



## Enhancing MMP: How to improve New Zealand's current voting system

At this year's general election, voters will have the chance to also decide in a referendum whether New Zealand should keep its Mixed Member Proportional (MMP) voting system, or whether we should change to a different system. Elsewhere we have recommended that voters should choose the Supplementary Member (SM) voting system—partly because of some negative features of MMP.<sup>1</sup> However, if at least half of voters decide that MMP should be kept as New Zealand's voting system then parliament has decided that the Electoral Commission will consider changes that could be made to improve it.

We believe the problems with MMP mainly relate to the extra emphasis which it places on parties, (as the party vote determines the overall make-up of parliament) and whether most voters can accept the electoral outcomes which MMP produces. This paper proposes some possible improvements.

The Electoral Commission's review would cover the following issues.<sup>2</sup>

- **Thresholds**—These are the benchmarks parties have to hit in order to win a seat in parliament. The two thresholds are: winning five percent or more of the party vote; or, winning an electorate seat.
- **The proportionality of seats in parliament**—The ratio of electorate seats to list seats affects how proportional parliament is under MMP. Population change has an effect on this ratio.
- **The overhang provision**—Sometimes a party wins more electorate seats than it should according to its share of the party vote. This creates extra "overhang seats" in parliament.
- **Dual candidacy**—Candidates can stand as both an electorate candidate and as a list candidate.
- **Party lists**—Parties decide their candidates' ranking on their party lists, which means that voters cannot influence the order in which list candidates are elected.

### APPROACH AND CRITERIA FOR EVALUATING VOTING SYSTEMS

Elsewhere we have evaluated MMP—and the other four voting systems which are being considered at the referendum—against criteria that are important for there to be effective representative democracy.<sup>3</sup> For simplicity and clarity, the criteria are grouped under two headings: representation; and effects on parliament and government.

#### a. Representation

Parliament ought to be able to represent both local communities and interest groups.

- i. **Electorate representation**—how important are electorate MPs in the system?
- ii. **Representation of interests**—how does the system provide for the representation of interest and identity groups in parliament?

#### b. Effects on parliament and government

The voting system affects how parliament and the government functions in practice, too.

- i. **Accountability**—does the voting system help voters hold the government and MPs to account for their performance?
- ii. **Legitimacy**—does the voting system deliver the electoral outcomes that voters, as a whole, want and expect?
- iii. **Stable government**—does the voting system enable governments to form easily and do they last for their term of office?
- iv. **Effective government**—how easy or difficult is it for the government to carry out what it has promised?
- v. **Opposition and oversight**—does the system promote the formation of an opposition that can criticise and challenge the government?

Our vision for representative democracy is that



New Zealand should have a voting system that enables representative democracy to flourish. That is, **the voting system should enable our MPs and the government to have the freedom to lead and to make decisions in the best interests of all New Zealanders, but it should also encourage them to listen and be responsive to the interests of New Zealanders and their local communities.**<sup>4</sup>

Our evaluation showed that MMP provides well for electorate representation and the representation of interests, such as minority ethnic and identity groups. It does not perform as well against the criteria of accountability and legitimacy, however, because under MMP representation is primarily party-based. This means that parties end up having a lot of control over who gets to be an MP and who ultimately gets to form a government and turn their policies into law after the election.<sup>5</sup> The outcome of elections can sometimes be different to what voters expect, too.

Keeping MMP would mean that New Zealand would continue to have the same kind of representative democracy—that is, proportional representation—with all of its advantages and disadvantages. This paper will suggest how MMP could be improved to provide better representative democracy, mainly by enhancing its performance against the criteria of accountability and legitimacy.

## ISSUES FOR CONSIDERATION

### Thresholds

*The “one-seat threshold” has distorted parties’ campaigns and weakened the effectiveness of the five percent threshold.*

Electoral thresholds are used under MMP to prevent parties from being elected to parliament on a very small share of the party vote. Currently, there are two thresholds—if parties cross either of them, then they win seats in parliament in proportion to their share of the party vote. One threshold is to win five percent or more of the party vote, while the other is to win one electorate seat. This means that even if a party comes close to winning five percent of the party vote it is not entitled to any seats in parliament unless it has also won an electorate seat. Meanwhile a party that wins an electorate seat is entitled to as many additional

list seats that it needs so that its representation is proportional, even if its party vote was less than five percent. This means a situation can be created where a party with a larger share of the party vote is not represented in parliament, while one with a smaller share is.

At the 2008 election, for example, the New Zealand First Party won 4.1 percent of the party vote but failed to win an electorate seat. It crossed neither threshold and received no seats in parliament. By contrast, the ACT Party won one electorate seat (the Epsom electorate) and received 3.7 percent of the party vote. Because ACT crossed one of the thresholds it received four additional seats so that its representation was proportional.<sup>6</sup>

Under a proportional voting system, like MMP, the party vote should be the most important one. However, under MMP the discrepancy between the one-seat threshold and the five percent threshold has undermined its importance, by enabling some minor parties to bring in extra MPs while others have not been represented at all.<sup>7</sup>

The one-seat threshold has also encouraged some minor parties to deliberately craft their election campaigns around holding a constituency seat,<sup>8</sup> which gives the voters in that electorate great influence; especially if extra candidates are elected from the party list. This is particularly true if that party ends up holding the balance of power in the negotiations to form a government.

In short, the one-seat threshold has undermined the effectiveness of the five percent threshold at keeping the minor parties represented in parliament to those that have gained a minimum level of public support through the party vote, and has created some disproportionate outcomes for minor parties.

*We recommend that the one-seat threshold should be removed.*

Removing the one-seat threshold would simplify how parties are elected to parliament. It would make it more difficult for minor parties that only win a small share of the vote to win a handful of seats in parliament and to participate in government, and it would protect the integrity of the five percent party vote threshold.

We recommend that if a minor party were to win one

or more electorate seats, but fail to cross the five percent threshold, it should be treated according to the same rules that are used for allocating seats to independent MPs—that is, it should keep its electorate seats, but not gain extra list seats.<sup>9</sup> The total number of electorate seats won by these minor parties, and independent MPs, would be subtracted from the total number of seats in parliament. The remaining number of seats would be allocated proportionally to the parties that crossed the five percent threshold. Removing the one-seat threshold would mean that some minor parties would have fewer seats in parliament, and thus reduced leverage in any coalition governments that could form. In this case, it would be more likely that a clear government and opposition could form.<sup>10</sup> Coalition governments would still be a possibility, but parliament's fragmentation would probably reduce, which could encourage more stable and efficient government and parliamentary democracy.

*We recommend that the five percent threshold should be retained.*

Where to set the party vote threshold is a judgement call. We believe that setting it at five percent of the party vote is appropriate as it means all parties have to attract a decent minimum level of support. Retaining the five percent threshold would prevent an even greater number of minor parties from being elected helping limit the risk of fractious parliaments and ineffective governments.<sup>11</sup>

A secondary issue is that retaining the five percent threshold, while removing the one-seat threshold, would also marginally reduce the number of minor parties' MPs who would be elected.<sup>12</sup> For example, if this had been the case at the 2005 election, as indicated by our data (described and presented in the last section of this paper), the United Future Party would have had one MP instead of three. If the minor parties had fewer MPs, then they would be less likely to have the sort of disproportionate influence on parliament and government that they can now.<sup>13</sup>

### The proportionality of seats in parliament

*The proportionality of parliament reduces over time with population growth.*

MMP is meant to ensure that parties' representation in parliament is proportional to their share of the vote. This depends on there being a sufficient number of list seats to correct for the disproportionate results that the electorate seats produce.<sup>14</sup>

However, as the North Island's population grows and as the proportion of the population who identify as Maori also increases, electoral law requires the number of electorates to grow too, so that each electorate has about the same population. When more electorates are created the number of seats in parliament does not increase, instead the number of list seats falls to accommodate the new electorate seats. When MMP was used for the first time in 1996, there were 65 electorate seats (60 general electorate seats and five Maori electorate seats) and 55 list seats. By 2008, the number of general electorate seats had increased to 70 (63 general electorate seats, and seven Maori electorate seats). This meant that the number of list seats had fallen by five to 50 (there were also two overhang seats).

When the number of list seats falls, the proportionality of election results decreases as there are fewer seats available to top up parties' share of the seats in parliament according to their share of the party vote. If the increase in the total number of electorates continues at its current rate, then the attrition of list seats may affect the proportionality of parliament "within about two generations, if not sooner."<sup>15</sup>

*We recommend that there should always be a greater total number of electorate seats than list seats.*

MMP is designed to be a proportional system. If it is kept, it will be important to ensure that it can continue to function in a way that produces reasonably proportionate results. If the total number of electorate seats is allowed to grow as New Zealand's population grows, and no other changes are made, then the proportionality of parliament will be eroded. If the total number of electorates were ever to grow to 90, for example, and the total number of seats in parliament stayed at 120, then depending on the election result it could be difficult to give every party that crosses the five percent threshold a proportionate number of seats. This is because there would not be enough list seats to compensate each party. This issue needs to be addressed

so that MMP can work properly.

One option could be to increase the total number of list seats in parliament. Another option could be to enlarge the boundaries of existing electorates to reduce the total number of electorate seats.<sup>16</sup> This change would maintain the total number of seats in parliament at 120; however, each electorate MP would have to represent more people.

We believe that electorate representation ought to be prioritised because it can provide a more relational connection between voters and MPs, and because it can balance-out parties' control over their MPs. We do not think that electorates should increase in size, as this could undermine electorate MPs' capacity to serve their electorates. We want the current split between the total number of electorate and list seats—where the total number of electorate seats is always greater than the total number of list seats—to be maintained, now and in the future. We therefore recommend that there should always be a greater total number of electorate seats than list seats.

*We recommend that the total number of seats in parliament should be allowed to increase to maintain a greater number of electorate than list seats, while still maintaining a roughly proportional parliament.*

When the total number of electorate seats grows past the point where 120 seats in parliament is sufficient to maintain parliament's proportionality, then the overall number of seats in parliament will need to be increased. This would enable the total number of electorate seats to always be greater than the total number of list seats, and would mean that each party which crosses the five percent threshold would receive a reasonably proportionate share of the seats in parliament. It would also ensure that MMP provides well for the two kinds of representation that we think are beneficial for parliamentary democracy—electorate representation and representation of interests.

It is crucial to note here that proportional representation is not the only way to have interest groups represented in parliament; electorate MPs and major parties can indirectly represent interest groups.<sup>17</sup> Our major concerns are not that proportionality to the party vote is exactly maintained, but rather that electorate representation remains a strong feature

of MMP and that the system can function how it is meant to.

### The overhang provision

*The overhang provision increases the number of seats in parliament.*

The overhang provision allows the total number of seats in parliament to be increased if a party wins more electorate seats than it is entitled to according to its share of the party vote. The provision exists so that all of the regular 120 seats in parliament can be allocated proportionally. The provision has been used after the 2005 and 2008 elections when the Maori Party won more electorate seats (from the Maori seats) than it was entitled to according to its share of the party vote.<sup>18</sup> In 2005, for example, the Maori Party won 2.1 percent of the party vote, which would have entitled it to three seats, according to proportional representation. However, it actually won four electorate seats, so parliament's size was increased by one seat to 121, so that the 120 regular seats could still be distributed proportionally.

The increase in the number of seats caused by an overhang has a direct impact on how easy it is for a major party to control a majority of the seats in parliament. For example, at the 2008 election, 62 seats were needed to have a majority rather than 61. If, for example, the Maori Party ever won all seven Maori seats, and their share of the party vote remained at about two percent, then the major governing party would need a majority of 63.<sup>19</sup> Under this scenario, even if a major party won 50.1 percent of the party vote, it could not govern alone.

*We recommend that the overhang provision should be removed.*

The overhang provision is designed to protect the proportionality of the allocation of the 120 regular seats in parliament. However, the overhang provision is not essential to MMP's operation and, for the reasons below, we recommend that the overhang provision should be removed.

Removing the overhang provision would limit the number of seats in parliament to 120.<sup>20</sup> If a registered party were to win more electorate seats than it would be entitled to according to its share of the party vote,

the excess number of electorate seats that it won would be subtracted from the total number of seats in parliament. The remaining number of seats would be allocated proportionally to the parties that crossed the five percent threshold. While the change would marginally increase the disproportionality of parties' representation in parliament, it would improve the legitimacy of electoral outcomes under MMP. Voters could be confident that the number of seats required for a majority would not change at each election. Removing the overhang would mean that MMP would produce clearer outcomes and more certainty would be brought to the running of parliament and government.

### Dual candidacy

*Unsuccessful electorate candidates or incumbent MPs who are voted out in their electorate can still be elected to parliament if they are ranked high enough on their party's list*

Every political party that participates in the election produces a list of their candidates in order of seniority. In New Zealand, candidates are permitted to stand on the party list and also as electorate candidates. This is called "dual candidacy."

Dual candidacy has some benefits for parties, in that it enables a party's candidates to contest electorate seats while also campaigning for their party at the same time. Dual candidacy has primarily become an issue because it allows an incumbent electorate MP who does not win their electorate seat a way of staying in parliament if they are highly enough ranked on their party's list. On average, between five and six of these so-called "back door MPs" have been elected at each MMP election since 1999. In the 2005 election, there were more than the average, as eleven incumbent electorate MPs lost their seats but returned to parliament as list MPs.<sup>21</sup> Three of them—New Zealand First's Winston Peters, and the Labour Party's Rick Barker and David Parker—also returned to Cabinet.<sup>22</sup> Two-thirds of the total number of back door MPs had left parliament by the end of the next term.<sup>23</sup> Even if electorate MPs survive through their list ranking, history shows that electorate MPs who have lost their seat have difficulty retaining their senior ranking unless they have valuable skills and experience.<sup>24</sup> Some voters find back door MPs difficult to accept as legitimate. A 2010 online survey

of New Zealanders' views on MMP found that half of all respondents disliked it that a candidate can lose in an electorate, but still enter parliament on the party list.<sup>25</sup> The issue of back door MPs illustrates that there is a gap between what many voters think is a legitimate electoral outcome and what MMP actually delivers—although the perception of this deficiency may be overstated.

*We recommend that dual candidacy should be allowed.*

There is no reason why dual candidacy has to be used with MMP. Wales and Scotland, for example, have MMP systems without dual candidacy.<sup>26</sup> However, dispensing with dual candidacy would be an extreme response to a relatively small problem. As we described before, the number of cases of back door MPs is usually small at each election, and, as they often leave parliament by the end of the parliamentary term, they do not appear to survive long without a mandate from an electorate.

We believe that it would be better if parties were still allowed to show their full range of candidates on their lists under MMP. This would mean that parties could continue to stand experienced, top calibre candidates high on their list to ensure that they would be elected—even if they were unsuccessful at winning an electorate seat. Having a single list of electorate and list MPs also helps parties to show voters which candidates are more senior and gives voters an idea of the order in which their candidates will be elected. If dual candidacy were prohibited then a party's list may exclude senior MPs. For example, if dual candidacy had been prohibited at the 2005 election, Labour's list would have been headed by Michael Cullen and Margaret Wilson, while senior Labour MPs such as Helen Clark, Steve Maharey and Phil Goff would have been excluded because they contested electorate seats.<sup>27</sup> Alternatively these senior MPs may have simply stood on the list, therefore losing some of their connection to a local electorate. Dual candidacy makes it possible for minor parties to stand candidates throughout the country as well, since they can struggle to field enough electorate and list candidates.<sup>28</sup> While back door MPs appear to lack legitimacy among some voters, we should not forget that they also still represent everyone who voted for those MPs' parties with their party vote. Dual candidacy therefore enables parties to present on their lists their



full range of electorate candidates and those who may primarily represent particular interest groups.

While retaining dual candidacy means that back door MPs could still be elected, we think that allowing it is a reasonable trade-off to make so that the representation of candidates on party lists is balanced by including those who stand in an electorate. We therefore recommend that dual candidacy should be allowed.

## Party lists

*Parties control the order in which candidates are ranked on closed party lists.*

While voters get a say in which candidate is elected in their electorate, voters do not get any say over the order in which candidates are elected from the party list. This is because New Zealand uses closed party lists—that is, political parties control the order in which candidates are ranked and therefore elected, and the public has no say in the list's formulation.

Closed party lists have led to the popular perception that list MPs are “unelected” MPs who primarily serve the interests of their party rather than voters' interests.<sup>29</sup> In MMP's early days, voters came to see list MPs as second-class MPs because of this perception.<sup>30</sup> The perception persists today. A 2010 online survey found that 55 percent of respondents disliked it that candidates who could not get elected to an electorate seat can go to parliament on a party list.<sup>31</sup> This perception is somewhat unfair, since list MPs are legitimately elected by standing and campaigning for their party, and some of them work hard at serving local communities as well as interest groups.<sup>32</sup> Nevertheless, list MPs' lower status compared to electorate MPs is another example of where MMP has not met many voters' expectations in terms of accountable and legitimate representative democracy.

*We recommend that closed party lists should be replaced by open party lists whereby voters can influence the order in which list candidates are elected.*

Closed party lists do not have to be used with MMP. We recommend that closed party lists should be replaced by open party lists in which voters would be able to influence the order in which list candidates are elected.<sup>33</sup>

The way that open lists work is different in each

country which uses them.<sup>34</sup> We recommend that voters should be able to use their party vote in one of two ways: to vote for a preferred party, as they do now, accepting the party's list as it stands; or to vote for one preferred list candidate from the party that they support, which would count as a party vote,<sup>35</sup> and influence the order in which a party's list candidates would be elected.<sup>36</sup>

Once a party's overall share of seats had been allocated, and the electorate seats were filled, the highest polling list candidates would be elected first followed by any other list candidates required to fill all of the allocated seats. In effect, the list candidate vote would enable candidates to “leapfrog” one another on their party list if they received enough votes.<sup>37</sup>

International evidence suggests that when it is easy for voters to influence the order in which list candidates are elected, candidates have a greater incentive to campaign directly to voters. This campaigning in turn increases the proportion of voters who use their list vote to elect individual party list candidates.<sup>38</sup>

If open lists were used, hopefully they would improve the transparency of the election of list candidates, provide a clearer electoral connection between voters and list MPs, and help to improve voters' acceptance of list MPs.

## HOW WOULD THESE RECOMMENDATIONS CHANGE PARTIES' REPRESENTATION IN PARLIAMENT?

As a guide to what could happen to parliament if our recommendations were introduced, we have re-calculated the 2005 and 2008 general election results with our revised MMP rules.<sup>39</sup> The changes modelled here are:

- removing the one seat threshold;
- removing the overhang provision (so the number of seats in parliament is restricted to 120 MPs); and
- only allocating seats proportionally to parties that cross the five percent party vote threshold.<sup>40</sup>

The issues of whether dual candidacy is permitted and whether open or closed party lists are used are not modelled because they do not affect how the seats in parliament are distributed among parties.

We have also included a disproportionality figure

for each election, calculated using the Gallagher index. The disproportionality index measures "the difference between parties' shares of the votes and their shares of the seats."<sup>41</sup> A score close to zero means that the voting system has produced a proportionate result. That is, the larger the score, the more disproportionate the result is. To obtain the most accurate figure, we have not grouped "other parties" together for the calculation, although for simplicity their share of the party vote and the seats in parliament are

reported together.

These recalculated results should be treated with care and not be read as directly indicative of what would have happened under the revised rules. Different rules could have altered candidates' and parties' campaigns and also how voters would have probably cast their vote. However, the results can provide a general picture of the sorts of results, and the different possibilities of government formation, that our revised form of MMP could produce.

*2005 and 2008 General Election Results Under Revised MMP Rules*

2005 election	Revised MMP rules				MMP
Party	<i>Electorate seats (out of 69)</i>	<i>Party vote (%)</i>	<i>List seats (out of 51)</i>	<i>Total seats</i>	<i>Total seats</i>
Labour	31	41.1	20	<b>51</b>	50
National	31	39.1	17	<b>48</b>	48
New Zealand First	0	5.7	7	<b>7</b>	7
Green Party	0	5.3	7	<b>7</b>	6
Maori Party	4	2.1	0	<b>4</b>	4
United Future	1	2.7	0	<b>1</b>	3
ACT Party	1	1.5	0	<b>1</b>	2
Progressives	1	1.2	0	<b>1</b>	1
Other parties	0	1.3	0	<b>0</b>	0
Total	69	100	51	<b>120</b>	121
Gallagher index score				<b>3.1</b>	1.1

2008 election	Revised MMP rules				MMP
Party	<i>Electorate seats (out of 70)</i>	<i>Party vote (%)</i>	<i>List seats (out of 50)</i>	<i>Total seats</i>	<i>Total seats</i>
National	41	44.9	18	<b>59</b>	58
Labour	21	34.0	23	<b>44</b>	43
Green Party	0	6.7	9	<b>9</b>	9
Maori Party	5	2.4	0	<b>5</b>	5
ACT Party	1	3.7	0	<b>1</b>	5
Progressives	1	0.9	0	<b>1</b>	1
United Future	1	0.9	0	<b>1</b>	1
New Zealand First	0	4.1	0	<b>0</b>	0
Other parties	0	2.4	0	<b>0</b>	0
Total	70	100	50	<b>120</b>	122
Gallagher index score				<b>5.2</b>	3.8

At the 2005 election, there would have been no overhang and 113 seats would have been allocated proportionally to the parties that crossed the five percent party vote threshold. The minor parties that won one electorate seat but less than five percent of the party vote—that is, ACT and United Future—would not have received any additional list seats. The net effect of this change would have been to give Labour and the Green Party one more seat each. The outcome would still have been unclear, and, as actually happened, Labour would have needed either the support of New Zealand First and the Greens, or the support of New Zealand First and the three other parties more naturally friendly to it (United Future, the Progressives and the Maori Party), to form a government. With the removal of the overhang, conceivably it would have been possible for the National Party to form a government. However, it would have required the support of ACT, New Zealand First, United Future and the Maori Party for National to claim a majority.

At the 2008 election, the two-seat overhang would have disappeared and 112 seats would have been allocated proportionally to the parties that crossed the five percent party vote threshold. National and Labour would have increased their number of seats by one each. Without the one-seat threshold, ACT would not have received any additional list seats on top of its one electorate seat. National would not have had a majority of seats, just as actually happened. It would still have needed ACT and United Future's support to form a government.

The changes would have marginally increased the disproportionality of parties' representation in parliament at both elections.

In summary, the changes that we have suggested to MMP's rules would probably have had an impact on the results of the two elections, but would not have altered their overall outcomes in terms of which party formed a government. The changes would have possibly streamlined the formation of a government and removed some of the electoral outcomes that some voters find difficult to accept as legitimate.

## CONCLUSION

This year's referendum will ask voters to decide whether they want to keep MMP. If a majority of voters decide that MMP should be kept then it ought to be improved, as there are issues with: the electoral thresholds; the proportionality of seats in parliament; the overhang provision; dual candidacy; and the way party list candidates are elected.

If the Electoral Commission's review of MMP goes ahead, it will be an opportunity to suggest how MMP could provide more effective representative democracy. We have made several recommendations that would help, including maintaining the current degree of electorate representation, and reducing the chance that parliament will be fragmented and that minor parties will have disproportionate influence. Our recommendations would also remove some of the strategic party campaigning that surrounds MMP elections and solve the issues with MMP that voters have found most annoying or frustrating to understand. These issues are not complicated to remedy and can be solved by parliament making reasonably simple changes to MMP. If MMP is kept as New Zealand's voting system, we believe that our recommendations would make a positive difference to MMP's performance and provide New Zealanders with a better quality of representative parliamentary democracy than they have with the current MMP system.



## ENDNOTES

- <sup>1</sup> S. Thomas, "A Better Mix: Why SM strikes the best balance and should be New Zealand's voting system," *Research Paper* (Auckland: Maxim Institute, 2011).
- <sup>2</sup> Electoral Referendum Act 2010, Part 4, s74–78. Parliament has said that the Electoral Commission will not consider Maori representation or the total number of MPs that there should be in parliament in its review. If the review proceeds, parliament has, however, said that the Electoral Commission may consider other aspects of MMP that parliament desires. See Electoral Commission, *About the Referendum* (2011), <http://www.referendum.org.nz/about> (accessed 1 July 2011).
- <sup>3</sup> S. Thomas, "Kicking the Tyres: Choosing a voting system for New Zealand" (Auckland: Maxim Institute, 2011).
- <sup>4</sup> Previous Maxim Institute publications that have discussed the value of parliament's deliberative role and representative government's role in protecting the common good include: R. Ekins, "A Government for the People. The value of representative democracy," *Guest Paper* (Auckland: Maxim Institute, 2009); and J. Waldron, "Parliamentary Recklessness: Why we need to legislate more carefully," *Annual John Graham Lecture* (Auckland: Maxim Institute, 2008).
- <sup>5</sup> See S. Thomas, "Kicking the Tyres: Choosing a voting system for New Zealand," 7–9. That said, under the old electorate-based FPP voting system, New Zealand had a history of an equally if not more tightly-disciplined party system. For example, voters' choice of an electoral candidate tended to be influenced by which parties voters supported rather than by strong preferences for particular candidates (although the effects of candidate preferences have still been detected). J.A. Karp, "Candidate Effects and Spill-over in Mixed Systems: Evidence from New Zealand," *Electoral Studies* 28 (2009): 42, citing J. Vowles et al., *Toward's Consensus? The 1993 general election in New Zealand and the transition to proportional representation* (Auckland University Press, 1995); D. Denemark, "Choosing MMP in New Zealand: Explaining the 1993 electoral reform," in *Mixed-Member Electoral Systems. The best of both worlds?* eds. M.S. Shugart and M.P. Wattenberg (Oxford University Press, 2001), 71.
- <sup>6</sup> Electoral Commission, *2008 General Election - Official Result* (2008), [http://www.electionresults.govt.nz/electionresults\\_2008/](http://www.electionresults.govt.nz/electionresults_2008/) (accessed 21 September 2010).
- <sup>7</sup> Thus, the one-seat threshold has enabled a handful of minor parties to be elected to parliament with enough MPs to have an influence on government, which they may not have been able to have if only the five percent threshold had been used. At the 2005 election, for example, only four out of eight parties elected to parliament crossed the five percent threshold, and, at the 2008 election, four out of the seven parties elected won less than four percent of the vote. The one-seat threshold has therefore not only inflated some minor parties' representation—and influence—in parliament, it has also contributed to the fragmentation of parliament. S. Levine and N.S. Roberts, "MMP and the Future: Political challenges and proposed reforms," *New Zealand Journal of Public and International Law* 7, no. 1 (2009): 149.
- <sup>8</sup> A common electoral strategy that some minor parties use is to contest an electorate seat to boost their share of the party vote. This strategy has been uncovered in international data. Analysing data for 14 parliamentary democracies that use mixed voting systems, political scientists Federico Ferrara and Erik Herron find that parties have a greater incentive to independently campaign under more proportional voting systems to boost their parties' profile and so their parties' share of the party vote. F. Ferrara and E.S. Herron, "Going It Alone? Strategic entry under mixed electoral rules," *American Journal of Political Science* 49, no. 1 (2005): 16–31. However, political scientist Jeffrey Karp finds only modest evidence that in New Zealand electorate candidates have helped to increase their parties' list vote. New Zealand's high incidence of split voting—between 29 and 39 percent of voters have split their vote between the electorate and the list vote in MMP elections—might explain some of the modest results. Karp concludes that parties "appear to matter more in New Zealand politics even though districts are relatively small and MPs are likely to invest a great deal of effort in constituency service." Karp's findings indicate that in New Zealand under MMP, and in other mixed systems, parties share of the party vote may not be influenced as much by the their electorate candidates' performance as Ferrara and others have stated. J.A. Karp, "Candidate Effects and Spill-over in Mixed Systems: Evidence from New Zealand," 49.
- <sup>9</sup> S. Levine and N.S. Roberts, "MMP and the Future: Political challenges and proposed reforms," 149–150.
- <sup>10</sup> A. Kaiser, "MMP, Minority Governments and Parliamentary Opposition," *New Zealand Journal of Public and International Law* 7, no. 1 (2009): 90–91; J. Boston, "Innovative Political Management: Multi-party governance in New Zealand," *Policy Quarterly* 5, no. 2 (2009): 56; and J. Boston and D. Bullock, "Experiments in Executive Government Under MMP in New Zealand: Contrasting approaches to multi-party governance," *New Zealand Journal of Public and International Law* 7, no. 1 (2009): 58ff.
- <sup>11</sup> Cf. J. Boston, S. Church and T. Bale, "The Impact of Proportional Representation on Government Effectiveness: The New Zealand experience," *Australian Journal of Public Administration* 62, no. 4 (2003): 7.
- <sup>12</sup> S. Levine and N.S. Roberts, "MMP and the Future: Political challenges and proposed reforms," 152–156.
- <sup>13</sup> This disproportionate influence can be a by-product of minor parties' role as partners with and monitors of major parties in whichever form of coalition government may be formed after an election. As political and legal analysts Brook Cowen, Penelope Cowen and Alexander Tabarrok have said, "[Under mixed systems] Smaller parties obtain greater influence over policy and the electorate in general has a lesser influence." P. Brook Cowen, T. Cowen and A. Tabarrok, "An Analysis of Proposals for Constitutional Change in New Zealand" (Wellington: New Zealand Business Roundtable, 1992), 3.31. The various multi-party governing arrangements, such as coalitions, enhanced confidence and supply agreements and memoranda of understanding, have also permitted minor parties to get certain policies onto the government's agenda, even if those parties have only held a small share of the seats in parliament. Cf. N. Aroney, "A Tale of Two Houses: Does MMP mean New Zealand doesn't need an upper house?" *Guest Paper* (Auckland: Maxim Institute, 2011), 8–9; J. Boston, "Innovative Political Management: Multi-party governance in New Zealand," 56; and J. Boston and D. Bullock, "Experiments in Executive Government Under MMP in New Zealand: Contrasting approaches to multi-party governance," 58ff.
- <sup>14</sup> S. Hix, R. Johnston and A. Cummine, "Choosing an Electoral System" (London: The British Academy Policy Centre, 2010), 15–16.



- <sup>15</sup> P.A. Joseph, "MMP and the Constitution," *New Zealand Journal of Public and International Law* 7, no. 1 (2009): 130, citing A. McRobie, "The Electoral System," in *Essays on the Constitution*, ed. P. A. Joseph (Wellington: Brookers, 1995), 313, 328.
- <sup>16</sup> P.A. Joseph, "MMP and the Constitution," 130-131.
- <sup>17</sup> Cf. L. Malpass and O.M. Hartwich, "Superseding MMP: Real electoral reform for New Zealand," *Policy Monograph*, 109 (St Leonard's, NSW: Centre for Independent Studies (CIS), 2010), 5.
- <sup>18</sup> Electoral Commission, *2005 General Election - Official Result* (2005), [http://www.electionresults.govt.nz/electionresults\\_2005/partystatus.html](http://www.electionresults.govt.nz/electionresults_2005/partystatus.html) (accessed 18 July 2011).
- <sup>19</sup> P.A. Joseph, "The Maori Seats in Parliament," *Te Oranga o te Iwi Maori: A study of Maori economic and social progress* (Wellington: New Zealand Business Roundtable, 2008), 21.
- <sup>20</sup> S. Levine and N.S. Roberts, "MMP and the Future: Political challenges and proposed reforms," 150.
- <sup>21</sup> Parliamentary Library, Personal Communication, 20 October 2011. Cf. S. Levine and N.S. Roberts, "MMP and the Future: Political challenges and proposed reforms," 151.
- <sup>22</sup> A. Nicholls, "Peters Fiasco Shows it is Time for a Review of MMP," *The New Zealand Herald*, 1 August 2008.
- <sup>23</sup> Nine of these back door MPs had resigned or retired by the end of the next parliamentary term. The other five were defeated at the following election. Parliamentary Library, Personal Communication, 25 October 2011. In examining the number of MPs who were defeated in their electorates and who entered parliament through party lists, New Zealand political scientists Elizabeth McLeay and Jack Vowles also note that "In practice, the shifts between the two segments of representation do not fully support claims that the mixed system [MMP] protects incumbents [through dual candidacy]." E. McLeay and J. Vowles, "Redefining Constituency Representation: The roles of New Zealand MPs under MMP," *Regional and Federal Studies* 17, no. 1 (2007): 76.
- <sup>24</sup> E. McLeay and J. Vowles, "Redefining Constituency Representation: The roles of New Zealand MPs under MMP," 76-77.
- <sup>25</sup> The Shape NZ survey had a nationally representative sample of 2,261 and was conducted between 20 and 30 July 2010. Responses were "weighted by age, gender, ethnicity, personal income, employment status and party vote 2008 to provide a nationally representative population sample." The margin of error on the national sample was +/- 2.1 percent. ShapeNZ, "New Zealanders' Views on the Performance and Future of MMP" (Wellington: ShapeNZ; New Zealand Business Council, 2010), 2, 4.
- <sup>26</sup> J. Bradbury, "The Best of Both Worlds? MMP Electoral Reform and Constitutional Development in Scotland and Wales," *New Zealand Journal of Public and International Law* 7, no. 1 (2009): 174.
- <sup>27</sup> Parliamentary Library, "Final Results 2005 General Election," *Background Note*, 2005/06 (Wellington: 2005), 11; New Zealand Labour Party, "Talented Kiwis Dominate Labour List. Media Release" (Auckland: 2005).
- <sup>28</sup> E. McLeay and J. Vowles, "Redefining Constituency Representation: The roles of New Zealand MPs under MMP," 76.
- <sup>29</sup> R. Miller and J. Vowles, "Public Attitudes Towards MMP and Coalition Government," *New Zealand Journal of Public and International Law* 7, no. 1 (2009): 97; New Zealand Royal Commission on the Electoral System and J.H. Wallace, *Report of the Royal Commission on the Electoral System: Towards a better democracy* (Wellington: Government Printer, 1986), 53.
- <sup>30</sup> The public's low perception of list MPs was due in no small part to the instances of party hopping, where several MPs left the party which had enabled them to be elected. Cf. J. Vowles, "Introducing Proportional Representation: The New Zealand experience," *Parliamentary Affairs* 53 (2000): 687.
- <sup>31</sup> See note 25, above.
- <sup>32</sup> Nonetheless, a powerful motivation among list MPs for electorate service is to be selected as an electorate candidate at the next election. Some list MPs from the major parties have seen their role as a list MP as preparation for becoming an electorate MP. E. McLeay and J. Vowles, "Redefining Constituency Representation: The roles of New Zealand MPs under MMP," 87.
- <sup>33</sup> S. Hix, R. Johnston and A. Cummine, "Choosing an Electoral System," 65ff.
- <sup>34</sup> D.M. Farrell, *Electoral Systems. A comparative introduction*, Second ed. (London and New York: Palgrave, 2011), 77-88; S. Hix, R. Johnston and A. Cummine, "Choosing an Electoral System," 65.
- <sup>35</sup> A similar proposal was discussed as early as the 1970s when two New Zealand political scientists, R.M. Alley and A. D. Robinson, proposed that the number of MPs in parliament could be increased by electing a share of them proportionally from regional lists. They wished to give voters the option of voting for a party list candidate so that the most popular ones could move up the order of the list. R.M. Alley and R.D. Robinson, "A Mechanism for Enlarging the House of Representatives," *Political Science* 23, no. 2 (1971): 2-8.
- <sup>36</sup> This is similar to how the Danish voting system works, which is described in D.M. Farrell, *Electoral Systems. A comparative introduction*, 86 and S. Hix, R. Johnston and A. Cummine, "Choosing an Electoral System," 66-67.
- <sup>37</sup> If it were desired to make it harder for voters to alter the order in which list candidates would be elected, a threshold could also be set at a certain share of the list candidate vote before a candidate could move up the party ranking. New Zealand political scientists Stephen Levine and Nigel Roberts have suggested the Swedish voting system as a possible model for New Zealand to follow. They describe how in Sweden, voters can influence the order in which candidates are elected from their preferred party's list if they receive eight percent or more of the relevant vote. S. Levine and N.S. Roberts, "MMP and the Future: Political challenges and proposed reforms," 150. Alley and Robinson also believed that their proposal, mentioned in note 35, above, would also have a limited effect on changing the party's list ranking. R.M. Alley and R.D. Robinson, "A Mechanism for Enlarging the House of Representatives," 6. In New Zealand, it is currently impossible for voters to change a party's list ranking unless they join a political party and influence the list ranking from inside the party.
- <sup>38</sup> S. Hix, R. Johnston and A. Cummine, "Choosing an Electoral System," 65.
- <sup>39</sup> Levine and Roberts have also carried out this sort of exercise for not only the 2008 and 2005 elections, but also for the 1996, 1999 and 2002 general elections. S. Levine and N.S. Roberts, "MMP and the Future: Political challenges and proposed reforms," 152-156.
- <sup>40</sup> That is, the number of seats in parliament that would be distributed proportionally would be 120 minus the number of seats won by parties which polled less than five percent of the party vote. S. Levine and N.S. Roberts, "MMP and the Future: Political challenges and

proposed reforms," 149, 152-156. In these calculations, the Sainte Laguë electoral formula that is used now with MMP has been used to allocate the seats proportionally. The way that the formula works is described at the Electoral Commission's website, Electoral Commission, *Sainte Laguë Formula Explained*, [http://www.electionresults.govt.nz/electionresults\\_2008/saint\\_lague.html](http://www.electionresults.govt.nz/electionresults_2008/saint_lague.html) (accessed 20 March 2011).

<sup>41</sup> M. Gallagher and P. Mitchell, *The Politics of Electoral Systems* (New York: Oxford University Press, 2005), 602.