, infirmity, pregnancy, or recent childbirth, unable to attend to vote at any polling place in the district;
 - (e) The person is, by reason of a religious objection, unable to attend to vote on the day of the week on which polling day falls;
 - (f) The person satisfies the Returning Officer or Deputy Returning Officer that on any other ground it will not be practicable for that person to vote at a polling place in the district without incurring hardship or serious inconvenience.
- (2) A person who is registered as an elector of a Maori electoral district and who is qualified to vote at any election in that district may vote as a special voter not only on the grounds set out in subsection (1) of this section but also on the ground that the person attends to vote on polling day at a polling place that is not a polling place for that district.

PART IV: REGISTRATION OF POLITICAL PARTIES**62. Register of Political Parties**

- (1) Subject to this Part of this Act, an eligible political party may be registered for the purposes of this Act.
- (2) The Electoral Commission shall establish and maintain a Register, to be known as the Register of Political Parties, containing a list of the political parties registered under this Part of this Act.

63. Application for registration

- (1) An application for the registration of an eligible political party may be made to the Electoral Commission –
- (a) By the Secretary of the party; or
 - (b) By any member of Parliament who is a current financial member of that party.
- (2) An application for the registration of an eligible political party –
- (a) Shall be in writing; and
 - (b) Shall be signed by the applicant; and
 - (c) Shall –
 - (i) Set out the name of the party; and
 - (ii) If the party wishes to be able to use for the purposes of this Act an abbreviation of its name, set out the name of that abbreviation; and
 - (iii) Set out the name and address of the applicant and the capacity in which he or she makes the application; and
 - (iv) Where the applicant is not the Secretary of the party, set out the name and address of the Secretary of the party; and
 - (v) Be accompanied by a declaration, made by the applicant in the manner provided by section 9 of the Oaths and Declarations Act 1957, that the party has at least 500 current financial members.

[...]

64. Party not to be registered at certain times

During the period –

- (a) Commencing on the date beginning with the issue of writs for the election of members of Parliament for all electoral districts within New Zealand; and
- (b) Ending on the day appointed as the latest day for the return of writs containing the names of constituency candidates who are elected, –

no action shall be taken in relation to any application for the registration of a political party.

65. Parties with certain names not to be registered

The Electoral Commission shall refuse an application for the registration of a political party if, in its opinion, the name of the party or any proposed abbreviation –

- (a) Is indecent or offensive; or
- (b) Is excessively long; or
- (c) Is likely to cause confusion or mislead electors; or
- (d) Contains any reference to a title of honour or similar form of identification.

66. Other grounds on which registration may be refused

- (1) The Electoral Commission shall refuse an application for the registration of a political party if –
- (a) The application does not comply with section 63 of this Act; or
 - (b) If it is satisfied that the party does not have 500 current financial members.
- (2) Unless section 65 of this Act or subsection (1) of this section applies, the Electoral Commission shall, subject to section 64 of this Act, register the political party that is the subject of the application.
- (3) For the purposes of exercising the powers conferred on it by subsection (1) (b) of this section or section 70 of this Act, the Electoral Commission may require a political party to supply to it a list of the party's current financial members within such time, being a reasonable time, as the Electoral Commission may specify.

67. Registration

- (1) Where the Electoral Commission determines that a political party should be registered, the Electoral Commission shall –
- (a) Register the party by entering in the register –
 - (i) The name of the party; and
 - (ii) If an abbreviation of the name of the party was set out in the application, that abbreviation; and
 - (b) Give written notice to the applicant that the Electoral Commission has registered the party; and
 - (c) Cause notice of the registration of the party to be published in the *Gazette*.

70. Cancellation of registration

- (1) The Electoral Commission may cancel the registration of a political party at the request of one of the persons specified in section 63 (1) of this Act.
- (2) The Electoral Commission shall cancel the registration of a political party on being satisfied that the number of current financial members of the party has fallen below 500.

[...]

71. Requirement for registered parties to follow democratic procedures in candidate selection

Every political party that is for the time being registered under this Part of this Act shall ensure that provision is made for participation in the selection of candidates representing the party for election as members of Parliament by –

- (a) Current financial members of the party who are or would be entitled to vote for those candidates at any election; or
- (b) Delegates who have (whether directly or indirectly) in turn been elected or otherwise selected by current financial members of the party; or
- (c) A combination of the persons or classes of persons referred to in paragraphs (a) and (b) of this section.

- (2) The Registrar shall remove the name of every person from the Corrupt Practices List at the expiration of 3 years from the date of the conviction or report in respect of which his or her name is entered on the list, or sooner if so ordered by the High Court.
- (3) Whenever a main roll is printed for the district, a copy of the Corrupt Practices List for the district shall be appended to it and printed and published with it.
- (4) Whenever a supplementary roll is printed for the district, a copy of so much of the Corrupt Practices List as has not been printed with the main roll or any existing supplementary roll for the district shall be appended to the supplementary roll and printed and published with it.

PART VI: ELECTIONS

General Elections

125. Governor-General's warrant for issue of writs

For every general election the Governor-General shall, not later than 7 days after the day of the dissolution or expiration of the then last Parliament, as the case may be, by warrant under his or her hand in form 2, direct the Clerk of the Writs to proceed forthwith to issue writs for the election of those members of Parliament who represent all electoral districts within New Zealand.

126. Writs for general election

On the receipt of the Governor-General's warrant the Clerk of the Writs shall within 3 days issue a writ in form 3 to the Returning Officer for each electoral district.

127. Election of list candidates

- (1) At any general election any Secretary of a political party that is registered under Part IV of this Act may forward to the Chief Electoral Officer a list of candidates for election to the seats reserved for those members of Parliament elected from lists submitted under this section.
- (2) A list submitted under this section shall be in form 4 and shall list candidates in order of the party's preference commencing with the first in order of preference and ending with the last.
- (3) Every list submitted under this section shall be lodged with or given to the Chief Electoral Officer not later than noon on the date specified in the writs for the election of constituency candidates as the latest date for the nomination of constituency candidates.

[...]

128. Acceptance or rejection of lists by Chief Electoral Officer

- (1) The Chief Electoral Officer shall reject every list submitted under section 127 of this Act that –
 - (a) Is not submitted by a political party registered under Part IV of this Act; or
 - (b) Is not lodged with the Chief Electoral Officer not later than noon on nomination day; or
 - (c) Does not contain the name of at least one candidate.
- (2) Where –
 - (a) Any person named as a candidate on a list submitted under section 127 of this Act is not qualified both to be a candidate and to be elected a member of Parliament; or
 - (b) The consent of any person named as a candidate on a list submitted under section 127 of this Act is not lodged in the required form with the Chief Electoral Officer not later than noon on nomination day, –
 the Chief Electoral Officer shall delete the name of that person from the list and the order of preference in the list shall be deemed to be amended accordingly.

[...]

By-Elections for Vacancies in Seats of Members Representing Electoral Districts

129. By-elections for members representing electoral districts

- (1) Where –
 - (a) Parliament is not in session; or
 - (b) The House of Representatives is adjourned and is not due to meet again for more than 14 days, –
 and it appears to the Speaker that the seat of any member elected to represent an electoral district has become vacant, the Speaker shall forthwith cause a notice of the vacancy and of the cause thereof to be published in the *Gazette*.

- (2) Where the vacancy arises from death or resignation, the Speaker shall, forthwith upon the publication of the notice in the *Gazette*, by warrant under his or her hand in form 6, direct the Clerk of the Writs to proceed forthwith to issue a writ to supply the vacancy.
- (3) Where the vacancy arises from any cause other than death or resignation, then, as soon as conveniently may be after the expiration of 10 days from the date of the publication of the notice in the *Gazette*, the Speaker, on its being established to his or her satisfaction that a vacancy does exist, shall, by warrant under his or her hand in form 6, direct the Clerk of the Writs to proceed forthwith to issue a writ to supply the vacancy.

[...]

131. Power to resolve in certain cases that by-election not be held

Notwithstanding anything in section 129 of this Act, no writ shall be issued for a by-election to supply a vacancy in the House of Representatives if –

- (a) The vacancy arises in the period of 6 months ending with the date of the expiration of the Parliament and a resolution that a writ not be issued to supply the vacancy is passed by a majority of 75 percent of all the members of the House of Representatives; or
- (b) Following the tabling in the House of Representatives by the Prime Minister of a document informing the House that a general election is to be held within 6 months of the occurrence of the vacancy, a resolution is passed by a majority of 75 percent of all the members of the House of Representatives to the effect that a writ is not to be issued to supply the vacancy.

Filling of Vacancies in Other Seats

134. Speaker's warrant for supply of vacancy

- (1) Where –
 - (a) Parliament is not in session; or
 - (b) The House of Representatives is adjourned and is not due to meet again for more than 14 days, –
 and it appears to the Speaker that the seat of any member elected as a consequence of inclusion of the member's name on a list submitted pursuant to section 127 of this Act has become vacant, the Speaker shall, subject to subsection (2) of this section, forthwith cause a notice of the vacancy and of the cause thereof to be published in the *Gazette*, and by warrant under his or her hand in form 7, direct the Chief Electoral Officer to proceed forthwith to supply the vacancy.
- (2) Where the vacancy in the seat of any member elected as a consequence of inclusion of the member's name on a list submitted pursuant to section 127 of this Act, arises other than through death or resignation, the Speaker shall, as soon as conveniently may be after the expiration of 10 days from the date of the publication of the notice in the *Gazette*, establish to his or her satisfaction, whether or not the vacancy exists, and, if satisfied that the vacancy exists, shall then, by warrant under his or her hand in form 7, direct the Chief Electoral Officer to proceed forthwith to supply the vacancy.

[...]

137. Method of supplying vacancy¹

- (1) On receipt of any direction under section 134 or section 135 of this Act, the Chief Electoral Officer shall proceed to fill the vacancy in the manner prescribed in this section.
- (2) The Chief Electoral Officer shall determine which of the unelected candidates whose name was included in the same party list as the member whose seat has been declared vacant stood highest in the order of preference.
- (3) If that candidate is still alive, the Chief Electoral Officer shall then inquire of that candidate whether that candidate is willing to be a member of Parliament, and, if that candidate so indicates his or her willingness, the Chief Electoral Officer shall declare that person to be elected.
- (4) If that candidate has died or does not signify his or her willingness to be a member of Parliament, the Chief Electoral Officer shall proceed to make that inquiry of the following candidate in order of preference on the party list, and so on, in descending order of preference, until one of the candidates

¹ [Section 136 is similar to section 131, and enables the House to resolve not to fill a vacancy in a list seat.]

signifies his or her willingness to be a member of Parliament, in which case the Chief Electoral Officer shall declare that person to be elected.

- (5) If –
- No candidate signifies his or her willingness to be a member of Parliament; or
 - There is no candidate lower in the order of preference on the party list other than the member of Parliament whose seat has been declared vacant, –
- the vacancy shall not be filled until the next general election.

Issue of Writs

139. Contents of writ

- (1) In every writ for the election of a member of Parliament for an electoral district there shall be appointed:
- The latest day for the nomination of constituency candidates; and
 - A day for the polling to take place if a poll is required, being a Saturday; and
 - The latest day for the return of the writ.
- (2) Polling day shall not be earlier than the 20th day after nomination day nor later than the 27th day after nomination day.
- (3) In the case of a general election the same polling day shall be appointed in each writ.
- (4) The latest day for the return of the writ [...] shall be the 50th day after its issue:
- [...]

Nominations

143. Nominations of candidates for electoral districts

- (1) Any person qualified under this Act may, with his or her consent, be nominated as a candidate for election for any electoral district (hereinafter referred to as a constituency candidate), by not less than 2 registered electors of that district, by a nomination paper in form 9.
- (2) Consent to the nomination of any person shall, subject to subsection 3 of this section, be given by that person in writing or, where the Returning Officer has facilities for the receipt of facsimile transmissions, by facsimile transmission, but such consent need not be given at the time when the nomination paper is lodged:
- (3) Where any person is for the time being outside New Zealand, his or her consent, for the purposes of subsection (2) of this section, may be signified to the Returning Officer in any manner approved by the Chief Electoral Officer.
- (4) Every nomination paper and every consent shall be lodged with or given to the Returning Officer for the district not later than noon on nomination day. The Returning Officer shall give a receipt in writing for every nomination accepted by him or her.
- (7) No elector may nominate more than one constituency candidate.
- [...]

144. Deposit by candidate

- (1) Every constituency candidate, or some person on the constituency candidate's behalf, shall deposit with the Returning Officer the sum of \$300 not later than noon on nomination day.
- (2) The deposit shall be paid in the form of money, a bank draft, or a bank cheque.
- (3) If the total number of votes received by any unsuccessful constituency candidate is less than 5 percent of the total number of votes received by constituency candidates in the district, the deposit of the unsuccessful candidate shall be forfeited and paid into the Crown Bank Account, but in every other case the deposit shall be returned to the person who paid it.

Advertisements

147. Advertisement of nominations and polling places

- (1) After the close of nominations in any district the Returning Officer shall forthwith forward to the Chief Electoral Officer at Wellington the names of the constituency candidates nominated who have not withdrawn their nominations and the party affiliations (if any) of those candidates.
- (2) In each district in which a poll is required to be taken the Returning Officer shall, subject to subsection (5) of this section, advertise the names of the several constituency candidates, and their

party affiliations (if any), together with the names of those political parties which have submitted a list in accordance with section 127 of this Act, in at least one newspaper circulating in the district in such manner as the Returning Officer considers most likely to give full publicity thereto, and shall similarly advertise the polling places for the district not later than the day before polling day.

[...]

Elections

149. Poll to be taken

A poll shall be taken by secret ballot at the several polling places of the district on polling day.

150. Form of ballot paper

- (1) Subject to subsection (18) of this section, the ballot papers to be used at any election shall be in form 11.

Voting

[...]

168. Method of voting

- (1) The voter, having received a ballot paper divided into two pieces, –
- Shall immediately retire into one of the inner compartments provided for the purpose; and
 - Shall there alone and secretly vote –
 - By marking Part A of the ballot paper with a tick within the circle immediately after the name of the constituency candidate for whom the voter wishes to vote; and
 - By marking Part B of the ballot paper with a tick within the circle immediately after the name of the party for which the voter wishes to vote.
- (2) Where a ballot paper is or is intended to be divided into two or more pieces, the voter shall, before leaving the inner compartment, fold each piece so that the contents cannot be seen, and then place each piece in the ballot box designated for that purpose.

[...]

Preliminary Count of Votes

174. Procedure after close of poll

- (1) At each polling booth the Deputy Returning Officer shall, as soon as practicable after the close of the poll, in the presence of such of the scrutineers (including those lawfully in the polling booth under any other Act) as choose to be present, and the polling clerks, but of no other person, perform the following duties:
- He or she shall make up into separate parcels –
 - The certified copies of the main roll and supplementary rolls on which the fact of any person having received a ballot paper, or any piece thereof, has been noted; and
 - All the counterfoils of ballot papers that have been issued to voters and all the unused ballot papers; and
 - All the spoilt ballot papers:
 - He or she shall then open the ballot boxes and, taking therefrom all the ballot papers and pieces thereof therein, proceed to ascertain the number of votes received by each candidate, and, as the case may require, each party listed in the ballot paper:
 - He or she shall set aside as informal all ballot papers or pieces thereof which do not clearly indicate the candidate or party, as the case may require, for whom the voter desired to vote:
 - He or she shall arrange for the result of the voting to be transmitted as soon as possible to the Returning Officer:
 - Where the ballot paper is or is intended to be divided into two parts, he or she shall make up into separate parcels –
 - The used pieces of Part A of the ballot paper together with (but in separate bundles) the pieces of Part A of the ballot paper set aside as informal and every piece of any ballot paper set aside under section 171¹ of this Act; and

¹ [Section 171 requires a Deputy Returning Officer to keep separate any ballot papers issued to voters whose names have previously been crossed off the roll as already having received ballot papers.]

- (ii) The used pieces of Part B of the ballot paper together with (but in separate bundles) the pieces of Part B of the ballot paper set aside as informal;
- (iii) A certificate or certificates signed by the Deputy Returning Officer and such of the scrutineers as are present and consent to sign the certificate or certificates, which shall certify the number of votes recorded for each candidate or party, the number of pieces of ballot papers set aside as informal, the number of ballot papers set aside under section 171 of this Act, the number of spoilt ballot papers, the number of ballot papers delivered to special voters, the number of unused ballot papers, and the number of ballot papers originally delivered to the Deputy Returning Officer:

[...]

*Official Count and Declaration of Poll***178. Counting the votes**

- (1) On completion of the scrutiny hereinbefore directed¹ the Returning Officer, with such assistants as the Returning Officer considers necessary, and in the presence of such of the scrutineers appointed under section 175 of this Act as are present (not exceeding, unless the Returning Officer otherwise permits, one scrutineer for each candidate), and also in the presence of some Justice (who shall attend at the request of the Returning Officer), but of no other person, shall select and open one of the parcels of used ballot papers or pieces referred to in section 174 (1) (e) or (1) (f) of this Act.
- (3) No special vote shall be disallowed by reason only of some error or omission on the part of an official, if the Returning Officer is satisfied that the voter was qualified to vote at the election.
- (4) Where a person who has voted in an election dies before the close of the day before polling day, the Returning Officer shall, on receiving from a Registrar of Births and Deaths notification of that person's death, disallow that person's vote.
- (5) When the parcel selected under subsection (1) of this section has been opened, the Returning Officer shall, in the presence of his or her assistants (if any) and the scrutineers and Justice as aforesaid, but of no other person, deal with the ballot papers or pieces thereof as follows:
- (a) He or she shall reject as informal –
- (i) Any ballot paper or piece of a ballot paper that does not bear the official mark if there is reasonable cause to believe that it was not issued to a voter by any Deputy Returning Officer or a poll clerk authorised by a Deputy Returning Officer to issue ordinary ballot papers; and
- (ii) A ballot paper or piece of a ballot paper that does not clearly indicate the constituency candidate or the party, as the case may require, for whom the voter desired to vote: Provided that no ballot paper or piece of a ballot paper shall be rejected as informal by reason only of some informality in the manner in which it or any other piece of the ballot paper has been dealt with by the voter if the ballot paper or piece of the ballot paper being considered is otherwise regular, and if in the opinion of the Returning Officer the intention of the voter is clearly indicated: Provided also that no ballot paper or piece of a ballot paper shall be rejected as informal by reason only of some error or omission on the part of an official, if the Returning Officer is satisfied that the voter was qualified to vote at the election:
- (b) The Returning Officer shall then count the number of votes received by each constituency candidate and, where applicable, the votes received by each party, and the number of votes rejected as informal, and compare the result of that count with the certificate of the Deputy Returning Officer in respect of the preliminary count, and shall, where necessary, amend that certificate; and every such certificate shall be initialled by the Returning Officer and the Justice attending:

[...]

- (9) When all the ballot papers and pieces thereof have been dealt with in the prescribed manner, the Justice attending shall sign a certificate stating the total number of ballot papers and pieces thereof

¹ [This refers to the scrutiny of the electoral rolls carried out by the Returning Officer in each electoral district in order to ensure that no voter in the district has received more than 1 ballot paper; cf. sections 175-177.]

used at the election, the number of votes received by each constituency candidate or party, as the case may require, and the number of informal votes, and that certificate shall be preserved by the Returning Officer for production when required.

[...]

179. Declaration of result of poll

- (1) When all the ballot papers or pieces thereof have been dealt with as aforesaid, the Returning Officer, having ascertained the total number of votes received by each constituency candidate, and, where applicable, the total number of votes received by each party, shall declare the result of the poll by giving public notice thereof in form 14.
- (2) Where there is an equality of votes between constituency candidates and the addition of a vote would entitle one of those candidates to be declared elected, the Returning Officer shall forthwith apply to a District Court Judge for a recount under section 180 of this Act, and all the provisions of that section shall apply accordingly, except that no deposit shall be necessary.
- (3) In any case where on any recount under section 180 of this Act there is an equality of votes between constituency candidates and the addition of a vote would entitle one of those candidates to be declared elected, the Returning Officer shall determine by lot which candidate shall be elected.
- (4) Upon declaring the result, the Returning Officer shall, where applicable, forward a certificate of the votes recorded on Part B of the ballot paper which are received by each of the parties listed on that part of the ballot paper to the Chief Electoral Officer.

*Return of Writ***185. Endorsement and return of writ**

- (1) The Returning Officer shall endorse on the writ –
- (a) The name of the constituency candidate declared to be elected; and
- (b) The date of the endorsement, –
- and, having signed the endorsement, shall forthwith transmit the writ to the Clerk of the Writs.
- (2) The date of the endorsement of the writ shall be deemed to be the day of the return of the writ.
- (3) Subject to subsection (4) of this section, the writ shall be returned within the time specified in the writ for its return:
- (4) Where it appears to the Returning Officer that an application for a recount of the votes for constituency candidates may be made as hereinbefore provided, he or she may postpone the return of the writ until the time for making the application has expired, and, if within that time application is made, he or she shall further postpone the return of the writ until the recount has been completed.

*List Seats***191. Election of other members**

- (1) When the Chief Electoral Officer has received from all Returning Officers the certificates required by section 179 (4) of this Act to be forwarded to the Chief Electoral Officer, he or she shall proceed to determine which of the candidates whose names have been included in party lists submitted pursuant to section 127 of this Act have been elected.
- (2) The Chief Electoral Officer shall first ascertain from the certificates the total number of votes recorded in Part B of every ballot paper for each party listed in that part of the ballot paper.
- (3) The Chief Electoral Officer shall enter those totals in separate columns under the name of each party in a working sheet in the manner prescribed in form 15.
- (4) The Chief Electoral Officer shall disregard any total under the name of any party that –
- (a) Has not achieved a total that is greater than 5 percent of all the votes recorded in Part B of the ballot paper; and
- (b) Is a party in respect of which no constituency candidate has had his or her name endorsed on a writ pursuant to section 185 of this Act as a person declared to be elected as a member of Parliament; –
- and that party shall, for the purpose of this section and sections 192 and 193 of this Act, be deemed to have been deleted from the list of parties included in Part B of the ballot paper.
- (5) The Chief Electoral Officer shall then proceed to divide each of the remaining totals successively by a series of numbers beginning with 1, 3, 5, 7, 9, 11, 13 and thereafter by every odd number as may

be necessary to ensure that the number of seats required to be allocated by this section and sections 192 and 193 of this Act are allocated.

- (6) The quotient of each successive division shall be recorded on the working sheet.
- (7) Once the quotient of each successive division is entered in the working sheet, the Chief Electoral Officer shall then proceed to ascertain from a comparison of all the figures in the working sheet in form 15 listed under the heading "Quotients of Divisions", the highest 120 quotients or such lower number as is required by subsection (8) of this section.
- (8) In the event that the name of any person who is an independent or a member of a political party that did not appear on the list of parties in Part B of the ballot paper is endorsed on a writ pursuant to section 185 of the Act as a person declared to be elected, the Chief Electoral Officer shall, for the purposes of applying subsection (7) of this section, deduct from the number of 120 the number of any such persons.
- (9) In any case where the lowest of the numbers required to be ascertained under subsection (7) of this section constitutes two or more numbers in different columns which are of exactly the same value, the Chief Electoral Officer shall determine by lot which of those numbers is to be selected for the purpose of subsection (7) of this section.
- (10) The Chief Electoral Officer, having ascertained the numbers required by subsection (7) of this section, shall draw a circle on the working sheet around each of those numbers.

192. Determination of party eligibility for list seats

- (1) Having ascertained the numbers required by section 191 (7) of this Act, the Chief Electoral Officer shall then proceed to ascertain the number of seats in Parliament to which each remaining party listed in Part B of the ballot paper is entitled by adding the number of circles in the column of numbers under the name of that party.
- (2) The Chief Electoral Officer shall then proceed, in respect of each remaining party listed in Part B of the ballot paper, to deduct from the number of seats to which each party is entitled under subsection (1) of this section, the number of persons who stood as constituency candidates for that party and whose names were endorsed on a writ pursuant to section 185 of this Act as having been elected as members of Parliament.
- (3) Subject to subsection (4) of this section, after the process of deduction described in subsection (2) of this section has been completed in respect of each party, the remainder derived therefrom shall be the number of seats to be allocated to that party from the list of candidates submitted pursuant to section 127 of this Act.
- (4) If any party listed in Part B of the ballot paper has obtained, through the election of its constituency candidates, a number of seats that is equal to or greater than the total number of seats in Parliament to which it would be entitled under subsection (1) of this section, that party shall not be allocated any seats from the list of candidates submitted by that party pursuant to section 127 of this Act, but the seats of the constituency candidates of that party who have been elected as members of Parliament shall not be affected.

193. Selection of candidates

- (1) Upon completing the procedures outlined in section 192 of this Act, the Chief Electoral Officer shall proceed to determine which of the candidates whose names appear on the list submitted pursuant to section 127 of this Act by each of the parties listed in Part B of the ballot paper are entitled to be elected.
- (2) The Chief Electoral Officer shall determine which candidates are entitled to be elected by selecting those candidates on the list of each party, beginning with the first candidate on the list and ending with the lowest ranking candidate, which are equal in number to the number of seats to which that party is entitled to have allocated from its list submitted pursuant to section 127 of this Act.
- (3) In performing the duties required by subsection (2) of this section, the Chief Electoral Officer shall disregard the name of any candidate whose name has been endorsed on a writ pursuant to section 185 of this Act, and the name of that candidate shall be deemed to have been deleted from the list submitted pursuant to section 127 of this Act.
- (4) Where all the candidates appearing on a list submitted by a party pursuant to section 127 of this Act are entitled to be selected, no further candidates for that party may be selected, notwithstanding that

the party may be entitled to a greater number of seats than the number of candidates appearing on that list and those seats shall not be filled.

- (5) The Chief Electoral Officer shall, as soon as is practicable after selecting the names of those candidates entitled to be elected, declare those candidates to be elected and forward to the Clerk of the House of Representatives a return listing the names of the members elected.
- (6) Notwithstanding any other provision of this section or any provision of sections 191 and 192 of this Act, the Chief Electoral Officer may proceed to select the names of those candidates entitled to be elected from lists submitted under section 127 of this Act, by such method and procedure as he or she thinks fit, including the use of computer technology:
Provided that, before declaring any candidates to be elected under subsection (5) of this section, he or she shall complete the procedures required by sections 191 and 192 of this Act and this section.

[...]

Offences at Elections

197. Interfering with or influencing voters

- (1) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$5,000 who at an election –
 - (a) In any way interferes with any elector, either in the polling booth or while the elector is on the way to the polling booth, with the intention of influencing the elector or advising the elector as to the elector's vote;
 - (b) At any time on polling day before the close of the poll in or in view or in hearing of any public place holds or takes part in any demonstration or procession having direct or indirect reference to the poll by any means whatsoever;
 - (c) At any time on polling day before the close of the poll makes any statement having direct or indirect reference to the poll by means of any loudspeaker or public address apparatus or cinematograph or television apparatus:
Provided that this paragraph shall not restrict the publication by radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989 of –
 - (i) Any advertisement placed by the Chief Electoral Officer or a Returning Officer;
 - (ii) Any non-partisan advertisement broadcast, as a community service, by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989; or
 - (iii) Any news in relation to an election;
 - (d) At any time before the close of the poll, conducts in relation to the election a public opinion poll of persons voting before polling day;
 - (e) At any time on polling day before the close of the poll, conducts a public opinion poll in relation to the election;
 - (f) At any time on polling day before the close of the poll, or at any time on any of the 3 days immediately preceding polling day, prints or distributes or delivers to any person anything being or purporting to be in imitation of any ballot paper or piece of a ballot paper to be used at the poll and having thereon the names of the candidates or the parties or any of them, together with any direction or indication as to the candidate or party for whom or for which any person should or should not vote, or in any way containing any such direction or indication, or having thereon any matter likely to influence any vote;
 - (g) At any time on polling day before the close of the poll exhibits in or in view of any public place, or publishes, or distributes, or broadcasts, –
 - (i) Any statement advising or intended or likely to influence any elector as to the candidate or party for whom the elector should or should not vote; or
 - (ii) Any statement advising or intended or likely to influence any elector to abstain from voting; or
 - (iii) Any party name, emblem, slogan, or logo; or
 - (iv) Any ribbons, streamers, rosettes, or items of a similar nature in party colours:
 Provided that this paragraph shall not apply to any statement, name, emblem, slogan, or logo in a newspaper published before 6 p.m. on the day before polling day:
Provided also that where any statement, name, emblem, slogan, or logo which does not relate

APPENDIX D -
NEW ZEALAND GENERAL ELECTION RESULTS, 1935-1993
(from *The New Zealand Politics Source Book*,
edited by Paul Harris and Stephen Levine, 1994)

interests. To facilitate this, membership of the House should not only be proportional to the level of party support but should also reflect other significant characteristics of the electorate, such as gender, ethnicity, socio-economic class, locality and age.

- (c) **Effective Maori representation.** In view of their particular historical, Treaty and socio-economic status, Maori and the Maori point of view should be fairly and effectively represented in Parliament.
- (d) **Political integration.** While the electoral system should ensure that the opinions of diverse groups and interests are represented it should at the same time encourage all groups to respect other points of view and to take into account the good of the community as a whole.
- (e) **Effective representation of constituents.** An important function of individual MPs is to act on behalf of constituents who need help in their dealings with the Government or its agencies. The voting system should therefore encourage close links and accountability between individual MPs and their constituents.
- (f) **Effective voter participation.** If individual citizens are to play a full and active part in the electoral process, the voting system should provide them with mechanisms and procedures which they can readily understand. At the same time, the power to make and unmake governments should be in the hands of the people at an election and the votes of all electors should be of equal weight in influencing election results.
- (g) **Effective government.** The electoral system should allow Governments in New Zealand to meet their responsibilities. Governments should have the ability to act decisively when that is appropriate and there should be reasonable continuity and stability both within and between Governments.
- (h) **Effective Parliament.** As well as providing a Government, members of the House have a number of other important parliamentary functions. These include providing a forum for the promotion of alternative Governments and policies, enacting legislation, authorising the raising of taxes and the expenditure of public money, scrutinising the actions and policies of the executive, and supplying a focus for individual and group aspirations and grievances. The voting system should provide a House which is capable of exercising these functions as effectively as possible.
- (i) **Effective parties.** The voting system should recognise and facilitate the essential role political parties play in modern representative democracies in, for example, formulating and articulating policies and providing representatives for the people.
- (j) **Legitimacy.** Members of the community should be able to endorse the voting system and its procedures as fair and reasonable and to accept its decisions, even when they themselves prefer other alternatives.

II.4 General Election Results, 1935-1993

Sources: J. O. Wilson, *New Zealand Parliamentary Record*, 4th edition, (Wellington, 1985); *Appendices to the Journals of the House of Representatives*, II.33 and E.9; Clifford Norton, *New Zealand Parliamentary Election Results, 1946-1987* (Wellington, 1988); Chief Electoral Officer.

Notes:

- The turnout figures are those reported in official election statistics. There have been two changes in the calculation of official turnouts in this period. From 1935-1954 official turnout was calculated as the sum of valid votes and informal votes as a percentage of the total number of electors on the rolls. From 1957-1978 the turnout represents the sum of valid votes and informal votes as a percentage of the total number of electors on the rolls plus allowed special votes. From 1981 on it represents the sum of valid votes, informal votes and disallowed special votes as a percentage of the total number of electors on the rolls.
- 'Informals' is the number of informal votes as a percentage of valid votes plus informal votes.
- Voters in Maori seats voted by declaration at the 1935 election, and by secret ballot thereafter. There was no roll of voters in Maori electorates until 1949, and the figures for 'Total voters on roll' for 1935-1946 are for 'European' seats only; however for each election votes cast in Maori electorates are included in

the calculations of turnout and (except for 1935) informal voting, and in the number of votes cast for each party.

- 1957-1978: 'Electors qualified to vote' is the number of voters on the roll, plus special votes allowed.
- Some percentages do not add to 100.0% due to rounding.
- The name 'European seats' was changed to 'General seats' in 1975.
- The results for 1978 and 1987 include the results of the Hunua and Wairarapa election petitions respectively. The 1993 election results do not include the outcome of the Onehunga electoral petition.

1935 Maori seats: 26 November European seats: 27 November

No. seats:	80 (European 76, Maori 4)
Total voters on roll:	919,798
Turnout:	90.8%
Informals:	0.8%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	70	392,965	46.1	53	66.3
National*	74	280,222	32.9	19	23.8
Ratana	4	8,569	1.0	2	2.5
Country	3	21,048	2.5	2	2.5
Democrat	53	66,965	7.9	0	0.0
Others	61	83,138	9.7	4†	5.0
Total	265	852,907	100.1	80	100.1

* United-Reform alliance

† Independents

1938 Maori seats: 14 October European seats: 15 October

No. seats:	80 (European 76, Maori 4)
Total voters on roll:	995,173
Turnout:	92.9%
Informals:	0.7%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	78	528,290	55.8	53	66.3
National	77	381,081	40.3	25	31.3
Others	21	37,022	3.9	2*	2.5
Total	176	946,393	100.0	80	100.1

* Independents

1943 Maori seats: 24 September European seats: 25 September

No. seats:	80 (European 76, Maori 4)
Total voters on roll:	1,000,197 (civilian voters only)
Turnout:	82.8% (civilian voters only)*
Informals:	1.1% (civilian voters only)

Party	No. candidates	No. valid votes †	% valid votes	No. seats	% seats
Labour	77	447,919	47.6	45	56.3
National	77	402,887	42.8	34#	42.5
Democratic Labour	54	40,443	4.3	0	0.0

Others	83	50,599	5.4	1**	1.3
Total	291	941,848	100.1	80	100.1

* 2 seats, with 20,837 enrolled voters, were uncontested; the turnout figure is based on voter enrolments in all seats. The turnout of civilian voters in contested seats only was 84.6%.

† Includes forces votes

2 seats won unopposed

** Independent

1946 Maori seats: 26 November European seats: 27 November

Total no. seats:	80 (European 76, Maori 4)
Total voters on roll:	1,081,898
Turnout:	93.5%
Informals:	0.8%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	80	536,994	51.3	42	52.5
National	80	507,139	48.4	38	47.5
Others	12	3,072	0.3	0	0.0
Total	172	1,047,205	100.0	80	100.0

1949 Maori seats: 29 November European seats: 30 November

Total no. seats:	80 (European 76, Maori 4)
Total voters on roll:	1,113,852
Turnout:	93.5%
Informals:	0.7%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	80	506,100	47.2	34	42.5
National	80	556,805	51.9	46	57.5
Others	36	10,276	1.0	0	0.0
Total	196	1,073,181	100.1	80	100.0

1951 1 September

Total no. seats:	80 (European 76, Maori 4)
Total voters on roll:	1,205,762
Turnout:	89.1%
Informals:	0.4%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	80	490,223	45.8	30	37.5
National	80	577,630	54.0	50	62.5
Others	11	2,018	0.2	0	0.0
Totals	171	1,069,871	100.0	80	100.0

1954 13 November

Total no. seats:	80 (European 76, Maori 4)
Total voters on roll:	1,209,670
Turnout:	91.4%
Informals:	0.8%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	80	484,082	44.1	35	43.8
National	79	485,630	44.3	45	56.3
Social Credit	80	122,068	11.1	0	0.0
Others	16	5,113	0.5	0	0.0
Total	255	1,096,893	100.0	80	100.1

1957 30 November

Total no. seats:	80 (European 76, Maori 4)
Electors qualified to vote:	1,252,329
Turnout:	92.9%
Informals:	0.5%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	80	559,096	48.3	41	51.3
National	80	511,699	44.2	39	48.8
Social Credit	80	83,498	7.2	0	0.0
Others	19	3,072	0.3	0	0.0
Totals	259	1,157,365	100.0	80	100.1

1960 26 November

Total no. seats:	80 (European 76, Maori 4)
Electors qualified to vote:	1,310,742
Turnout:	89.8%
Informals:	0.6%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	80	508,179	43.4	34	42.5
National	80	557,046	47.6	46	57.5
Social Credit	80	100,905	8.6	0	0.0
Others	29	4,373	0.4	0	0.0
Total	269	1,170,503	100.0	80	100.0

1963 30 November

Total no. seats:	80 (European 76, Maori 4)
Electors qualified to vote:	1,345,836
Turnout:	89.6%
Informals:	0.6%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	80	524,066	43.7	35	43.8
National	80	563,875	47.1	45	56.3
Social Credit	78	95,176	7.9	0	0.0
Others	52	14,928	1.3	0	0.0
Total	290	1,198,045	100.0	80	100.1

1966 26 November

Total no. seats: 80 (European 76, Maori 4)
 Electors qualified to vote: 1,409,600
 Turnout: 86.0%
 Informals: 0.6%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	80	499,392	41.4	35	43.8
National	80	525,945	43.6	44	55.0
Social Credit	80	174,515	14.5	1	1.3
Others	21	5,243	0.4	0	0.0
Total:	261	1,205,095	99.9	80	100.1

1969 29 November

No. seats: 84 (European 80, Maori 4)
 Electors qualified to vote: 1,519,889
 Turnout: 88.9%
 Informals: 0.9%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	84	592,055	44.2	39	46.4
National	84	605,960	45.2	45	53.6
Social Credit	84	121,576	9.1	0	0.0
Others	47	20,577	1.5	0	0.0
Total	299	1,340,168	100.0	84	100.0

1972 25 November

No. seats: 87 (European 83, Maori 4)
 Electors qualified to vote: 1,583,256
 Turnout: 89.1%
 Informals: 0.6%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	87	677,669	48.4	55	63.2
National	87	581,422	41.5	32	36.8
Social Credit	87	93,231	6.7	0	0.0
Values	42	27,467	2.0	0	0.0
New Democrat	86	9,363	0.7	0	0.0
Others	62	12,000	0.9	0	0.0
Total	451	1,401,152	100.2	87	100.0

1975 29 November

No. seats: 87 (General 83, Maori 4)
 Electors qualified to vote: 1,953,050
 Turnout: 82.5%
 Informals: 0.5%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	87	634,453	39.6	32	36.8
National	87	763,136	47.6	55	63.2
Social Credit	87	119,147	7.4	0	0.0
Values	87	83,241	5.2	0	0.0
Others	67	3,756	0.2	0	0.0
Total	415	1,603,733	100.0	87	100.0

1978 25 November

Total no. seats: 92 (General 88, Maori 4)
 Electors qualified to vote: 2,487,594*
 Turnout: 69.2%
 Informals: 0.7%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	92	691,076	40.4	40	43.5
National	92	680,991	39.8	51	55.4
Social Credit	92	274,756	16.1	1	1.1
Values	92	41,220	2.4	0	0.0
Others	53	22,130	1.3	0	0.0
Total	421	1,710,173	100.0	92	100.0

* Wilson, *New Zealand Parliamentary Record*, p.286, notes that this figure included 'considerable duplications' and that 360,870 names were removed from the rolls in 1979-80; reducing the 1978 rolls by this number would have increased the 1978 turnout to 79.9%.

1981 28 November

Total no. seats: 92 (General 88, Maori 4)
 Total voters on roll: 2,034,747
 Turnout: 91.4%
 Informals: 0.5%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	92	702,630	39.0	43	46.7
National	92	698,508	38.8	47	51.1
Social Credit	92	372,056	20.7	2	2.2
Values	16	3,460	0.2	0	0.0
Others	46	24,649	1.4	0	0.0
Total	338	1,801,303	100.1	92	100.0

1984 14 July

Total no. seats: 95 (General 91, Maori 4)
 Total voters on roll: 2,111,651
 Turnout: 93.7%
 Informals: 0.4%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	95	829,154	43.0	56	59.0
National	95	692,494	35.9	37	39.0

Social Credit	95	147,162	7.6	2	2.1
NZ Party	95	236,385	12.3	0	0.0
Values	29	3,826	0.2	0	0.0
Others	54	20,180	1.0	0	0.0
Total	463	1,929,201	100.0	95	100.1

1987 15 August

Total no. seats:	97 (General 93, Maori 4)
Total voters on roll:	2,114,656
Turnout:	89.1%
Informals:	0.6%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	97	878,448	48.0	57	58.8
National	97	806,305	44.0	40	41.2
NZ Party	31	5,306	0.3	0	0.0
Mana Motuhake	7	9,789	0.5	0	0.0
Democrats	97	105,091	5.7	0	0.0
Values	10	1,709	0.1	0	0.0
Others	85	25,129	1.4	0	0.0
Total	424	1,831,777	100.0	97	100.0

1990 27 October

Total no. seats:	97 (General 93, Maori 4)
Total voters on roll:	2,202,157
Turnout:	85.2%
Informals:	0.6%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	97	640,915	35.1	29	29.9
National	97	872,358	47.8	67	69.1
Green	71	124,915	6.8	0	0.0
NewLabour	93	94,171	5.2	1	1.0
Democrats	91	30,455	1.7	0	0.0
Social Credit	68	17,897	1.0	0	0.0
NZ Party	4	402	0.0	0	0.0
Mana Motuhake	4	10,869	0.6	0	0.0
Others	152	32,110	1.8	0	0.0
Total	677	1,824,092	100.0	97	100.0

1992 Electoral Referendum (19 September)

Total voters on roll:	2,279,396
Turnout:	55.2%
Informal	Part A 0.2%; Part B 8.0%

Part A

No change to the voting system	186,027	15.3%
Change the voting system	1,031,257	84.7%
Total	1,217,284	100.0%

Part B

Supplementary Member (SM)	62,278	5.6%
Single Transferable Vote (STV)	194,796	17.4%

Mixed Member Proportional (MMP)	790,648	70.5%
Preferential Voting (PV)	73,539	6.6%
Total	1,121,261	100.1%

1993 6 November

Total no. seats:	99 (General 95, Maori 4)
Total voters on roll:	2,321,664
Turnout:	85.2%
Informals:	0.6%

Party	No. candidates	No. valid votes	% valid votes	No. seats	% seats
Labour	99	666,800	34.7	45	45.5
National	98	673,892	35.1	50	50.5
Alliance	99	350,063	18.2	2	2.0
NZ First	84	161,481	8.4	2	2.0
Others	309	70,560	3.7	0	0.0
Total	689	1,922,796	100.1	99	100.0

1993 Electoral Referendum (6 November)

Total voters on roll:	2,321,664
Turnout:	85.2%
Informals:	0.8%

Retain first-past-the-post	884,962	46.1%
Change to mixed member proportional	1,032,941	53.9%
Total	1,917,903	100.0%

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