

CLARE SINNOTT

MAORI PARTICIPATION IN THE
ELECTORAL SYSTEM
WE HAVE THE ELECTORAL ACT 1993,
NOW WHAT?

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ABSTRACT

The Crown has admitted and the Waitangi Tribunal has ruled that the Maori people have a right to political representation which the Crown must protect. In the past Maori political representation has not been adequate.

In this paper I examine the problems with Maori political representation, the various options for the reform of Maori political representation suggested and the probable impact of the option finally settled upon - the introduction of a form of proportional representation - the Mixed Member Proportional system (MMP) while retaining the Maori seats but no longer limiting their number to four.

It is the argument of this paper that although the introduction of the MMP system has created some hope for change, it will not utterly transform Maori political representation. MMP cannot address the fundamental practical problems inhibiting Maori participation in the electoral system. Maori still have no guarantee of sufficient culturally and socially accessible information for them to know how and when to enrol, the implications of not doing so, how to exercise their Maori option and the implications of the exercise of that right, and the various options they have in casting their vote. Further there is a lack of sufficient MPs who not only *are* Maori but represent Maori interests. These participation problems must be addressed if Maori are to be effectively represented in our Parliament.

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I INTRODUCTION

In this paper I will examine the problems for Maori in achieving effective political representation - both in the general context of the problems all minorities face in a democracy and in the specific historical context of New Zealand with its separate Maori seats, voting system and the Treaty of Waitangi. The effect of which has been expounded in a recent Waitangi Tribunal report. After briefly examining the various options for reform of Maori political representation which were suggested, I will canvass what it was hoped would be achieved for Maori by the electoral reform option chosen - MMP and Maori support for it.

Finally, I will focus on some of the main practical constraints on the effectiveness of the Maori vote - problems which are not fully addressed by MMP. These problems are the difficulties for Maori in receiving sufficient appropriate information on political issues to make informed choices, logistical and practical problems for Maori in enrolling and casting a valid vote, and the lack of sufficient MPs who not only *are* Maori but represent Maori interests. In doing so I will address several issues which have been bandied around the literature in this area. It has generally been claimed that Maori are less likely to enrol or vote and more likely to have their vote invalidated if they do cast one. Is this so now, if it is, why and what can be done to remedy the situation? Would more Maori MPs improve Maori representation? Why are there so few of them and what can be done about it, and will separate Maori parties help address the problem?

It is the argument of this paper that although the introduction of the MMP system has created some hope for change, it will not completely metamorphose Maori political representation. Maori votes will no longer be dismissed as safe Labour votes, political parties have begun to reconsider their candidate selection procedures in light of the need to develop rules for selecting party list candidates, and several Maori political parties are being discussed. But, MMP itself cannot address the fundamental practical problems inhibiting Maori participation in the electoral system.

Maori still have no guarantee of sufficient culturally and socially accessible information for them to know how and when to enrol, the implications of not doing so, how to exercise their Maori option and the implications of the exercise of that right, and the various options they have in casting their vote. This means that many Maori votes are invalidated and Maori do not have an equal opportunity with nonMaori to make an informed choices as to how, or even whether or not, they will participate. These participation problems must be addressed if Maori are to be effectively represented in our Parliament.

II DEMOCRACY AND MINORITIES

In a democracy the majority dominates and, therefore, where minorities' interests are different to those of the majority they are subjugated to them. Under a system of strict equality to be reelected an elected representative must appeal to "... a broad spectrum of voters living in a particular territorial constituency".¹ Therefore, even if the elected representative is a member of a minority group, they must expend most of their political energy on the interests of the majority of their constituents, often to the detriment of minorities, unless the composition of the electorate and/or the relative strengths of the political parties contesting the electorate mean that a minority group has some leverage.²

Further, as with women and certain occupational and socio-economic groups, persons from minority groups are seldom elected in the first place.³

... the ... fact that each candidate must be widely acceptable within the electorate may deter the political parties from *selecting* candidates belonging to minority communities and special interest groups.

¹R Mulgan *Maori, Pakeha and Democracy* (Oxford University Press, Auckland, 1989) 137.

²J H Wallace (ed) *Report of the Royal Commission on the Electoral System - Towards a Better Democracy* (Government Printer, Wellington, 1986) 16.

³Above n2, 17. My emphasis.

As Mulgan puts it " ... if there is no concentrated [minority] presence and concern for [minority] issues throughout an institution, there is the ... danger that this concern becomes so diluted it is ignored".

However, if, alternately, a particular part of the institution is made responsible exclusively for a particular minority, as with the Maori MPs in New Zealand, its existence, although guaranteeing the minority a presence:⁴

... runs the risk of secluding responsibility for [the minority's] interests in a *separate ghetto*, away from the rest of the institution ... absolving the rest [of the institution] from any concern for [minority] interests.

Minorities are, therefore, forced to rely on the goodwill of the majority.

The problem for minority political candidates, as R Boast has noted, is one of party selection. MMP tends to increase the power of political parties, especially closed list MMP systems such as the one introduced into New Zealand, where the political party determines the ranking of the candidates on their party list. This is because those political candidates a party chooses to place high on their list have a far greater chance of securing a seat in Parliament than those further down, so that a political candidate's acceptability to the party hierarchy is of greater importance.

The Report of the Electoral Law Commission lists five conditions under which they believe⁵

... an important minority might reasonably expect to enjoy a just and equitable share of political power and influence in a decisionmaking system which is subject to the majority principle and over which the political parties hold sway.

⁴Above n1, 144. My emphasis. Mulgan talks exclusively about Maori and Maori interests, but his analysis can be extended to any minority.

⁵Above n2, 87.

They call these "the principles of *Maori* representation",⁶ but they are clearly intended to apply to any minority. They are⁷

- (a) *Maori* interests should be represented in Parliament by *Maori* MPs.
- (b) *Maori* electors ought to have an effective vote *competed for by all political parties*.
- (c) All MPs should be accountable in some degree to *Maori* electors.
- (d) *Maori* MPs ought to be *democratically accountable to Maori* electors.
- (e) Candidate selection procedures of the political parties should be organised in such a way as to permit the *Maori* people a voice in the decision of who the candidates are to be.

Conditions (a) and (e) are discussed later in Part VD of this paper.

An effective vote, as referred to in condition (b), is one which gives an elector equal influence on both the result of the election and the actions of elected representatives as any other elector.

III THE HISTORY OF MAORI REPRESENTATION

A General Background

1 Maori and the franchise

Initially, with the New Zealand Constitution Act of 1852, New Zealand adopted integrated political representation. The franchise for both the Provincial Councils and the House of Representatives was granted to all males over 21 with a freehold estate within the electorate valued at 50l, or a leasehold with an annual value of 10l or a tenement with an annual rental of 10l in town or 5l in the country. However as most *Maori* property was communally owned and unregistered very few *Maori* could take advantage of this franchise.

⁶Above n2, 87, my emphasis.

⁷Above n2, 87. My emphasis.

As Cox puts it "[t]his device, superficially liberal, eliminated effective Maori input into the formation and direction of State policy".⁸

However, since the Maori Representation Act of 1867 the New Zealand legislature has opted ~~to~~^{to} follow the second option and placed the responsibility for the political representation of the Maori people at the national level in the hands of MPs representing exclusively Maori electorate, superimposed upon the territory of the Non-Maori "General" electorates.

This Act provided three Maori representatives for the North Island and one for the South Island as a quid pro quo for a Bill establishing two seats for the goldfields of Westland. It granted the franchise to all "male aboriginal inhabitant[s] of New Zealand of the age of 21 years and upwards and includ[ing] half castes".

Many modern commentators see this as a cynical move, describing the separate seats as⁹

... a means of granting representation to the Maori who shared tribal ownership of land while preventing them from having anything more than a marginal effect on the composition of the House of Representatives.

The separate seats were to be a temporary measure - until Maori were "... sufficiently assimilated and had individualised their land titles. When this enlightened day dawned, they would be eligible to vote under the [ordinary] franchise ..." ¹⁰ The Maori Representation Act was initially to remain in force for only five years. However, it was extended for a further five years in 1872, and then indefinitely in 1876. The number of Maori seats remained firmly fixed at four.¹¹

In 1896 all Maori were required to vote only in Maori electorates. Half castes were given a choice as to which electorate they wished to vote in.

⁸L Cox *Kotahitanga - The Search for Maori Political Unity* (Oxford University Press, Auckland, 1993) 35.

⁹Above n1, 138.

¹⁰Above n8, 36.

¹¹Initially some Maori who fulfilled the 1852 property qualifications actually had a dual vote. This was abolished in 1893.

This was the situation until the Electoral Amendment Act 1975 redefined a "Maori" as any person descended from a Maori and gave all Maori the option to register on either the Maori or the General roll.

M P K Sorrenson explains Maori's original acceptance of the four seat franchise as due to the "... raw edge to race relations [which] persisted into the early twentieth century " which made passive resistance "... an inadequate tactic for Maori", so that kupapa chiefs decided to work within the Pakeha system.¹² By 1871 all four Maori seats were contested. By 1886 five polling places were established in the King Country and in 1890 a polling place was established in the heart of the Ureweras.

However there was always a strong movement declaring that the seats did not satisfy Maori political aspirations,¹³ and/or that supporting the Maori seats "... might be seen as providing Maori affirmation of government policy initiatives".¹⁴

2 Only four seats

Even in 1867 four seats did not give Maori a proportionate amount of electoral power. 50000 Maori were represented by four seats while 250000 nonMaori were represented by 72 seats.¹⁵

At various times there were attempts to have the number of seats increased. In 1872 the House of Representatives voted to increase the number of seats to five, but this was voted down by the Legislative Council.¹⁶ In 1876 H K Taiaroa, MP for Southern Maori attempted to have the number of seats increased to seven.¹⁷ By the 1975 Electoral Amendment Act the Labour Government provided for the number of Maori seats to be calculated on the same basis as the General seats.

¹²M P K Sorrenson "Maori and Pakeha" in W H Oliver and B R Williams (eds) *The Oxford History of New Zealand* (Oxford University Press, Auckland, 1981) 168, 188.

¹³Above n12, 189.

¹⁴Above n8, 36.

¹⁵Above n8, 135.

¹⁶S Cheyne "123 Years of Electoral Frustration" *The Dominion*, Wellington, New Zealand, 17 October 1990, 13.

¹⁷Above n16.

But Labour lost the 1975 General Election and the incoming National Government repealed the Act. In April 1992, MP for Eastern Maori, Dr Peter Tapsell attempted to have the disparity rectified with an amendment to the Electoral Amendment (No 2) Bill. This attempt failed, its opponents arguing, inter alia, that the electoral reform referenda and the 1993 General Election would probably have some implications on the issue.¹⁸

In 1993 13% of the new Zealand population were descended from Maori and they were represented by four seats, while the remaining 87% nonMaori population were represented by 95.¹⁹ For proportionate electoral power based on population size Maori would need 12 seats. It was argued that the number of seats was correct because only about four percent of those enrolled as electors were on the Maori roll.²⁰ Yet, as discussed below, this low rate of registration can be explained as a reaction to a system which denied Maori electoral power rather than a justification for that system.

By 1992 the Maori electorates had an average constituency of 52 000 in contrast to that of the General seats of 33 536.²¹

By the beginning of the 1990s the clear consensus was that, as expressed by R Mahuta, "[t]he institution of the four Maori seats initially as a stop gap, eventually became a stop-bank holding back the full flood of Maori political representation".²² Dr Peter Tapsell MP for Eastern Maori described the system as a "gerrymander".²³ Even the Minister for Justice, D Graham, declared the situation to be "...patently unfair and grossly unjust".²⁴

¹⁸"New Zealand: Hard to Change Unfair Electoral system, Says Justice Minister" *The New Zealand Herald*, Auckland, New Zealand, 30 April 1992, 3.

¹⁹"New Zealand Profile" *Reuters*, Wellington, New Zealand, 6 November 1993.

²⁰Above n 16.

²¹Above n 18, 3.

²²R Mahuta, M K Farrell *Te Pooti Maaori - Maaori Representation and Electoral Reform Occasional Paper No 33* (University of Waikato, Hamilton, 1992), Foreword.

²³Above n 18.

²⁴Above n 18.

One practical result of the disparity in electorate numbers was the vast geographic size of the Maori electorates. In 1983 Northern Maori was the size of 18 General electorates, Eastern Maori the size of eight, Western Maori of 17 and Southern Maori of 45.²⁵

When Maori community structures were strong Maori MPs could operate by dealing with community leaders. But with rapid urbanisation and weakened tribal structures this mode of operation became less effective. Maori MPs were generally acknowledged to have vast amounts of constituency work.²⁶ The size of the seats also hampered the development of grass roots Party organisations to support the MP, develop policy and foster enrolment and voting.²⁷

3 Procedural difficulties

The procedures for voting in the Maori electorates have been problematic from their inception and were always reformed far more slowly than those for the General electorates.

In the first Maori seat elections in 1868 where a seat was actually contested voting was to be by show of hands unless a poll was demanded. If a poll was demanded it was to be held a month later and electors voted by declaration. The elector would tell the Returning Officer how they wished to vote and the Returning Officer would write it down. The vote would then be initialled by a Maori associate. The vote was not at all secret and therefore open to coercion. The practice of voting by show of hand was abolished in 1910. But Maori were not given the secret ballot until 1937, although nonMaori had it since 1870.

²⁵ Above n 2, 94. In 1954 the Southern Maori electorate was extended into the lower North Island "... to bring the electoral population of Southern Maori near to the numbers in the other three Maori electorates", L R Penman *Maori Representation - The Maori Electorates, 1943-1984*, Masters thesis (University of Waikato, Hamilton, 1985) 10.

²⁶ Above n 2, 94.

²⁷ Above n 2, 95.

An Act providing for the preparation of Maori rolls was not passed until 1914. Even then the first roll was not actually prepared until 1949. Maori enrolment was not made compulsory until 1956 although nonMaori enrolment had been since 1927.

A continuing problem has been the small number of polling places for the huge electorates.²⁸ In 1868 there were eleven polling places for the whole of Northern Maori, 14 for Western Maori, 12 for Eastern Maori and 11 for Southern Maori - the whole of the South Island.

The Maori option created by the Electoral Amendment Act 1975²⁹ has always been procedurally chaotic and resulted in artificially low Maori enrolment and therefore, *inter alia*, high levels of disallowed special votes in Maori electorates.

4 Safe seats

The general situation for minorities in democracies, outlined in Part II above, has been exacerbated for New Zealand Maori by the nature of New Zealand politics. Since 1935 New Zealand national level politics has been dominated by two parties - National and Labour.³⁰ Since 1943, when the Ratana-Labour alliance won Eastern Maori, finally unseating Apirana Ngata, and thereby captured all four Maori seats, until the loss of Northern Maori to New Zealand First in 1993, the Maori seats have been very safely Labour. Until 1993 the closest Labour had come to losing a Maori seat since 1943 was in the 1980 Northern Maori by-election in which Matiu Rata the incumbent who had left Labour to establish the Mana Motuhake Party opposed Labour's Bruce Gregory. But Labour still won 52.4% of the valid vote as against Mana Motuhake's 37.9%.³¹ The average Labour support in the Maori electorates over the period 1943 - 1993 was 67.3% . In the General electorates it was 42.5%.³²

²⁸Above n 2, 24.

²⁹Electoral Act 1993 No 87.

³⁰Penman, above n 25, 1.

³¹Above n 2, 84.

³²Figure from Penman, above n 25, 144, updated by the author from the statistics in the Appendix to the Journal of the House of Representatives.

This has meant that political parties have seen no point in wooing the Maori vote - Labour because their victory has been assured and so that rationally they should expend their political energy elsewhere, and the other parties because any effort made would be wasted as they could not possibly steal the seats.³³

Maori voters and Maori interests have often not received as much political attention from the parties as those living in the marginal seats which decide the results of elections.

As Labour has been in Opposition for 33 of this 51 year period, Maori have had very little power to affect decisionmaking.

5 Maori reaction

Maori generally participate less in the electoral system.³⁴

Maori people are less likely to be enrolled than nonMaori and the turnout in the Maori electorates is lower than in General electorates. In addition the rates of informal voting in the four Maori seats are usually higher than the rates in most General seats.

The recent orthodoxy holds that this has led to disenchantment with the system which has shown up in Maori voting behaviour.³⁵

Many nonMaori interpret [failure of eligible Maori voters to enrol] as apathy but it can be seen as the expression of mounting dissatisfaction with the system of Maori representation. [A dissatisfaction] occasioned by decades of apparent government indifference and insensitivity to matters of great importance to the Maori.

³³Above n 1, 140.

³⁴Above n 2, 84.

³⁵Above n 16, 13.

This view is expressed by Maori as well as nonMaori commentators.³⁶

... the activities of Parliament are frequently dismissed by Maori people as bigoted, ill informed and self serving. The presence of Maori representatives has not caused any major changes to this view. They have functioned as creatures of the Party rather than stewards of the people.

Some Maori claim that this is good, as to participate in New Zealand's democratic political institutions is pointless. Their view is that, as a minority, Maori will always be in a position of powerlessness in that system and to participate "... is simply to drain [their] energies, [their] resources and waste [their] time. More and more it has been realised by [their] people that to vote on election day is to vote for [their] continued oppression".³⁷

Deciding not to participate in the system is a choice for individual Maori to make but as a democratic nation providing minorities with effective representation in the terms discussed in Part II above is necessary if we wish our electoral system to reflect the spirit rather than the letter of democracy - that is, to ensure that no individual member is marginalised and without real decisionmaking power.

B The Electoral Reform Process, 1986 - 1993

The two party system in New Zealand's politics also led to disenchantment among nonMaori voters. With the pluralist First Past the Post system the party who won the most electorate seats formed the Government regardless of whether, as often happened, they won less of the overall votes than the Opposition party. Votes for smaller parties were seen as, at best a practically ineffectual protest vote. By the mid 1980's there were increasing calls for electoral reform, particularly for the introduction of some form of proportional representation. This led the Government to establish a Royal Commission on the Electoral System in February 1985.

³⁶T Henare "What MMP Means for Maori Hopes of a Bigger Political Role" *The Dominion*, Wellington, New Zealand, 18 November 1993, 11.

³⁷S Jackson "Te Karanga o te Iwi- Hia Tuia, Tui Tuia" (1990) 112 *Metro* (Auckland) 180, 181.

Maori groups used this reformist atmosphere to raise the issues surrounding Maori representation once again. One of the matters the Commission was to " ... receive representations upon, inquire into, investigate and report upon..." was "[t]he nature an basis of Maori representation in Parliament".³⁸

Various Maori groups and spokespeople advocated different reform options.

1 Te Tino Rangatiratanga

The Maori Council of Churches (Te Ahi Kaa) called for Maori to be given Te Tino Rangatiratanga, as promised to Maori in Article Two of the Treaty of Waitangi, citing recent Maori non participation in the electoral system as proof that it could not meet Maori needs or desires. They interpreted this Article Two promise as requiring that Maori be given power outside the existing electoral system. Specifically, they sought a fully functioning Maori Parliament by the year 2000.³⁹ In 1992 Farrell described the Te Tino Rangatiratanga movement as "... potent and capable of effecting change".⁴⁰

2 The abolition of the Maori seats with the retention of FPP

This option was supported by the then two major political parties, National and Labour parties. They argued that separate systems are inherently unfair and inequitable and institutionalised the divisions in New Zealand society,⁴¹ that they gave Maori unwarranted "special treatment" as their historical basis - Maori's lack of the property qualification - had long been obsolete.⁴²

³⁸Warrants of the Royal Commission on the Electoral System, Above n 2, xiii.

³⁹Farrell, above n 22, 46.

⁴⁰Farrell, above n 22, 46.

⁴¹Farrell, above n 22, 41.

⁴²Farrell, above n 22, 42.

While admitting that abolition of the seats would eliminate guaranteed Maori representation, they claimed that it could engender more active and effective Maori representation as Parties would have more incentive to compete for Maori votes, and would therefore develop policies and select candidates attractive to Maori. They also stressed the point that abolition would remove the logistical problems associated with the Maori electorates.⁴³

As the Maori franchise was not entrenched, either Party could have abolished it by a simple majority at any time they were in government. But they did not do so. Labour was unwilling to lose four safe seats and National feared the effect of the Maori votes being introduced into marginal electorates.⁴⁴

R J O'Connor also supported this option noting that incorporating Maori into the General roll under FPP⁴⁵

...would necessitate boundary changes to the General seats ... In those areas of greatest Maori population could therefore expect to have a significant electoral impact as General Members of Parliament would be forced to be sympathetic to Maori issues and viewpoints ...

and Maori access to their MPs would be increased as the size of their electorates would be greatly reduced.⁴⁶

3 STV

The basic structure of an STV system is set out in Appendix I attached. STV lessens Party influence and allows voters to select MPs on their individual merits. It also makes it more likely for independent or local organisations to have a say. Therefore Maori could vote in line with tribal interests if they chose to do so.⁴⁷

⁴³See Pat IV below, Farrell, above n 22, 44.

⁴⁴Farrell, above n 22, 43 citing Cheyne, above n 16.

⁴⁵R J O'Connor "The Future of Maori Representation in Parliament" [1991] *New Zealand Law Journal* 175, 177.

⁴⁶Above n 45, 177.

⁴⁷This was pointed out by the Royal Commission, above n 2, 52.

Mana Motuhake advocated an STV (Single Transferable Vote) system if it was combined with an increase in the number of Maori seats to reflect their proportion of the population.⁴⁸

The Royal Commission would later state in their report that under STV major parties *would* have "... real incentives to appeal to and include significant groups within their party ticket and structure ...", and there would be "... enhance[d] cooperation at a political level between Maori and nonMaori",⁴⁹ that if suitable thresholds were built in extreme small Parties would not gain disproportionate power⁵⁰ and that voting would remain relatively simple.⁵¹ However, they also recognised that STV would disperse Maori through large electorates and, therefore, destroy the effect of any geographical Maori population blocks.

4 The reapportionment of Maori seats to bring them in line with the Maori percentage of the population

This was supported by the New Zealand Maori Council, the Ratana Church and the Council of Churches, among others. However, as R J O'Connor states "... if it is considered that separate Maori seats are not the most effective and equal method of achieving Maori representation in Parliament, then a proposal merely to increase the number of Maori seats is therefore fundamentally flawed.⁵² Another argument was that of S Mead that to be effective the seats ought to be drawn on a tribal rather than geographical basis.⁵³

5 A separate Maori Congress or a Second Chamber with prominent Maori representation

This option was supported by several prominent Maori - Whatarangi Winiata, Ranganui Walker and the late Dame Whina Cooper. In doing so they were renewing the nineteenth century call for a Chief's council.⁵⁴

⁴⁸Farrell, above n 22, 54. For an explanation of how a STV system would work see Appendix II attached.

⁴⁹Above n 2, 52.

⁵⁰Above n 2, 52.

⁵¹Above n 2, 58.

⁵²Above n 45, 177.

⁵³Farrell, above n 22, 55.

⁵⁴Farrell, above n 22, 58.

It's supporters maintained that a second Chamber would create a single forum for the discussion of Maori issue and give effect to the concept of partnership which has been implied from the Treaty of Waitangi.⁵⁵

However, Farrell found several problems with the idea. While noting that the proposals for this option always lacked detail he was more concerned that it would create constitutional and political difficulties. Pakeha would be threatened by the institution and problems would arise because most issues do not fall exclusively into either a Maori or nonMaori domain.⁵⁶ Determining the Chamber's members would also be problematic⁵⁷ and "[b]oth major parties [would] resist vesting of any real power in the Chamber"⁵⁸, and O'Connor reasoned that although⁵⁹

... some pragmatic guarantee of representation might be offered to Maori in the form of reserved seats in a second Chamber. ... such a solution ... would merely transfer the inequality of separate Maori representation in the Lower House to the new Upper House.

6 MMP

This was far and away the main contender for replacing the status quo if any electoral reforms were attempted.⁶⁰

... supporters of MMP systems argue[d] that the votes of Maori electors would have considerably more significance - and that Maori would be better represented - under a MMP system regardless of the question of whether or not the Maori seats are retained.

Henare hopefully suggested that "[i]t is possible that MMP [would] lead Maori people to adopting a direct open and challenging orientation toward power and authority".⁶¹

⁵⁵Farrell, above n 22, 59.

⁵⁶Farrell, above n 22, 58.

⁵⁷Farrell, above n 22, 59.

⁵⁸Farrell, above n 22, 63.

⁵⁹Above n 45, 179.

⁶⁰H Catt, P Harris and N S Roberts *Voter's Choice: Electoral Change in New Zealand* (The Dunmore Press, Palmerston North, 1992) 79.

⁶¹Above n 36, 11.

The Royal Commission came out in support of MMP. They felt that⁶²

... parties [would] have much more opportunity and incentive to ensure the election of representatives of interest groups, regions, women and ethnic groups in electoral systems based on lists of candidates than in other systems A national list allows a party to strive for an overall balance among its candidates.

Particularly they believed that "...the major parties would be under pressure to include Maori people in high positions on their lists".⁶³ As with STV voting under MMP is relatively simple. Informal voting in the then West Germany under its MMP system was usually less than one percent.^{64 65}

7 The retention/abolition debate

The major debate between supporters of MMP was on whether or not the separate Maori seats should be retained.

The Royal Commission advocated the abolition of the Maori seats. Indeed, one of their reasons for advocating the to adoption of MMP was that it allowed them to abolish them.⁶⁶ They cited several factors which indicated that the Maori seats to go.

These were accurately summarised by J Armstrong in his report for the *New Zealand Herald* as.⁶⁷

- Parliament's unsatisfactory handling of Maori issues
- Labour's stranglehold on the seats since 1943.

⁶²Above n 2, 50.

⁶³Above n 2, 51.

⁶³Above n2, 55.

⁶⁵However, others such as Mahuta took the position that "[t]here is no guarantee that any ... proportional representation system ... alone will give better representation for Maori because as a minority voice Maori will always be subject to wider majority authority. Such representation does not provide access to power but simply the opportunity to present and persuade. The issue for Maori is not merely to be heard but to penetrate the processes of power, will any reform of the electoral process provide this? The answer must be not in and of itself." Above n 22.

⁶⁶Above n 22.

⁶⁷J Armstrong "Eruption over Maori Seats Inevitable" *New Zealand Herald*, Auckland, New Zealand, 9 September 1992, 5.

- The unwieldy size of the Maori electorates.
- The injustice that had seen Maori seats fixed at four since their introduction in 1967[sic], in spite of increases in the number of General seats and the size of the Maori population.
- Non Maori disapproval of their existence.

They asserted that if Maori need other protections for their rights "...these must largely be found outside an electoral system based on equality of the vote".⁶⁸ Although, as Farrell notes, "... they do not say how the history of such 'protections' projects a somewhat cynical scepticism".⁶⁹

Although generally recommending a threshold of four percent of the total vote for a party to receive a list seat, the Commission proposed waiving that threshold for Maori parties. They claimed this would be an incentive for other parties to address Maori concerns. In support of this contention they cited the manner in which the major parties in Germany began taking environmental policies seriously as the Greens moved closer to the party list seat threshold.⁷⁰

The Commission claimed that MMP without separate Maori seats was "'likely' to produce 'substantially' more Maori MPs than at present", although no Maori MPs were guaranteed.⁷¹ This was because under MMP every vote counts therefore every Maori vote would be important.⁷² It was also claimed that ⁷³

...list MPs would best be able to deal with specifically Maori interests and concerns, ... on a national basis and without a formal relationship of accountability with a defined body of Maori voters.

Despite noting that "... the Maori seats had come to be regarded by Maori as an important concession to, and the principal expression of, their

⁶⁸Above n 2, 81.

⁶⁹Farrell, above n 22, 47.

⁷⁰Above n 67, 5. This was also supported by O'Connor, above n 45, 178, and Mahuta of the Kingitanga movement, Penman, above n 25, 151.

⁷¹Above n 2, 51. "Maori representatives are more likely to be elected through the national lists under MMP, though it is likely that some would also be elected in constituencies".

⁷²Farrell, above n 22, 48.

⁷³Above n 2, 51.

constitutional position under the Treaty of Waitangi", and that "[t]o many Maori, the seats [were] also a base for a continuing search for more appropriate constitutional and political forms through which Maori rights (mana Maori in particular) might be given effect",⁷⁴ and that they had "... no doubt that many Maori would reject any proposal for the abolition of separate Maori seats under the present plurality system ..." The Commission were content that "... there are some Maori to whom such a proposal would be acceptable".⁷⁵

Advocates of the retention of the Maori seats under MMP claimed that they⁷⁶

- (a) guaranteed Maori representation;
- (b) "allowed Maori voters to elect a Maori to represent their distinctive interests";⁷⁷
- (c) had a symbolic significance and therefore should be retained until Maori clearly advocated their abolition;
- (d) ensured a political voice for Maori was heard by the majority;
- (e) installed Maori MPs who constituted sympathetic advocates of their people to deal with government departments and other organisations affecting Maori interests; and
- (f) had their level of support surveyed regularly by the Maori option.

Many Maori wish the seats to be retained indefinitely. Penman explains "[f]or many Maori voters the electorates are part of their Maoritanga, the loss of the electorates would mean the loss of access to the political system".⁷⁸ A Summary Paper of submissions to the Select Committee on Maori representation noted that⁷⁹

Members should be aware that there is an extraordinary measure of disquiet among Maori communities at a proposal which could eliminate Maori

⁷⁴Above n 2, 86.

⁷⁵Above n 2, 85.

⁷⁶R Northey *Inquiry into the Report of the Royal Commission on the Electoral System - Report of the Electoral Law Committee, 1st Sess 42 Parliament 1988* (Government Printer, Wellington, 1988) 24.

⁷⁷Above n 76, 24.

⁷⁸Above n 25, 151.

⁷⁹*Electoral Reform Bill - Maori Participation, Summary Paper, 17 March 1993 Waitangi Tribunal Maori Electoral Option Report - Wai 413* (Brooker & Friend Limited, Wellington, 1994), 7 WTR, Documents Folder, A3(d) 4.

representation. While this may not show through in submissions to this Committee, hui throughout New Zealand have expressed concern over the process.

and, on 30 July 1993, the National Business review proclaimed that "[a]t hui around the country ... Maori were united as a single unequivocal voice in calling for the present fur Maori seats to be guaranteed".⁸⁰

In September 1987 an Electoral Law Select Committee ("**Select Committee**") was set up to consider, *inter alia*, "... all matters relating to the electoral system and related constitutional issues ...",⁸¹The majority of the Committee advocated that "...the present system of Maori representation be retained *at the present time*".⁸² Their rationale was that although MMP provided the opportunity and incentive for greater Maori representation, it did not *guarantee* any specifically Maori representation,⁸³ and further Maori seemed to want them to be retained.

All but one Maori submission for the Select Committee maintained that proportional representation could not replace separate Maori representation, and "[a]lmost all submissions from individual Maori and Maori organisations emphasised the special spiritual and historical significance to the Maori of the seats". In consequence the Select Committee gained the impression "that the great majority of Maori, at least in the meantime favoured the retention of separate Maori representation"⁸⁴ Therefore they recommended that there be a statutory minimum of four Maori seats, but that the number should fluctuate according to the number of electors of Maori descent choosing to go on the Maori roll. If the number fell below the equivalent of four seats the situation would need to be reviewed.⁸⁵ This has been characterised as a "change of heart by the government ... in response to strong Maori pressure".⁸⁶

⁸⁰"Maoridom left Disappointed" *National Business Review*, Auckland, New Zealand, 30 July 1993, 17.

⁸¹Above n 76, 5.

⁸²Above n 76, 24, my emphasis.

⁸³Above n 76, 25.

⁸⁴Above n 76, 25.

⁸⁵Above n 76, 27.

⁸⁶Waitangi Tribunal *Maori Electoral Option Report - Wai 413* (Brooker & Friend Limited, Wellington, 1994), 7 WTR 9.

There was also considerable international pressure on the New Zealand government to retain the separate seats. The Summary Paper to the Select Committee noted a "... growing opinion throughout the Western world that Parliamentary supremacy cannot be upheld without protections for special interest groups".⁸⁷ Nineteen ninety three was the United Nation Year of the Indigenous People and the 1993 conference on Indigenous Women resolved to support separate Maori political representation.⁸⁸ The Summary Paper concluded that abolishing the seats "... without clear evidence that the matter has been fully considered and canvassed by the indigenous people themselves, [could not be done] without risk of international censure".⁸⁹

The decision to retain the Maori seats "for the meantime" has been supported by many commentators on Maori representation. Farrell argues that "... any reform system must first be proven to more effectively represent Maori prior to the abolition of the Maori seats".⁹⁰

Matiu Rata has stated that the Mana Motuhake Party "... ha[d] been a strong supporter of a change to MMP with the four Maori seats retained *until such time as Maori voters were happy with the new system*".⁹¹ Similarly, Peter Tapsell, MP for Eastern Maori, although proposing that separate Maori representation be retained for the foreseeable future accepts in the long term that the Maori seats will go - "I think in due course the Maori people will quite happily accept a single roll for New Zealand, but it's some way away",⁹² and both Winston Peters and Peter Cleave have advocated what Farrell describes as a "prove-it-first attitude" to proportional representation - it has to be proven to Maori people that they will attain adequate political representation under MMP before the seats are abolished.⁹³ "This option allows organisations to plan for and experiment with reform while maintaining guaranteed

⁸⁷Above n 79, 5.

⁸⁸Above n 79, 4.

⁸⁹Above n 79, 5.

⁹⁰Farrell, above n 22, Abstract.

⁹¹L Jones "Bill Gives Mana Motuhake 'Impossible Task'" *New Zealand Herald*, Auckland, New Zealand, 2 August 1993, 9, my emphasis.

⁹²Above n 91, 9.

⁹³Farrell, above n 22, 53.

representation".⁹⁴ The Electoral Reform Coalition recommended a transition period of ten years or so before the seats were phased out.⁹⁵

C *The 1992 And 1993 Referenda*

1 *The 1992 referendum*

On 19 September 1992 the first of two referenda was held to determine whether the New Zealand electorate wanted electoral reform. This first referendum was indicative rather than binding on the government. The aim was to determine whether there was sufficient demand for change for the government to hold a binding electoral referendum at the 1993 General Election. As both major parties were opposed to reform the referenda were set up in such a way as to favour the status quo.

The voting paper for the first referendum was in two Parts. In Part A the voter had a choice between retaining the FPP system or change. In Part B they had a choice between four change options - Supplementary Member ("SM"), STV, MMP and Preferential Vote ("PV"). Brief descriptions of these options are set out in Appendix I. The details of these options were not determined. They were to be debated after the referendum, *if* there was a vote for change and *if* one change option achieved enough of a majority to make it worth while to hold the second referendum.

The results of the first referendum are set out in Tables I and II below.⁹⁶

⁹⁴ Farrell, above n 22, 53.

⁹⁵ Farrell, above n 22, 52.

⁹⁶ Information from the *The Electoral Referendum 1992, Tamaki By-Election 1992, Wellington Central By-Election 1992 - Voting Statistics from the Electoral Referendum Held on 19 September 1992, the Tamaki By-Election Held on 15 February 1992 and the Wellington Central By-Election Held on 12 December 1992* [1993] AJHR E.9.

TABLE I: RESULTS OF THE 1992 ELECTORAL REFERENDUM - PART A
(% OF VALID VOTE)

	Retain FPP	Change
Overall	15.3	84.7
Maori electorates	17.4	82.6

TABLE II; RESULTS OF THE 1992 ELECTORAL REFERENDUM - PART B
(% OF VALID VOTE)

	SM	STV	MMP	PV
Overall	5.6	17.4	70.5	6.6
Maori electorates	5.7	12.1	75.6	6.6

Overall there was an overwhelming vote for change and a very large vote for MMP. While the Maori vote for change was slightly lower than the overall vote, the Maori vote for MMP was five percent higher than the overall rate. (Most of this discrepancy can be explained by the five percent lower vote for STV.)

However, the turnout for the referendum was low. Overall the proportion of votes cast to electors on the master roll was only 55.2%. For the Maori seats the turnout was even lower at 37.0% (See Table III below.⁹⁷)

TABLE III; VOTES CAST TO ELECTORS ON MASTER ROLL 1992
ELECTORAL REFERENDUM

	Overall	Maori electorates	General electorates
No. Master Roll	2 279 396	92 128	2 187 268
Total votes cast	1 258 226	34 125	1 224 101
%	55.2	37.0	56.0

2 The 1993 electoral referendum

⁹⁷Information from the AJHR, above n 96.

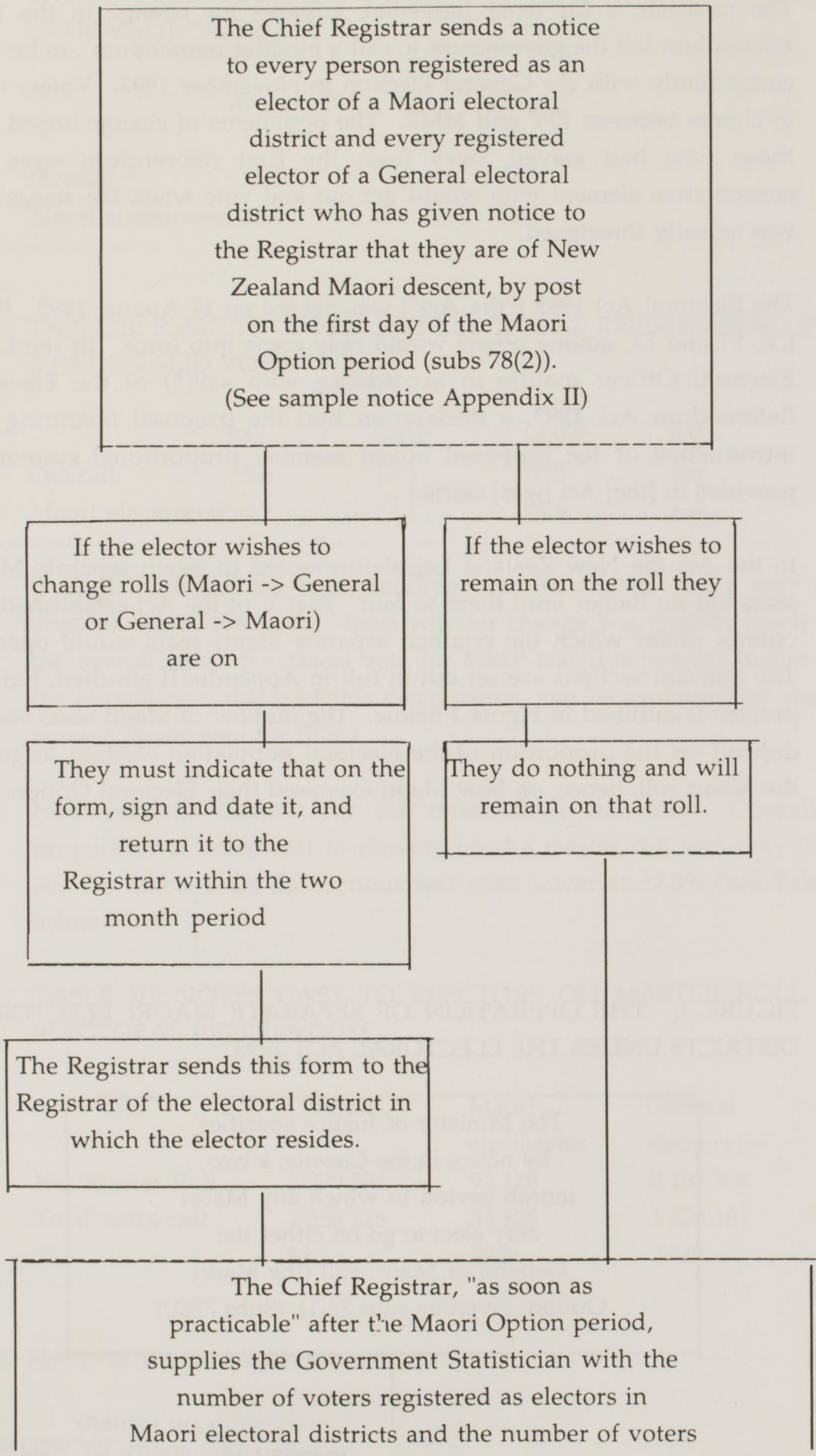
The positive, if far from universal, support for change in the 1992 referendum led the government to call a binding referendum, to be held concurrently with the General Election in November 1993. Voters were to choose between FPP and MMP. The opponents of change hoped that those who had stayed away from the first referendum were the conservative element who would get out and vote when the status quo was actually threatened.

The Electoral Act 1993 ("the Act") was passed on 17 August 1993. Parts I, V, VI and IX, among others would only come into force "[i]f the Chief Electoral Officer ma[d]e in accordance with s19(5) of the Electoral Referendum Act 1993, a declaration that the proposal favouring the introduction of the proposed mixed member proportional system, as provided in [the] Act [was] carried ..."

In the Act the New Zealand Legislature opted to retain separate Maori seats but no longer limit them to four. Part V of the Act established the criteria under which the retained separate Maori seats would operate. The relevant sections are set out in full in Appendix II attached, but the process is outlined in Figure I below. The number of Maori seats would depend on the proportion of the electoral population electing to go on the Maori roll, hence, on how Maori exercised their Electoral Option.

FIGURE I: THE OPERATION OF SEPARATE MAORI ELECTORAL DISTRICTS UNDER THE ELECTORAL ACT 1993

The Minister of Justice specifies' by notice in the Gazette, a two month period in which any Maori may elect to go on either the General or Maori roll (the Maori Option) given by subs 76(1). (Subs 77(2))



registered as electors of the General electoral districts who have given written notice to the Registrar that they are of New Zealand Maori descent (subs 77(6)).

The Government Statistician reports the results of the census and his/her calculation of the Maori electoral population at the close of the Maori Option period to the Representation Commission for them to divide New Zealand into electoral districts (subs 35(6)).

The number of Maori electoral districts is determined by the following formula:

$$\frac{\text{Maori electoral population} \times 16}{\text{General electoral population of the South Island}}$$

The result will be rounded to the nearest whole number (subss 45(3)(a) and (b)).

The Surveyor General prepares maps of the distribution of the Maori electoral population and provisional boundaries for the Maori electoral districts, and calls a meeting of the Representation Commission (subs 45(4)).

The Representation Commission divides the Maori electoral population equally between

the Maori electoral districts, giving "due consideration" to:

- Existing Maori electoral district boundaries
- Communities of interest among Maori people generally and Maori tribes
- Facilities of communications
- Topographical features
- projected variations of the Maori electoral population within an electoral district during its duration

(Subs 45(6))

The proposed boundaries are published in the Gazette, the proposals are made available for public inspection, and objections are invited (subs 38(1) and 45(8)).

Summaries of any objections are published in the Gazette and made available for public inspection, and counter objections are invited. (Subs 38(4))

The final boundaries are to be determined, and reported in the Gazette, within six months of the meeting called by the Surveyor General. (Subs 45(9))

The Registrar has some leeway under subs 78(9) to accept Maori option forms up until noon on the day after the Maori option period ends and, under subs 78(10) t, at their discretion, to accept Maori Option forms not

signed and/or not dated if they are signed and dated within six days of the end of the two month option period.

Under subs 45(12) of the Act, if the Maori electoral population figure so indicates there can be only one (subs 45(12)(b)) or *no* (subs 45(12)(a)) Maori electoral districts. Therefore, under the Act the existence of Maori seats is not guaranteed.

By s269(2) of the Act the first Maori Option was to be undertaken "... as soon as Practicable" after the commencement of s77 - that is the day after a declaration was made that MMP was to be introduced. Thereafter the option is to be undertaken "... in every year that a quinquennial census of population is taken, but in no other year ...".⁹⁸

The Maori electoral population consists of the persons registered as electors of Maori electoral districts and a proportion of persons of New Zealand Maori descent who are not registered as electors of any electoral district and a proportion of the persons of New Zealand Maori descent under eighteen years of age.⁹⁹ The formula for determining this is:

Total number of electors registered in Maori electoral districts at the close of the Maori Option period		Total number ordinarily resident persons of New Zealand Maori descent as at last census
_____	X	
Total number of persons of New Zealand Maori descent registered in any electoral district at the close of the Maori Option period		

To fulfil the subs 45(6) considerations for the electoral districts the population of any district may be \pm five percent from an equal division for the Maori electoral population between the districts.¹⁰⁰ Subsection 45(9) allows eight months after the Surveyor General calls a meeting of

⁹⁸Subsection 77(4) of the Act, above n 29. However, if Parliament is due to expire in the year of the census the options to take place in the following year (subs 77(5) of the Act).

⁹⁹See the definition of "Maori electoral population", subsection 3(1) of the Act, above n 29.

¹⁰⁰Above n 29, subs 45(7).

the Representation Commission for the first division of the electoral districts after the introduction of MMP.

In the 1993 Referendum the electorate came out 53.86% in favour of MMP, hardly an obvious mandate for change. However 65.85% of the valid Maori electorate vote supported MMP.¹⁰¹ As the *Evening Post* put it ".Maori seized their first chance in 126 years to increase the number of Maori seats, voting in record numbers ... with two-to-one support for MMP".¹⁰² Maori did come out to vote in numbers. "By 10.45 am the Maori turnout at Newtown School's Southern Maori booth had exceeded its 1990 tally".¹⁰³ The Maori electorate voter turnout on polling day was 30% up on 1990 while the General seats vote increased only about one percent.¹⁰⁴

3 Immediate post referenda speculation

Immediately after the result of the 1993 referendum was announced Maori confidence in the possibilities of the new electoral system for increased Maori political power hit new highs. Alan Duff commented in his *Evening Post* opinion column on 9 November 1993¹⁰⁵

Tuning into the Maori radio station in Hawkes Bay I got the distinct feeling that there was much happiness at this result. A feeling that they will now have a more equitable say...

In his post election review in *Mana* magazine, Fox gives an indication of the sort of comments being made.¹⁰⁶

... the vote for MMP ... has encouraged some Maori observers to be slightly more hopeful and to fiddle around with some mathematical calculations ...

¹⁰¹ Figures calculated from Above n 96.

¹⁰² E O'Leary "Maori Vote Two-To-One in favour of MMP" *The Evening Post*, Wellington, New Zealand, 11 November 1993, 3.

¹⁰³ "Polling Booths Busy as Voters Stream In" *The Evening Post*, Wellington, New Zealand, 6 November 1993, 1.

¹⁰⁴ Above n 102, 3.

¹⁰⁵ A Duff "Freedom Turns Our World Upside Down" *The Evening Post*, Wellington, New Zealand, 9 November 1993, 2. Duff himself is very critical of MMP arguing Maori should achieve an equitable say "on merit".

¹⁰⁶ D Fox "More Seats More Power" *Mana* Feb/Mar 1994, 41.

These hopes rest on a most unlikely scenario, which goes like this: You start with the 101 500 who were on the Maori roll for this past election. You add to them (remember I said it was unlikely) the 146 700 now on the General roll but who could switch. Then you could top that up with perhaps another 40 000 or so who may be persuaded to register for the first time.

This would produce a Maori roll of about 290 000 who could vote in nearly a dozen Maori MPs if they supported just one party.

In the wake of the 1996 election no party is likely to have an outright majority. Instead, in order to hold power, parties will be teaming up in coalitions. So, a Maori party with eight or ten seats would be a force that couldn't be ignored. It might easily hold the balance of power.

IV MAORI'S RIGHTS TO POLITICAL REPRESENTATION UNDER THE TREATY

A The Claim

On 22 December 1993 the Minister of Justice Doug Graham published a Maori Option notice in the Gazette pursuant to sections 77(2) and 269(2) of the Electoral Law Act 1993 ("the Act"). This notice declared a two month period from 15 February 1994 to 14 April 1994 in which New Zealand Maori could exercise the option granted to them by subs 76(1) of the Act to choose whether to go on the General or Maori electoral roll. Following the publication of the Maori Option notice in the Gazette a national hui was called at Turangawaewae to discuss the upcoming option. Because the publication of the notice was very close to Christmas and New Year the hui did not meet until 14 January 1994. This hui was an important event attended by among others the presidents of the national Maori Congress, New Zealand Maori Council and Maori Women's Welfare League. The Maori option claim came out of this hui. The claim was filed on 19 January 1994.

It was brought by Hare Wakakarakea Puke on behalf of himself, and iwi and other Maori authorities who had attended the Turangawaewae hui.

The substance of the claim, as set out in the Statement of Claim, was that¹⁰⁷

... the Crown has an obligation under the Treaty of Waitangi to protect the right of Maori to be represented in Parliament and that there are special needs in promoting Maori enrolment and education on the option... .

And that the Government funding provided for this promotion and education was inadequate and "... insufficient properly inform Maori of their democratic entitlement and responsibilities".¹⁰⁸

As the claim was filed within a month of the commencement of the option period a petition for an urgent hearing was granted. The claim was heard at the Maori Land Court in Rotorua from 27 January to 2 February 1994.¹⁰⁹

B The Findings

The Tribunal essentially found four things

- (1) That Maori have a right to political representation:
- (2) That the Crown has an obligation to protect that right but has no obligation to go beyond such action as is reasonable in the prevailing circumstances in doing so:
- (3) That the appropriate ways to inform and educate Maori on the option are *kanohi ki te kanohi* (face to face communication) and targeted mass media
- (4) The Government provided insufficient funding for an effective Maori option information campaign.

These last two will be discussed in Part VB2 below.

C The Maori Right To Political Representation

¹⁰⁷Above n 86, 1.

¹⁰⁸Above n 86, 1.

¹⁰⁹Above n 86, 1.

The claimants put forward several bases for a Maori right to political representation. Primarily they relied on Article Three of the Treaty of Waitangi which states the Maori were to be granted all the rights and privileges of British citizenship. The claimants argued that these include rights to political representation.¹¹⁰

The Tribunal viewed the Article Three argument with favour, finding that political representation is a fundamental right of a citizen in a democratic state and "... clearly included in the protection extended by the Crown to Maori under Article Three".¹¹¹ But this right does not guarantee Maori the same political representation as nonMaori, only "... the rights of political representation conferred from time to time on Maori by the New Zealand legislature".¹¹² In other words it only guarantees Maori the right to some form of political representation. As I understand their finding, if the New Zealand legislature decided to bring in electoral apartheid the Tribunal would not consider it to contravene Article Three.

The claimants also argued, in their counsel's closing address, that rangatiratanga in Article Two of the Treaty included a right to self determination which for the purposes of the claim meant the form of political representation that gives Maori maximum control over their political representation consistent with New Zealand electoral statutes. Presently, the Maori seats are this best form.¹¹³

The Tribunal stated that the issues raised would "... require further amplification and full discussion" before they could form a concluded opinion on the point.¹¹⁴

Another possible argument merely alluded to by the Tribunal was that the greatly enhanced Maori political representation given by the Act is a taonga (a treasured thing) to Maori and therefore Maori have a right to its protection under Article Two of the Treaty.¹¹⁵

¹¹⁰Above n 86, 12.

¹¹¹Above n 86, 12.

¹¹²Above n 86, 12.

¹¹³Above n 86, 14.

¹¹⁴Above n 86, 14.

¹¹⁵Above n 86, 15. The new possibilities for Maori political power under the new electoral regime informed the Tribunal's discussion of this issue throughout.

D The Nature Of The Crown Obligation To Protect The Maori Right To Political Representation

In *New Zealand Maori Council v AG* the Privy Council held that the Crown's obligation to protect Maori taonga in the English text of the Treaty amounted to a guarantee, but that it was not an obligation which was¹¹⁶

absolute and unqualified. [As t]his would be inconsistent with the Crown's other responsibilities as the government of New Zealand and the relationship between Maori and the Crown. [Instead t]his relationship the Treaty envisages should be founded on reasonableness, mutual co-operation and trust. It is therefore accepted by both parties that the Crown in carrying out its obligations is not required ... to go beyond taking such action as is reasonable in the prevailing circumstances.

The claimants in the Waitangi Tribunal cited this decision in submitting that the Crown had a Treaty obligation to protect Maori citizenship rights which was a guarantee if not an absolute and unqualified one.¹¹⁷

Crown counsel conceded before the Tribunal that the Crown had an obligation to protect Maori rights to political representation in the Act but submitted that this obligation only extended to taking "... such steps as are reasonable having regard to, for example, economic and social circumstances".¹¹⁸ Essentially we're coming out of a recession, we can't afford this.

¹¹⁶*New Zealand Maori Council v AG* (Unreported PC 14/93 13 December 1993) (Broadcasting Assets) 3.

¹¹⁷Above n 86, 13.

¹¹⁸Above n 86, 13.

The Tribunal, citing The Manakau Report¹¹⁹ Orakei Report¹²⁰, Te Reo Maori Report¹²¹ and Ngai Tahu Report¹²², stated the established; point that the Crown has an obligation to *actively protect* Maori Treaty rights, and found that¹²³

[t]here can be no doubt that the obligation on the Crown actively to protect Maori Treaty rights extends to the rights protected under Article Three and in particular to the right of Maori political representation, which is one of the most important, if not the most important, included in the Article.

As to the nature of that obligation the Tribunal found that the "partnership principle" formulated by the Court of Appeal¹²⁴ and applied by the Tribunal in the Muriwhenua Fishing Report (1988) 192 and the Ngai Tahu Report 2(1991) 242, was "clearly applicable".¹²⁵ This partnership relationship "... should be founded on reasonableness, mutual cooperation and trust. The Crown in carrying out its obligations is not required ... to go beyond taking such action as is reasonable in the prevailing circumstances".¹²⁶ Essentially the Crown line. Although in discussing the specific costs of the Maori option campaign the Tribunal did cite the Prime Minister's recent State of the Nation Address in which he claims an economic recovery, indicating that claims that something cannot be afforded will be looked at critically.¹²⁷

V MAORI VOTING PROBLEMS

A Lower Voter Turnout

¹¹⁹Waitangi Tribunal *Finding of the Waitangi Tribunal on the Manukau claim* - Wai 8 ((Government Printer, Wellington, 1985) 70.

¹²⁰Waitangi Tribunal *Report of the Waitangi Tribunal on the Orakei claim* - Wai 9 (The Tribunal, Wellington, 1987)WTR 1, 191.

¹²¹Waitangi Tribunal *Finding of the Waitangi Tribunal relating to Te Reo Maori and a claim lodged by Huirangi Waikerepuru and Nga Kai Whakapumau i te Reo Incorporated Society (the Wellington Board of Maori Language)* - Wai 11 (The Tribunal, Wellington, 1986) 21.

¹²²Waitangi Tribunal *The Ngai Tahu Report* - Wai 27, 2 (Brooker and Friend Limited, Wellington, 1991) WTR 3/4, 240.

¹²³Above n 86, 14..

¹²⁴*New Zealand Maori Council v AG* [1987] 1 NZLR 641.

¹²⁵Above n 86, 14.

¹²⁶Above n 86, 15.

¹²⁷J Bolger, *State of the Nation Address*, Auckland, 27 January 1994, cited Above n 86, 34.

In her study of Maori voting behaviour Penman found that between 1943 and 1984 the turnout of registered electors in the Maori electorates was *consistently lower* than in the General electorates.¹²⁸ She characterises Maori nonvoting as "a serious problem".¹²⁹ Figures of Maori voting for most of that period in her Table 2 (reproduced here as Table IV below) show that on average 28% of enrolled Maori voters did not vote at General Elections.

TABLE IV; ENROLLED MAORI VOTERS AND VOTES CAST, 1957-1984¹³⁰

Year		Eastern Maori	Northern Maori	Southern Maori	Western Maori	Total
1957	No voting	11 197	9 042	6 896	10 404	37 539
	No on roll	12 574	10 224	8 101	11 832	42 731
1960	No voting	11 640	9 138	6 926	10 169	37 873
	No on roll	14 060	11 667	9 319	13 421	48 467
1963	No voting	12 597	10 359	8 015	10 934	41 905
	No on roll	13 937	11 678	10 281	13 301	49 195
1966	No voting	11 329	8 894	7 799	7 906	35 928
	No on roll	14 190	12 074	11 845	14 488	52 597
1969	No voting	11 970	10 866	8 048	12 236	43 120
	No on roll	14 049	10 806	12 309	14 460	51 624
1972	No voting	12 354	8 162	10 517	11 662	42 695
	No on roll	14 125	10 361	13 992	15 995	54 473
1975	No voting	11 821	8 766	10 613	12 639	43 838
	No on roll	16 425	14 175	18 190	20 195	68 985
1978	No voting	12 378	9 908	12 619	13 939	48 844
	No on roll	23 438	22 816	30 637	32 707	109 598
1981	No voting	13 053	11 870	15 071	15 867	55 861
	No on roll	16 673	15 997	20 390	22 644	75 704
1984	No voting	14 716	15 236	15 210	14 564	59 726
	No on roll	18 757	19 693	19 300	19 814	67 564

¹²⁸Above n 25, 149.

¹²⁹Above n 25, 149.

¹³⁰Source the Appendices to the Journals of the House of Representatives 1958 - 85, Above n 25, 16.

What is notable about these voting and enrolment figures is that, on average, they did not rise at all until 1975, when the law was changed to allow any person of Maori descent to enrol to vote in a Maori electorate.¹³¹ This is despite the fact that the Maori population was increasing fairly rapidly throughout this period. In 1975 the number of electors on the Maori rolls increased significantly, but the numbers *voting* in the Maori electorates did not. The number enrolling and voting both rose sharply in 1978, but dropped away again in the following two elections, although they were never again as low as in the pre 1978 period.

In Sorrenson's 1986 report on the history of Maori representation in Parliament he notes a steady rise in Maori nonvoting from the 1950's with "nonvote" being the second largest 'party' after Labour since 1966.¹³² This can be seen in the graph prepared by Robert Chapman in his Annex to Sorrenson's report, reproduced here.

Penman explains this low turnout as being due to Maori disillusionment with the political process and its treatment of the Maori seats, and not necessarily political apathy.¹³³ She also mentions that the cost of voting in Maori electorates is often high. In 1981 Maori voters in Gore had to travel 12 kilometres to the nearest polling booth.¹³⁴

Sorrenson too mentions Maori voting being¹³⁵

... hampered by insufficient [ordinary Maori] poll[ing] booths over their wide flung electorates, although this has been less so in recent years when improved transport and urbanisation have meant that it has been easier for the bulk of Maori voters to reach polling booths.

¹³¹See Part III A 1 above.

¹³²M P K Sorrenson "A History of Maori Representation in Parliament" in J H Wallace (ed) *Report of the Royal Commission on the Electoral System - Towards a Better Democracy* (Government Printer, Wellington, 1986) Appendix B, 63.

¹³³Above n 25, 150.

¹³⁴Above n 25, 18.

¹³⁵Sorrenson, above n 132, 63.. Ordinary Maori polling booths are those in which Maori electors can cast an ordinary vote for a Maori electorate as opposed to having to cast a Special Vote.

The figures for the last five elections as determined from figures in the AJHR are set out in Table V below. They show that while voter turnout has dropped in all electorates the disparity between the voter turnout in General and Maori electorates has still increased.

TABLE V: % OF ELECTORS ON THE MASTER ROLL WHO VOTED (TO THE NEAREST %) (Source: The Appendices to the Journal of the House of Representatives 1982, 1984 - 85, 1988, 1991, 1993 and 1994 E.9)

Year	Overall	Maori electorates	General electorates
1981	91	83	92
1984	94	84	94
1987	89	77	90
1990	85	66	86
1993	85	68	86
Mean (1981 - 1993)	89	76	89

B Invalid Votes

Penman states that Maori make a large number of "informal" votes in General elections.¹³⁶ Sorrenson also claims a "...high and increasing percent" of Maori casting invalid votes. Specifically he notes that 'Special Votes Disallowed' had risen alarmingly, especially in the 1981 and 1984 elections.

Penman attributes the large informal vote count to "the electoral process ...[being] more difficult for the Maori voter", "... the ballot paper os often not marked in the appropriate way.

¹³⁶Above n 25, 151. By this she apparently means votes disallowed for whatever reason not informal in the narrower sense of made by eligible voters but not clearly indicating the voters preference.

Special voting also seems difficult for Maori electors".¹³⁷ Specifically she claims that there is a correlation with Maori's generally lower level of education.¹³⁸

Sorrenson argues the high proportion of disallowed special votes is "... due largely to failure to register or to technical errors in the exercise of the Maori option".¹³⁹ He accordingly claims that separate Maori representation had "...become so complicated in electoral terms that it [was] increasingly failing to involve the rank and file of the Maori population".¹⁴⁰

Farrell attributes both high levels of invalid votes and lower enrolment to "the logistics of Maori voting" - including language problems, confusion over reenrolment and problems with the use of appropriate polling booths. His solution is that "[t]he Electoral Office should take the necessary steps to inform the Maori public and facilitate Maori voting procedure in order to rectify these problems".¹⁴¹

The Royal Commission pointed out that in 1984 informal votes "... still averaged only 1.0% of all the votes cast in the Maori seats" and "[t]he proportions of votes cast as special votes are higher in Maori seats than in the General seats ... [although they add] the rates at which those special votes are disallowed (particularly for nonenrolment) are slightly higher in Maori seats than in General seats".¹⁴²

An analysis of the latest Maori voting figures reveal a different situation than such comments portray.

1 *Informal votes*

The percentage of informal votes, in the sense of ballot papers from which the voters preferences are not clear, but voters in the Maori seats to Maori seat votes cast has consistently been only 0.5% higher than the equivalent rate for the General seats. (See Table I in Appendix III)

¹³⁷Above n 25, 151.

¹³⁸Above n 25, 17.

¹³⁹Above n 132, 63.

¹⁴⁰Above n 132, 63.

¹⁴¹Farrell, above n 22, 67.

¹⁴²Above n 2, 84.

Such a small percentage does not necessarily indicate any serious problem with filling out the form. It could equally be put down to slightly greater Maori disillusionment with the political system as informal voting is often a form of protest vote.

2 *Special votes*

The percentage of special votes disallowed to total votes cast has consistently been about 6.5% higher in the Maori electorates than in the General seats. It has averaged about 9% of the total vote. This percentage has decreased slightly over the period analysed. (See Table II in Appendix III).

The percentage of special votes allowed to special votes received in Maori seats was six percent below that of the General seats in the 1981 - 1984 period. However, since then it has on average been only one percent lower, and in 1993 was actually higher, than that in the General seats. (See Table VI below)

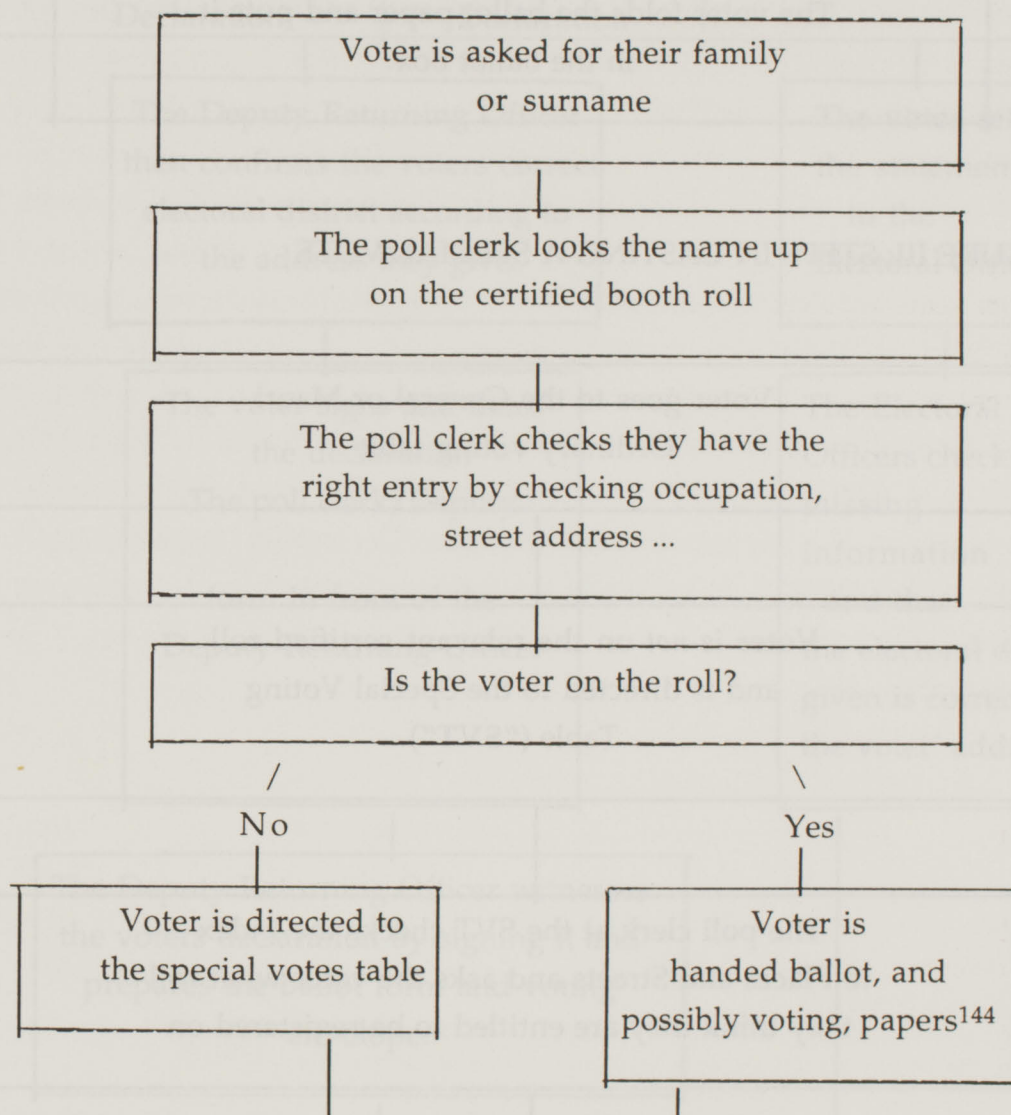
TABLE VI: % SPECIAL VOTES ALLOWED TO SPECIAL VOTES RECEIVED (Source: The Appendices to the Journal of the House of Representatives 1982, 1984 - 85, 1988, 1991, 1993 and 1994 E.9)

Year	Overall	Maori electorates	General electorates
1981	75.9	70.2	76.6
1984	79.5	73.7	80.2
1987	81.5	80.4	81.6
1990	81.5	77.4	82.0
1993	80.6	82.7	80.2
Mean (1981 - 1984)	77.7	72.0	78.4
Mean (1987 - 1993)	81.2	80.2	81.3
Mean (1981 - 1993)	79.8	76.9	80.1

Maori no longer seem to have greater problems in actually casting a special vote.

But special votes *are* more difficult to cast than ordinary votes. The process for casting an ordinary vote is set out in Figure II below. That for casting a special vote is set out in Figure III below.

FIGURE II: STEPS IN CASTING AN ORDINARY VOTE¹⁴³



¹⁴³Adapted from Chief Electoral Office *Handbook - Elections New Zealand*, E3-15000/90/15577 (Government Printer, Wellington, 1990), 18 - 23.

¹⁴⁴The suggested instructions set out in above n 143, 23, are - "Please move behind the next available screen and follow the directions carefully to make your vote. When you have finished voting please fold each paper separately and place them in [the] ballot box ... If you need any more help just come and ask me".

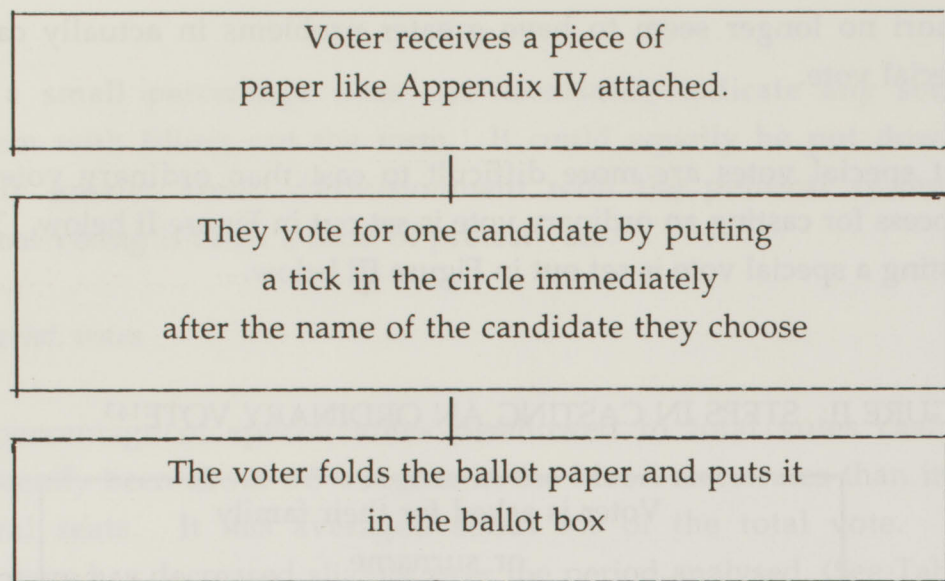
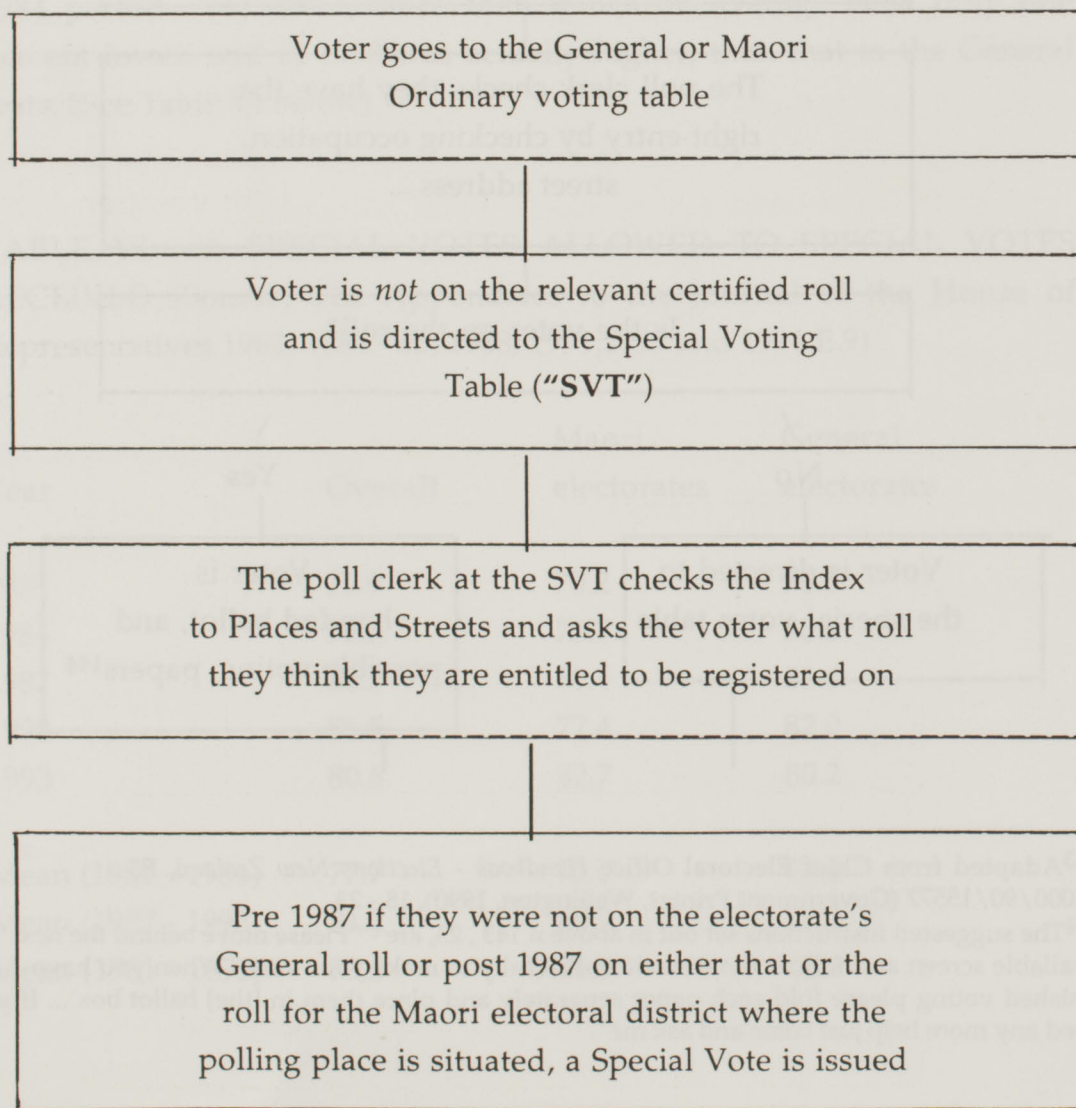
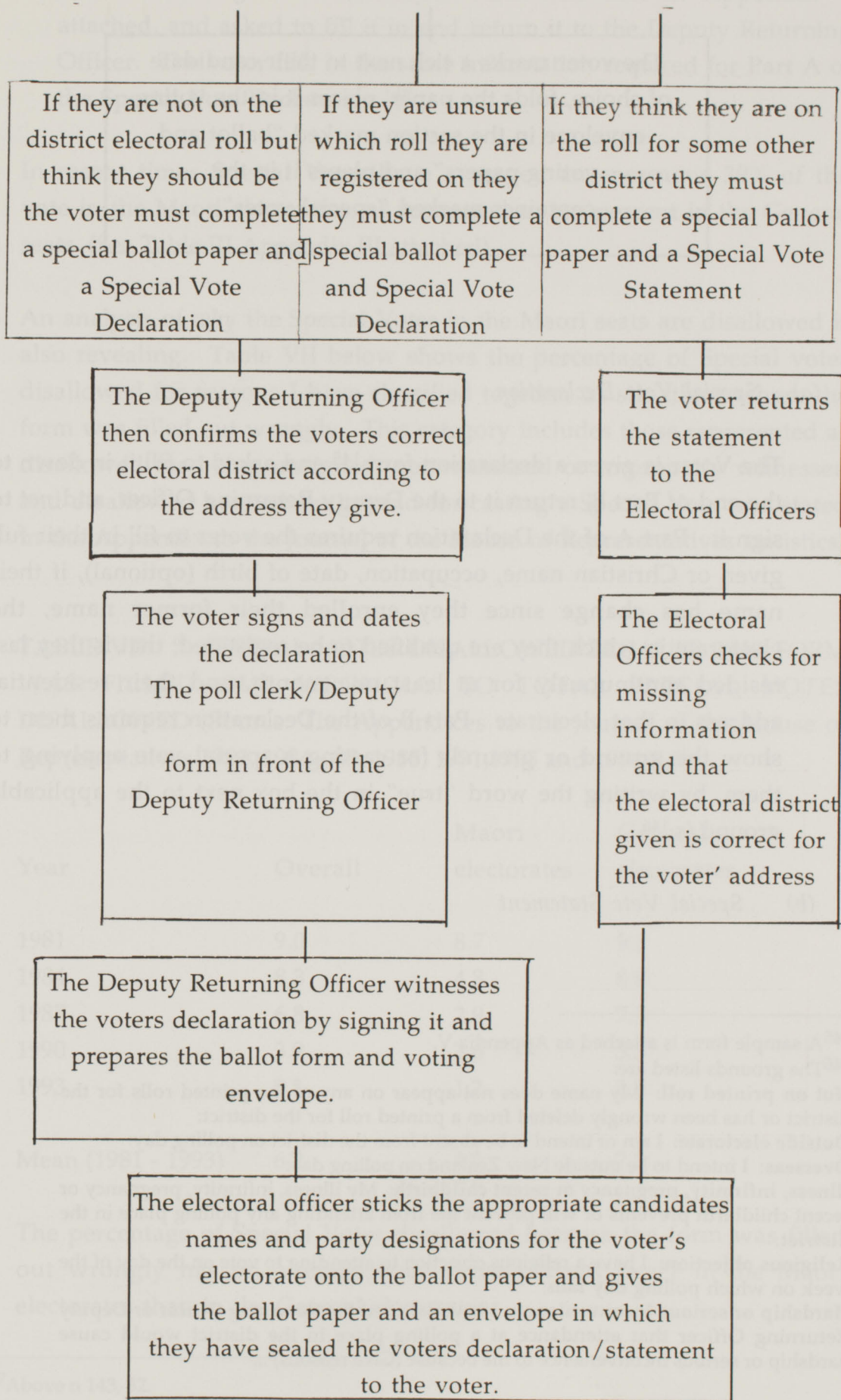


FIGURE III: STEPS IN CASTING A SPECIAL VOTE





The voter marks a tick next to their candidate of choice, folds the paper, places it in the voting envelope in the section marked "ballot and voting papers" and places it in the container marked "special votes".

(a) *Special Vote Declaration*

The Voter is given a declaration form¹⁴⁵ and asked to fill it in down to the end of Part B, return it to the Deputy Returning Officer, and *not* to sign it. Part A of the Declaration requires the voter to fill in their full given or Christian name, occupation, date of birth (optional), if their name has change since they enrolled their former name, the electorate in which they are qualified to be registered, that is they last resided continuously for at least one month, and their residential address in that electorate. Part B of the Declaration requires them to show the ground or grounds for casting a special vote applying to them, by writing the word "true" in the box next to the applicable ground/s.¹⁴⁶

(b) *Special Vote Statement*

¹⁴⁵A sample form is attached as Appendix V.

¹⁴⁶The grounds listed are:

Not on printed roll: My name does not appear on any of the printed rolls for the district or has been wrongly deleted from a printed roll for the district:

Outside electorate: I am or intend to be absent from the district on polling day:

Overseas: I intend to be outside New Zealand on polling day:

Illness, infirmity, pregnancy or recent childbirth: My illness, infirmity, pregnancy or recent childbirth prevents or will prevent me from attending any polling place in the district:

Religious objection: I have a religious objection to attending to vote on the day of the week on which polling day falls:

Hardship or serious inconvenience: I have satisfied the Returning Officer or Deputy Returning Officer that attendance at a polling place in the district would cause hardship or serious inconvenience to me because (Give reasons) ...

The Voter is given a Statement form like that in Appendix V attached, and asked to fill it in and return it to the Deputy Returning Officer. The voter fills in the same information required for Part A of the Special Vote Declaration.¹⁴⁷

In recent times Special Votes have averaged an enormous 39% of the vote in the Maori electorates, as compared to ten percent in the General seats. (See Table III Appendix III attached).

An analysis of *why* the Special Votes in the Maori seats are disallowed is also revealing. Table VII below shows the percentage of Special votes disallowed for reasons I have classified together as situations where the form was filled out wrongly. This category includes those represented as disallowed for being unsigned, not witnessed or improperly witnessed and disallowed because no ground for casting a Special Vote was stated in the Appendix to the Journal of the House of Representatives statistics.

TABLE VII: % SPECIAL VOTES DISALLOWED BECAUSE THE FORM WAS FILLED OUT WRONGLY TO TOTAL SPECIAL VOTES DISALLOWED (Source: The Appendices to the Journal of the House of Representatives 1982, 1984 - 85, 1988, 1991, 1993 and 1994 E.9)

Year	Overall	Maori electorates	General electorates
1981	9.0	8.7	9.1
1984	8.3	4.8	8.9
1987	6.8	2.9	7.3
1990	3.9	3.6	3.3
1993	3.1	1.2	3.3
Mean (1981 - 1993)	6.2	4.2	7.3

The percentage of Special Votes disallowed because the form was filled out wrongly has on average been three percent *lower* in the Maori electorates than in the General electorates.

¹⁴⁷Above n 143, 32.

In contrast the percentage of Special Votes disallowed because the voter was not enrolled to total special Votes disallowed has been three percent higher for the Maori than the General electorates. Notably it has increased nearly ten percent in both types of electorate since 1981. (See Table IV Appendix III attached.)

Perhaps the most important thing to note is that for both types of electorate the voter not being enrolled is the reason for the vast majority of special Votes being disallowed. Maori's problem is not necessarily trouble filling in the form but higher rates of special voting and problems with enrolling/ knowing which electorate they are enrolled in.

3 *Tangata Whenua Votes*

An attempt to redress the situation of high rates of Maori Special Votes, and therefore of the total Maori electorate vote, being disallowed was the introduction of the Tangata Whenua Vote ("TWV") in 1987, "... to enable electors on the Maori roll to vote on election day within their electorate without having to cast a special vote, if ordinary Maori facilities were not provided."^{148 149}

Now, electors who;

- attend in person at a polling place which does not have facilities for ordinary Maori voting; and
 - who's names are shown on the Maori roll for the Maori electorate in which that polling place is situated
- may be issued with a TWV.

The procedure for casting a TWV is set out in Figure IV below

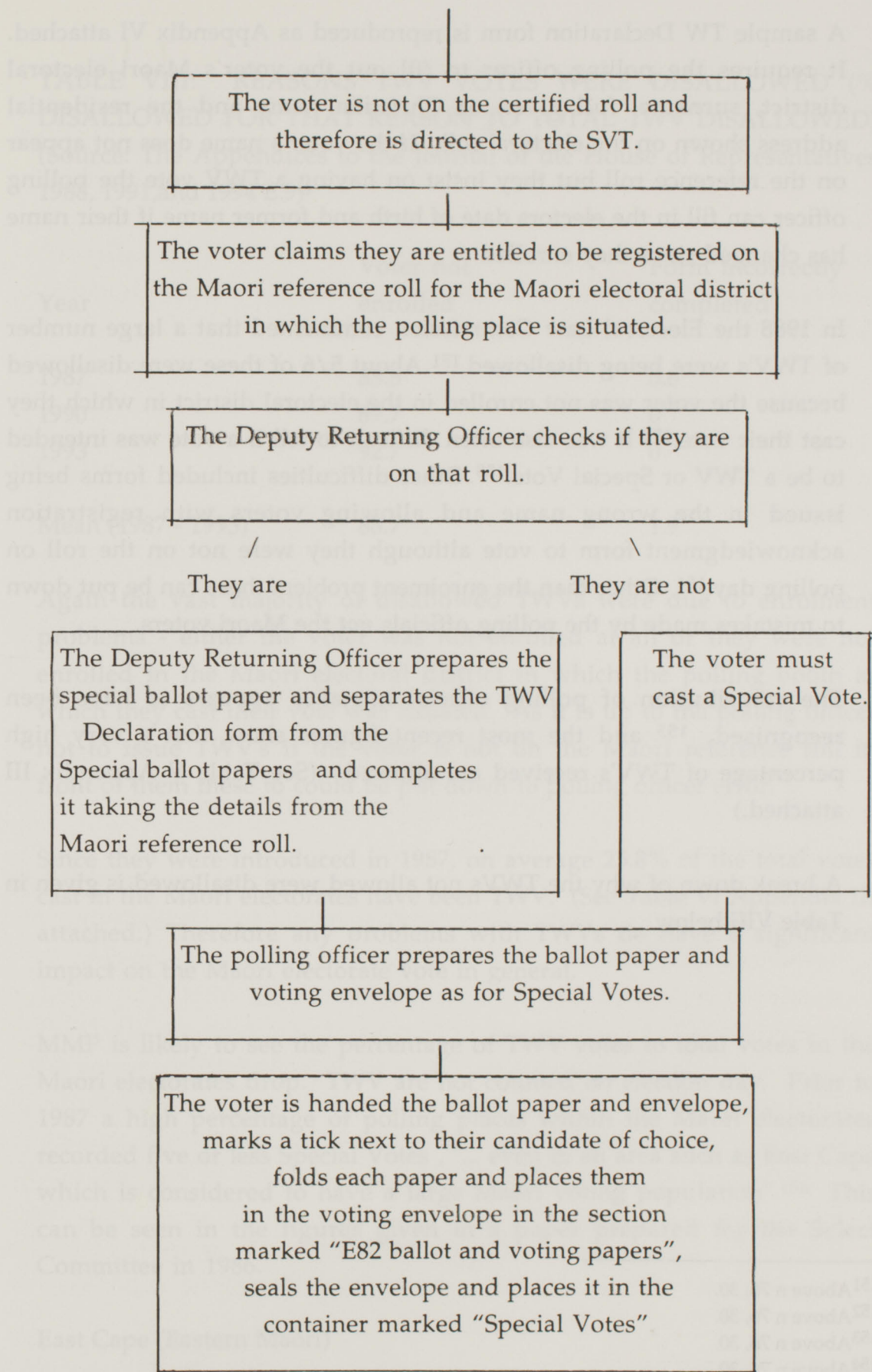
FIGURE IV: PROCEDURE FOR CASTING A TWV¹⁵⁰

Voter goes to a General voting table.

¹⁴⁸Above n 76, 29.

¹⁴⁹Above n 143, 25.

¹⁵⁰Above n 143, 28.



A sample TW Declaration form is reproduced as Appendix VI attached. It requires the polling officer to fill out the voter's Maori electoral district, surname, full given or Christian name and the residential address shown on the electoral roll. If the voter's name does not appear on the reference roll but they insist on having a TWV vote the polling officer can fill in the electors date of birth and former name if their name has changed since they enrolled.

In 1988 the Electoral Law Commission commented that a large number of TWV's were being disallowed.¹⁵¹ About 5/6 of these were disallowed because the voter was not enrolled in the electoral district in which they cast their vote.¹⁵² It was also often difficult to tell if a vote was intended to be a TWV or Special Vote.¹⁵³ Other difficulties included forms being issued in the wrong name and allowing voters with registration acknowledgment form to vote although they were not on the roll on polling day.¹⁵⁴ Other than the enrolment problem these can be put down to mistakes made by the polling officials *not* the Maori voters.

The contribution of polling official mistakes appears to have been recognised,¹⁵⁵ and the most recent figures show that a very high percentage of TWV's received are allowed. (See Table V Appendix III attached.)

A break down of why the TWVs not allowed were disallowed is given in Table VIII below.

¹⁵¹Above n 76, 30.

¹⁵²Above n 76, 30.

¹⁵³Above n 76, 30.

¹⁵⁴Above n 76, 30.

¹⁵⁵In the handbook for polling officials at the 1990 election Brian Clarke, the Chief Electoral Officer, listed as one to the "focus[es] of [the] efforts" for polling officials - "[t]o achieve a nil error rate for TWVs which are handled by election officials". Above n 143, 2.

TABLE VIII: REASONS TWV VOTES WERE DISALLOWED (% DISALLOWED FOR THAT REASON TO TOTAL TWV DISALLOWED) (Source: The Appendices to the Journal of the House of Representatives 1988, 1991, and 1994 E.9)

Year	Voter not enrolled	Form incorrectly completed
1987	83.8	5.6
1990	89.7	0
1993	92.7	0
Mean (1987 - 1993)	88.7	1.9

Again the vast majority of disallowed TWVs were due to enrolment problems - either the voter was not enrolled at all or they were not enrolled in the Maori electoral district in which the polling booth at which they cast their vote was situated. As it is up to the polling officer not to issue TWV's if the voter is not on the Maori reference roll in front of them these to could be put down to polling officer error.

Since they were introduced in 1987, on average 25.8% of the total votes cast in the Maori electorates have been TWV. (See Table VI Appendix III attached.) Therefore any problems with TWVs do have a significant impact on the Maori electorate vote in general.

MMP is likely to see the percentage of TWV votes to total votes in the Maori electorates drop. TWV are not counted on election day. Prior to 1987 a high percentage of polling places within the Maori electorates recorded five or less Special Votes, "... even in an area such as East Cape which is considered to have a large Maori voting population".¹⁵⁶ This can be seen in the figures given in a paper prepared for the Select Committee in 1986.

East Cape (Eastern Maori)

¹⁵⁶Paper prepared for the Select Committee in 1986, cited letter H L Garland, Deputy Chief Electoral Officer to the author, 7 July 1994.

Number of special voting booths within the electorate	76
Number of special voting booths which took five or less Special Votes	24) 47.6%
Number of special voting booths which had a nil return	7)

Rangiora (Southern Maori - Rural Electorate)

Number of special voting booths within the electorate	56
Number of special voting booths which took five or less Special Votes	25) 87.5%
Number of special voting booths which had a nil return	24)

Western Hutt (Southern Maori - Metropolitan Electorate)

Number of special voting booths within the electorate	30
Number of special voting booths which took five or less Special Votes	15) 73.3%
Number of special voting booths which had a nil return	7)

The worry was that " ... with the opening of envelopes on election night it would be a simple matter for polling staff to discover who any voter had cast their vote for".¹⁵⁷ However ¹⁵⁸

... with MMP the party list votes on Part B of the ballot paper will help determine the Government, according to the % of the votes the parties receive. As TWVs will not be counted on election night the preliminary allocation of list seats on election night will not include the TWVs cast for a party.

It is envisaged that "[p]roviding more [Ordinary Maori voting] facilities will overcome this problem to some extent",¹⁵⁹ and the importance of TWVs will, therefore, be lessened.

¹⁵⁷Above n 156.

¹⁵⁸Letter H L Garland, Deputy Chief Electoral Officer to the author, 7 July 1994.

¹⁵⁹Above n 158.

C Problems With Registration On Electoral Rolls And The Maori Option

1 Maori Enrolment

The discussion of Invalid Votes in B above indicates that the major practical problem with Maori participation in the electoral system at least within the Maori electorates is difficulties with enrolling and/or knowing which electorate they are enrolled for.

A lower percentage of Maori register on any electoral roll than nonMaori. For the period 1984 to 1993, on average only 55% of the Maori electoral population were on the Maori master roll. This is compared to an average of 68% of the General electoral population on the General master roll. The Royal Commission believed that 40 000 - 60 000 eligible Maori descendants 18+ were not on any electoral roll.¹⁶⁰

In his submission in the Maori electoral Options claim before the Waitangi Tribunal Brian Easton, a research economist and social statistician, calculated the total Maori population 18 and over eligible to vote at 308 000, while the number of Maori registered on all electoral rolls was only 248 000. This left a "gap" of 60 000 unenrolled Maori.¹⁶¹

Similarly Lloyd Hunt, the business manager of the Electoral Enrolment Centre of New Zealand Post found, in his submission, that as of 19 January 1994 253 252 Maori were registered, while from the 1991 census the highest possible number of Maori eligible to enrol was 316 000, leaving a "gap" of 62 748. But Hunt noted that the 316 000 figure did not take into account deaths and migration since the 1981 census or Maori identified as Maori for census but not electoral purposes and therefore on the General roll but not recorded as *Maori* on the General roll.¹⁶²

¹⁶⁰Above n 2, 97. At that time these people were included in the General electoral population (Above n 76, 29).

¹⁶¹Above n 86, 25.

¹⁶²Above n 86, 25.

Statistics New Zealand submitted that the highest number of unenrolled eligible voters was about 60 000.¹⁶³

The Tribunal held "... it would be reasonable to assume it is not less than 50 000 and may be higher".¹⁶⁴

A large part of the problem appears to have been the need for Maori to reenrol after each census. Maori do not return roll revision cards as much as nonMaori.

In 1990 about 70% of Maori electorate voters returned their roll revision card, whereas the lowest General electorate levels were Auckland Central (79.84%), Eden (83.18%), Island Bay (81.54%), Mangere (77.97%), Mount Albert (82.78%), Onehunga (84.94%), Otara (83.4%), Papatoetoe (84.52%) and Porirua (84.19%). More than 95% of voters from Ashburton and Wallace returned their cards.¹⁶⁵ Seventy eight point one four percent of Maori responded to the 1993 roll revision.¹⁶⁶

Penman claims this phenomenon is due to Maori failure to complete registration cards correctly, exacerbated by the fact that the Maori electorates remained virtually unchanged after each electoral boundary revision.¹⁶⁷

It has also been attributed to Maori electorates being safe seats, making enrolment appear pointless. However, the new political climate in which Maori voter turnout has increased and there is, at least in some quarters a feeling that Maori are about to have more opportunity to for electoral power, voter registration levels do not appear to have increased.

2 *The Maori Electoral Option*

The process by which the Maori Option takes place and its potential for impacting upon the number of Maori seats under the MMP system has been discussed in Part III C 2 above.

¹⁶³Above n 86, 25.

¹⁶⁴Above n 86, 25.

¹⁶⁵"New Zealand Electoral Roll On Display", *New Zealand Herald*, Auckland, New Zealand, 13 June 1990, 14.

¹⁶⁶L Hunt submission to the Waitangi Tribunal, above n 86, 25.

¹⁶⁷Above n 25, 11.

Maori have always encountered problems in participating in Maori Option periods. Many simply do not participate or have any idea that it is occurring or what its implications are.

These problems have dogged the Maori option since its inception in 1975 when an estimated 50 000 people did not return their electoral registration cards in 1976 so that the Chief Electoral Officer decided that where none had been received the person's pre 1976 electoral registration would be carried forward.

This decision led to the Hunua Election Petition case.¹⁶⁸ Many of the voters in the 1978 General Election and wished to vote in General electorates had by default been left on the Maori roll. One of the candidates in the seat of Hunua, Winston Raymond Peters, filed an electoral petition in the Supreme Court claiming, *inter alia*, that the Returning Officer had counted as valid votes cast by electors already enrolled in a Maori electoral district and, therefore, unable to be lawfully registered as electors in Hunua.

In the end the court held, *inter alia*

(1) That the registration of electors for whom no election registration cards had been received at the 1976 census and who prior to the 1975 amendment had been required to be enrolled in a Maori electoral district had not been validly carried forward for the purposes of the 1978 General Election:¹⁶⁹ and

(2) That Maori who had been on a Maori electoral roll before 1975 and who had not exercised their option at census time but who registered for the Hunua electorate in 1978 were exercising for the first time a valid election as to which roll they wished to be enrolled upon and were, therefore, validly registered as electors of the Hunua district.¹⁷⁰

Conversely Penman notes that "[i]n the 1980 Northern Maori by-election many Maori voters cast votes despite enrolling in General electorates in

¹⁶⁸ *Re Hunua Election Petition* [1979] 1 NZLR 251.

¹⁶⁹ Above n 168, 268.

¹⁷⁰ Above n 168, 268.

1976. Consequently of the 2885 special votes cast only 456 were allowed".¹⁷¹

As the number of Maori seats now depends on the proportion of the electoral population electing to go on the Maori roll, hence, on how Maori exercise their Electoral Option. Therefore, the importance of the exercise of this option has greatly increased and many new and complex issues have been imported into the Option election, which many New Zealanders, Maori and nonMaori, do not understand and have no accessible information on.

This has meant that the traditional problems with the Maori option have been exacerbated and on top of this the first post electoral referendum Maori Option was called very quickly after the General Election. On 22 December 1993 the Minister of Justice Doug Graham published a Maori Option notice in the Gazette pursuant to sections 77(2) and 269(2) of the Act. This notice declared a two month period from 15 February 1994 to 14 April 1994 in which New Zealand Maori¹⁷² could exercise the option. This was very close to Christmas and New Year. Because of this a national hui was called at Turangawaewae to discuss the upcoming option did not meet until 14 January 1994.¹⁷³

3 Problems in communicating political information to Maori

The submission of the claimants in the Maori Electoral Option claim to the Waitangi Tribunal was that a lot of the problems surrounding the Maori Option could be countered if Maori had access to sufficient resources to run appropriate information and education campaigns to reach Maori. ¹⁷⁴ The Tribunal seems to have accepted this, as, although it is not explicitly stated, they clearly assume that without an appropriate Maori Option information and education campaign Maori would not be sufficiently informed to participate effectively in the Option.

¹⁷¹Above n 25, 11.

¹⁷²The definition of "Maori" in subs 3(1) of the Act is "... a person of the Maori race of New Zealand; and includes any descendant of such a person", above n 29.

¹⁷³Above n 86.

¹⁷⁴Above n 86. Several of the affidavits in support of this submission imply that problems with low Maori registration could be countered in the same way.

The claimants argued that the information campaign funded by the Crown did not use sufficient appropriate media for Maori to be effective. Various petitions were presented during the hearing commenting on the problems Maori have in accessing political information, and appropriate ways of supplying that information to them, to support this claim. The submission of Edward Douglas on the *Special Problems of Contacting and Re enrolling Maori Voters in the Auckland Urban Area*, analysed the makeup and structure of the Auckland Maori population.¹⁷⁵ Douglas identified several problems with the dissemination of information among this population.

Among these were the fact that Maori households "... are very fluid and their composition is quick to change".^{176 177}

Were it necessary to rely on postal notification alone, the very fluid nature of Maori domestic arrangements will lead to a high proportion of Maori voter registrations being returned or lost in the mail.

On a per capita basis Maori incomes are half those of Pakeha.¹⁷⁸ This means that¹⁷⁹

[a] great deal of time and effort must go into keeping the household supplied with the basic necessities of survival, viz food, shelter and protection from external harm. Under such a marginalised and precarious existence civil rights and the responsible exercise of the franchise take a back seat.

About one third of Maori households are solo parent and therefore suffer the resultant isolation. This is often combined with a lack of telephones and a low level of functional literacy so that "... contact must be made on a face to face basis or through the mass electronic media".¹⁸⁰

¹⁷⁵E M Douglas Submission to the Waitangi Tribunal, Maori Electoral Option Claim - Wai 413, (Wellington, 1994) 7 WTR 1994.

¹⁷⁶Above n175, 12.

¹⁷⁷Above n175, 13.

¹⁷⁸Above n175, 4.

¹⁷⁹Above n175, 5.

¹⁸⁰above n175, 5.

In urban Auckland the Maori community lacks cohesion. There are few kaumatua to give leadership,¹⁸¹ there is a lack of tribal structures and thus a lack of comprehensive knowledge of how individual Maori live and, therefore, can be contacted.¹⁸² In the 1991 census 144 000 Maori could not name their tribe. Douglas estimates at least 30 000 of these tribeless Maori live in Auckland. "It is highly unlikely that any tribal based communications system will be able to make contact with these people".¹⁸³ To this 30 000 should probably be added other Maori who have little regular contact with their tribal home.¹⁸⁴

Rural Maori generally have comprehensive tribal and kinship networks but also face serious communications problems. In his submission Lou Tangaere states that in the remote rural area of Tairawhiti ¹⁸⁵

[m]ost families do not own telephones nor do they own motor transport. The nearest Post office where [he] live[s] is 50 minutes drive away. Most of [the inhabitants] are serviced by rural delivery mail which is infrequent and often unreliable ... In the winter when the rivers flood it is unreachable. Several Post Offices have been closed in the Tairawhiti so travel to return a postal response is not likely to happen because of the expense. ... Seventy to 80 percent [of the population] are unemployed, on benefits or work schemes and receive barely enough to manage. It is difficult to get them to hui let alone to the Post Office to post something back to Parliament.

From all of this he concludes that "... simply sending out a letter or written booklet will be inadequate and unworkable as a means of informing Maori of the Tairawhiti ".¹⁸⁶

Of a similar tenor was George Matua Evans' submission on communications on the rural East Coast. The TV reception is poor as is the average level of literacy.¹⁸⁷

¹⁸¹Above n175, 9.

¹⁸²Above n175, 10.

¹⁸³Above n175, 12.

¹⁸⁴Above n175, 12.

¹⁸⁵L Tangaere, Submission to the Waitangi Tribunal, *Maori Electoral Option Report - Wai 413* (Brooker & Friend Limited, Wellington, 1994), 7 WTR, 1994, 1.

¹⁸⁶Above n 185.

¹⁸⁷Cited above n 86, 29.

The thrust of these submissions is summarised in the penultimate paragraph of Edward Douglas' submission¹⁸⁸

How can the Crown ensure that voter registration and re enrolment forms are completed and returned promptly to the electoral roll centre if the Crown fails to recognise and remember that Maori have a different cultural, social organisation and belief system from Pakeha. To treat Maori voters merely as if they were the same as Pakeha voters fails to meet the Crown's obligations. Just as the enrolment procedures for Pakeha electors have been designed for Pakeha within their cultural context, enrolment procedures for Maori electors should be designed from Maori with their distinct values and their particular social and economic circumstances clearly in mind.

Conventional methods such as radio and TV advertisements in the general media and mail drops do not reach a large percentage of Maori.¹⁸⁹

Ripeka Evans outlines an example where this was not done in her submission to the Tribunal. Whereas a nationwide public health information campaign achieved widespread success among nonMaori in lowering the cot death or Sudden Infant Death Syndrome ("SIDS") rate, it did not impact at all significantly upon the Maori population when the Maori SIDS rate is three times that of the nonMaori population.¹⁹⁰ Evans identifies five reasons why the campaign failed among Maori¹⁹¹

- (1) the failure of key messages and informants to appeal to Maori as they were not Maori;
- (2) the domination of the delivery of messages in print form;
- (3) a capture and spread of resources in key sectors to support existing structures which prop up the high death rate amongst Maori.
- (4) the absence of a combined Maori mass media campaign coupled with "face to face" service delivery campaign; and

¹⁸⁸ Above n 175.

¹⁸⁹ Above n 86, 20.

¹⁹⁰ R Evans, Submission to the Waitangi Tribunal, Maori Electoral Option Claim - Wai 413, (Wellington, 1994) 7 WTR 1994. 3.

¹⁹¹ Above n 190.

(5) the absence of Maori role models, opinion leaders and principals in the formulation, design and delivery of a campaign matched to Maori psychograph[sic] demands.

The consensus of the submissions presented by the claimants, and the Tribunal's finding, was Evans' point four above.¹⁹²

... the measures required to inform and educate Maori on the Maori electoral Option to facilitate both enrolment and effective participation fall into two broad categories

- (a) the traditional Maori face to face communication and instruction; and
- (b) certain conventional methods of mass communications targeted to a specific audience in this case Maori electors both potential and actual.

Traditional Maori face to face communication is known as *kanohi ki te kanohi*. The need for it was particularly stressed by the submitters from rural areas, Lou Tangaere stating¹⁹³

[i]f communications are to be successful and effective in the region where I live then acknowledgment must be made of the way Maori prefer to discuss serious issues face to face (*kanohi ki te kanohi*). This approach is critical for people who learn by listening and not reading.

The method showed considerable success when used in a trial Electoral Enrolment Office project for stimulating enrolment in the Elsdon/Titahi Bay area by using an approach based on "... Maori infrastructures and networks at whanau, hapu and iwi level", employing a team of young Maori.¹⁹⁴ The two week field trial produced 2018 enrolments of which 1323 were Maori at a cost of \$28.81 per enrolment.¹⁹⁵

¹⁹²Above n 86, 31.

¹⁹³ L Tangaere, Submission to the Waitangi Tribunal, Maori Electoral Option Claim - Wai 413, (Wellington, 1994) 7 WTR 1994., 2. Similarly G Evans, Submission to the Waitangi Tribunal, Maori Electoral Option Claim - Wai 413, (Wellington, 1994) 7 WTR 1994., 29.

¹⁹⁴Above n 86, 20.

¹⁹⁵Above n 86, 21.

Similarly Maanu Paul claims in his submission that "[a]s a presenter of MMP v FPP the face to face - kanohi ki te kanohi methodology was crucial to the success of the campaign".¹⁹⁶

The claimants submitted and the Tribunal held that kanohi ki te kanohi was not adequately funded in the Maori Electoral Option information campaign- the few hui and stalls in urban shopping malls affordable would only reach a few Maori electors.¹⁹⁷ Although the Tribunal did accept that it would be necessary and expected that a significant amount of voluntary labour would be used in any kanohi ki te kanohi campaign.¹⁹⁸

The Tribunal also recommended that the targeted mass media be TV not radio - as radio lacks the "coverage and impact" of TV.¹⁹⁹ By listing in full Evans, findings on the reasons for the failure of the SIDS information campaign among Maori the Tribunal appears to implicitly support them.

On the claimants submission that the Crown funding was insufficient to meet its obligation to protect Maoris right to political representation, the Tribunal found that in relation to the 1994 Maori Option information campaign the Crown spent Therefore, a total of \$220 663.²⁰⁰ Breaking this down the Crown had given \$581 000 to the New Zealand Post Office, including \$431 000 to be spent on direct mailing to each registered elector of Maori descent, and \$150000 which the Post Office gave to INCO Services to present information to Maori on what the Option meant, when and how it could be exercised. The Crown gave a further \$23 663 to New Zealand Post to cover 1200 copies of an information booklet for use at hui by Maori leaders, and approximately \$47 000 to Te Puni Kokiri (The Department of Maori Development) to finance ten officers seconded from the Department to act as kaiwhakarite (liaison officers).

The Tribunal held that this was not enough. It had decided that to be effective any Maori Option information campaign had to involve a

¹⁹⁶ M Paul, Submission to the Waitangi Tribunal, Maori Electoral Option Claim - Wai 413, (Wellington, 1994) 7 WTR 1994., 3.

¹⁹⁷ Above n 86, 31.

¹⁹⁸ Above n 86, 35.

¹⁹⁹ Above n 86, 32.

²⁰⁰ Above n 86, 32.

significant kanohi ki te kanohi component and targeted TV time, this, it said, would cost at least \$320 066.38 more than the funding allowed.²⁰¹

This, the Tribunal declared, was not over generous. Brian Scott, Public Relations consultant for Network Communicators estimated an information campaign including such TV time would cost \$1 308 000, and Susanne Wood a Wellington Communications consultant, whose estimate included very little kanohi ki te kanohi, stated that the Crown needed to spend at least \$381 500 more.²⁰² Finally, the Tribunal said, this extra amount required is nothing when we keep in mind the \$47 000 000 the Crown spent on the 1993/1994 electoral cycle.²⁰³

The basic premise behind the Tribunal's findings was that "[i]t would be a tragedy for Maori and the country if, through lack of adequate funding [Maori's] enhanced [political representation] rights prove ineffective", and if the appropriate double pronged information campaign was not adequately funded '... the new political rights will not be effectively implemented and Maori will be prejudicially affected'.²⁰⁴

This is in stark contrast to the attitude exemplified in the an Evening Post Editorial of 21 January 1994 which declared that "[m]ost [Maori] have enough intellect and independence to make up their own minds without expensive campaigns promoted by those with their own agendas".²⁰⁵ However this debate was not an issue at the hearing, *the Crown acknowledged the need for government funding to overcome the special needs and problems associated with the current level of involvement by Maori in the electoral system.*²⁰⁶

4 Result of the 1994 Maori Option

The result of the 1994 Maori Option was that 32 000 Maori switched to the Maori electoral roll, therefore, the number of Maori seats has risen to five. The shift was 8000 electors off a sixth seat. Maori campaigners hoped "... that [they] just might be close enough that they [would] give

²⁰¹Above n 86, 32.

²⁰²Above n 86, 32.

²⁰³Above n 86, 33.

²⁰⁴Above n 86, 35.

²⁰⁵ *The Evening Post*, Wellington, New Zealand, 21 January 1994, 2.

²⁰⁶Above n 86, 17.

[them] the sixth seat anyway",²⁰⁷ but the Electoral Office felt compelled to comply strictly with the Act.

Maori organisations filed in the High Court for a two month extension to the option period, attacking the Government's handling of the option claiming that some groups missed out on information they were legally entitled to receive.²⁰⁸ In particular Maori campaigners had to go to the Ombudsman to get official figures on the progress of the option. They claimed that once this information was released "... about 1000 Maori a day had added their names to the Maori roll".²⁰⁹

D The Need For Maori MPs

Condition (a) of the Electoral Commission's "principles of *Maori* representation"²¹⁰ is that Maori interests should be represented in Parliament by Maori MPs. Interrelated with this is the Commission's condition (e) that *candidate* selection procedures of the political parties should be organised in such a way as to permit the Maori people a voice in the decision of who political candidates are to be. The same arguments apply to this condition as to condition (a).²¹¹

While a willing and informed majority MP could be an effective MP for their minority constituents, it is important the members of minority communities are directly involved in the decisionmaking so that the views of at least some section of the minority are directly expressed rather than majority decisionmakers deciding what it is that a minority want, or, worse, what they should want.

The important issue in the long run is not how many [minority] MPs there are but how many MPs will tangible support Maori interests. Recent decades have proven the presence of Maori MPs does not guarantee adequate attention

²⁰⁷K Scherer "Maori Groups Ask for More Time" *The Evening Post*, Wellington, New Zealand, 14 April 1994.

²⁰⁸Scherer, above n 207.

²⁰⁹Scherer, above 207.

²¹⁰Above n 2, 87, my emphasis.

²¹¹See Part II A above.

to Maori interests. But the absence of them virtually ensures increased alienation for Maori.²¹²

The Labour Maori MPs claim that²¹³

[t]he greater the number of Maori MPs the greater their influence on the vote. Furthermore, irrespective of political party, the Maori MPs will be more likely to support any measure that is of great importance and obvious benefit to Maori.

O'Connor argues that it "... may be important for the representation of minorities to be ... visible".²¹⁴

The Royal Commission talked of many electors feeling uncomfortable consulting an MP of a different gender, ethnic origin, age or value system from their own,²¹⁵ and their belief that a balance between the Soc-economic and cultural concerns of Maori cannot be satisfactorily achieved "... unless the special rights and interests of the Maori people are effectively represented in the determination of public policy by representatives who are also members of the Maori community".²¹⁶

On the television programme *Marae*, 19 June 1994, Donna Awatere argued that Maori should get into Parliament. She didn't care which party they belonged to, they should just get in and create and environment for change.

If it is accepted that Maori MPs are needed for Maori to have true political power then how can it be ensured that we have sufficient Maori MPs? Before the details of the MMP system which would go to the 1993 electoral referendum were worked out there was concern that there was "...no guarantee that any of the parties would ensure that Maori were put up as candidates in either the constituencies or party list."²¹⁷

²¹²Farrell, above n 22, 67.

²¹³Form letter to the author,.

²¹⁴Above n 45, 178.

²¹⁵Above n 2, 21.

²¹⁶Above n 2, 87.

²¹⁷D Mackenzie "Maori options vexed Question" *Otago Daily Times*, Dunedin, New Zealand, 1 August 1992, 19.

The Royal Commission noted that "[p]olitical parties clearly have a responsibility to ensure that Parliament reflects the diversity in society and that women and ethnic minorities in particular are adequately represented".²¹⁸ But they commented ²¹⁹

... the parties function in this respect is likely to be impaired unless women and minority groups can be encouraged in sufficient numbers to take positions of responsibility within the parties organisation.

A 1985 survey of the European Parliament found that the number of women holding important party posts had a very strong bearing on the number of women selected as candidates and eventually elected.²²⁰

For the last two elections New Zealand has delivered six Maori MPs into Parliament. In 1990 those MPs were Whetu Tirikatene-Sullivan, Koro Wetere, Peter Tapsell and Bruce Gregory, the Labour MPs in the four Maori electorate seats, and two National MPs in General seats - Winston Peters in Tauranga and Ian Peters in Tongariro. In 1993 Tirikatene-Sullivan, Wetere and Tapsell were reelected. Winston Peters was also reelected but this time as a candidate for his newly formed New Zealand First Party. Tau Henare broke the Labour stranglehold on the Maori electorate seats by winning Northern Maori for New Zealand First, and Sandra Lee was elected as the first Maori woman MP in a General seat in Auckland Central as a Mana Motuhake member of the Alliance.

Derek Fox also identifies two National MPs with some Maori heritage - Clem Simich and Ross Meurant. However, according to Fox "... judging by their behaviour so far their whakapapa isn't translating into any kaupapa Maori".²²¹ Instead he sees greater possibilities for "fresh insight into and sympathy for, Maori issues within the new Parliament" in "...newcomers such as Phillip Field, the Samoan who won Otara and Pauline Gardiner ([Wellington-]Karori), a Pakeha formerly married to Wira Gardiner who heads Te Puni Kokiri."²²²

²¹⁸Above n 2, 239.

²¹⁹Above n 2, 239.

²²⁰Above n 2, 239.

²²¹Above n 106, 40.

²²²Above n 106, 40.

The Commission found two measures to be essential if Maori's chances of candidacy were to be enhanced.²²³

- (1) Parties must actively recruit members from these groups and encourage them into taking party posts - which might require changing rules and attitudes: and
- (2) The minorities must themselves see the value of active party membership.

The new MMP environment, particularly the need to develop rules to select candidates for the party lists, has caused all the major parties to review their candidate selection procedures. In an effort to woo the Maori vote, now perceived as there for the taking, various options to foster an impression of supporting Maori candidacy have become important considerations in this process.

On April 13 1994 Labour announced that they would *not* attempt to do this by having women and ethnic minority candidate quotas, although the debate seems to have continued in the party beyond that date. Labour Party President Maryan Street explained that the party members did not want quotas, "[t]hey want affirmative action rather than quotas but they want strong guidelines to make sure the list is fully representative".²²⁴ The Labour Party established an MMP Working Party which reported in May 1994. It recommended that it be mandatory for the final ranked list to contain an ethnic as well as gender and geographic balance, and for members from each of the Sector Councils - *Maori*, Pacific Island, Women and Trade Union to be included in establishing the list. However, final decisions on Labour's candidate selection rules will not be made until its annual conference in November.

The Alliance's selection priorities prior to the 1993 election were²²⁵

[a] balance of candidates between parties matching candidates most suited to particular electorates (ie [they] had a candidate from the Polynesian

²²³Above n 2, 239.

²²⁴B Edwards "Labour rejects idea of MMP quotas" *The Evening Post*, Wellington, New Zealand, 13 April 1994, 2.

²²⁵R Steward, Office Manager, Auckland Regional Office, Alliance, letter to the author, 3 June 1994.

community who stood in Otara) [and] allowing for local decisionmaking as much as possible.

Each Party used their own selection methods for the candidates they put forward to the "candidates pool" at the electorate level. "Mana Motuhake is one of the partners of the Alliance, so they are assured of representation. Selection of people from other ethnic minorities is likely to depend upon their participation at party level". However in June the Alliance was still in the process of deciding how candidates will be selected under the new MMP system.²²⁶

In *Peters v Collinge* Fisher J held that a party member's rights in relation to the procedures to be followed by the party were to be found in the express or implied terms of his contract with other members of the party.²²⁷ Therefore arguably, if the party rules include a requirement for an ethnic balance in candidate selection, significant ethnic minorities in a party will have a right to have their ethnic minority fairly reflected in the candidates chosen. Furthermore as Fisher held that the jurisdiction to judicially review unincorporated societies such as political parties is to be found in this contract,²²⁸ this right may well be subject to judicial review.

E Maori Political Parties

Other commentators claim that more Maori MPs are not enough and that separate Maori parties are needed to give Maori effective representation. This is because "... [i]n lieu of a Maori political party, Maori are dependent upon the goodwill of the majority parties for adequate representation".²²⁹ A separate Maori party could "... most easily capitalise on a small number of seats to exert considerable influence whereas the Maori MPs [in the major parties] are constrained by party

²²⁶Above n 225.

²²⁷*Peters v Collinge* [1993] 2 NZLR 554, 566.

²²⁸Above n 227.

²²⁹Farrell, above n 22, 52.

loyalty".²³⁰ As Walsh states, if New Zealand had one Maori party and its "... parliamentary representation mirrors its 12% of the population..." it could be a major player in New Zealand politics.²³¹

Others, such as Henare and Harris, discuss separate Maori parties simply because "[i]t is inevitable that MMP will ... spawn a range of issue specific parties..." as existing political factions realign ²³². This is because although highly unlikely to secure an electorate seat, such interest group parties could surmount the five percent MMP threshold and get a list seat. ²³³ One of these "natural constituencies" which would, and as we shall see has, emerged is and exclusively and consciously Maori party.²³⁴ These commentators make no judgment as to whether such a party will be of benefit to Maori or not.

The Royal Commission estimated that a Maori party would need to get about 25 000 votes to win at least one of the 60 "list seats", assuming a turnout of two million voters. In 1990, when there was an election turnout of 1.82 million voters, the only Maori party, Mana Motuhake, received 10 869 votes, despite having agreed with the New Labour Party only to stand candidates in the Maori seats.²³⁵ In 1993 Cox claimed that on Mana Motuhake's "current performance" they should be guaranteed a seat under a proportional representation system. But, in August 1993, Matiu Rata, the Mana Motuhake party leader, declared that the five percent threshold gave the party "... an impossible task". He claimed that unless the party won one or more of the four Maori seats retained " ... it would have to win around 100 000 votes before qualifying for seats selected for party lists under a proportional voting system. Where are we going to get 100 000 votes from".²³⁶ On simple mathematics if the expected voter turnout is approximately two million five percent is about 100 000. Cox was perhaps over confident, or possibly at the time he

²³⁰Farrell, above n 22, 51.

²³¹M Walsh "New Zealand's Pain Will be out of all Proportion to Gain" *Age*, Melbourne, Australia, 9 November 1993, 40.

²³²Above n 36, 11.

²³³This was one of the positive points the Royal Commission saw in MMP for minority groups. "under MMP, a group would be able to put up its own candidates in constituencies, or, by registering as party, run its own list". (Above n 2, 51).

²³⁴S Harris cited S Burrell "And the Wimps May Win" *Australian Financial Review*, 5 November 1993, 19.

²³⁵Above n 67, 5.

²³⁶Above 88, 9.

wrote it was still expected the threshold would be waived for Maori parties as recommended by the Royal Commission.

In the unlikely theory outlined by Fox above it was argued that if the maximum possible Maori roll of 290 000 supported just one party they could vote in nearly a dozen Maori MPs, which would be "a force that couldn't be ignored. It might easily hold the balance of power".²³⁷ However Fox makes the eminently reasonable statement that Maori²³⁸

... like their nonMaori counterparts, [will] spread their support among the whole range of parties from the totally serious to the seriously dingbat. It may be frustrating and senseless but then that's politics.

1 Maori parties - past

The idea of an exclusively Maori political party is not new.

The Ratana Church essentially established a political party of sorts when T W Ratana's son Tokouru stood as the first Ratana candidate in the 1922 election. In 1928 the Mangai vowed to take all four Maori electorates - the four winds. The first Ratana candidate to take a seat was Eruera Tihema Tirikatene, who took Southern Maori in the 1932 by-election. The last Maori seat to fall to a Ratana candidate was Eastern Maori, which was taken by Tiaki Omana in 1943. By that time the Ratana candidates were firmly aligned with the Labour party. This was largely due to complementary aims in assisting the working class and morehu (landless Maori).

Cox provides a Table showing the hold of Ratana candidates on the seats from 1932 until just before the 1993 General Election when Northern Maori was won by Tau Henare for New Zealand First.²³⁹ This is reproduced as Table IX below.

²³⁷Above n 106, 41.

²³⁸Above n 106, 41.

²³⁹Above n 8, 125.

TABLE IX: NGA KOATA E WHA, A SUMMARY OF THE RATANA HOLD IN MAORI ELECTORATES (The three members in italics were not of the Ratana faith).

Southern Maori	Western Maori	Northern Maori	Eastern Maori
Hon Eruera T Tirikatene 1932 - 1967 (d)	H Tokouru Ratana 1935 - 1944 (d)	Hon Paraire K Paieka 1938 - 1943 (d)	Tiaki Omana 1943 - 63 (d) <i>Steve Watene</i> 1963 - 1967 (d) (m)
Hon T Whetu M Tirikatene - Sullivan (Brownie) 1967 - present	Matiu Ratana 1945 - 1949 (d) Mrs Iriaka Ratana 1949 - 1968 (r)	T P Paieka 1943 - 1963 (d) Hon Matiu Rata 1963 - 1980 (r)	Paraoane Reweti 1967 - 1981 (d) <i>Hon Peter W Tapsell</i> 1981 - present (a)
	Hon Koro Wetere 1969 - present	<i>Bruce Gregory</i> 1980 - [1993] (a)	

(d) - died in office (r) - resigned (m) - Mormon (a) - Anglican

2 Maori parties - present

The Mana Motuhake Party was formed in the late 1970's under Amster Reedy of Ngati Porou. In November 1979, Matiu Rata, who had held Northern Maori for 17 years as a Ratana/Labour candidate, and Minister of Maori Affairs since 1972, resigned from the Labour Party and then Northern Maori. He contested the by-election as an independent but lost to Labour's Bruce Gregory - receiving only 38% of the vote and coming within 1000 votes of breaking the Ratana/Labour stranglehold.²⁴⁰ Matiu Rata is the current Mana Motuhake leader.

3 Maori parties - future

²⁴⁰Above n 8, 135.

Influential members of the New Zealand Maori Council have been involved in establishing a new Maori party to be known as the Aotearoa Party. According to Sir Graham Latimer it is to be formed because "... really the other parties are not offering anything at the present moment".²⁴¹ "The Aotearoa Party is an area where we must look if we are to influence government".²⁴² Groups which have been approached in discussions on the new party include the older conservative Maori associations - the Maori Women's Welfare League and the Maori Congress."²⁴³

Another possible Maori party which has been suggested is one developing from the base of the two New Zealand First MPs, both of whom are Maori - Winston Peters and Tau Henare.

Colin James has commented that²⁴⁴

... Peters has fetched up with a fascinatingly split support base that encompasses both the makings of a Maori party - Tau Henare, the second places in the other two Maori seats his party stood in, the Maori candidates in General seats and endorsements from sections of Maoridom - and of an anti-Maori party - the moral and civil conservatism of the lower middle class and elderly who form most of his European support.

Fox has noted the "different political path" travelled by Tau Henare to that of his leader - "... so a minor fascination over the next three years will be seeing how the two of them get along".²⁴⁵

It is predicted that the agenda of any Maori party will be "... dominated by concerns about unemployment and claims covering land and resources. Each of [which] policy areas raises issues that can frighten financial markets".²⁴⁶

²⁴¹Reuters Business Briefing, "New New Zealand Maori Party Likely Says Latimer", 18 May 1994.

²⁴²Above n 241.

²⁴³Above n 241.

²⁴⁴C James "Year for Intellectual Contests and Ol Fashioned Politics", 21 January 1994, Reuters Business Briefing.

²⁴⁵Above n 106, 40.

²⁴⁶Above n 231, 40.

There has also been speculation as to exactly how a Maori party will fit into the New Zealand political scene in terms of any possible alliances. Harris predicts it could form part of a loose alliance with a social democrat centre party and the Greens.²⁴⁷ While Prime Minister Jim Bolger has indicated that he "„would certainly welcome a Maori party as a coalition partner".²⁴⁸

VI CONCLUSION

The Crown has admitted and the Waitangi Tribunal has ruled that the Maori people have a right to political representation which the Crown must protect. In the past Maori political representation has not been adequate due to the number of Maori seats being limited to four, various procedural problems Maori have faced in casting their vote and the fact that the Maori seats have been considered safely Labour and therefore not worth bothering about in political terms.

The MMP system, as introduced by the Electoral Act 1993 and the Referenda of 1992 and 1993, will not magically transform the historical problems of Maori political representation. It will allow political parties to reconsider the previously accepted truth that Maori votes are safe Labour votes and the need to develop rules for selecting party list candidates has already caused parties to reconsider their candidate selection procedures. Finally, MMP has rekindled interest in separate Maori political parties - though what their ultimate place will be in the new New Zealand is as yet undetermined.

However, except perhaps as creating some hope for change, MMP itself cannot address the fundamental practical problems inhibiting Maori participation in the electoral system - the failure to get sufficient appropriate information to Maori for them to know how and when to enrol, the implications of not doing so, the implications of the exercise of their Maori option and how to exercise that right, and the various options they have in casting their vote- so that so many Maori votes are

²⁴⁷Burrell, above n 234, 19.

²⁴⁸Reuters Business Briefing, 22 May 1994.

not invalidated and any Maori who chooses has an equal opportunity with any nonMaori to enrol, vote, join a political party and stand as a candidate, or start a political party of their own and participate.

As the Select Committee noted²⁴⁹

[i]n the final analysis, ... the Maori people themselves must determine the degree of influence they and their representatives should have in Parliament and the wider political system. The Commission recognised that no matter how good an electoral system was it would not work to the advantage of the Maori people unless they supported it and were committed to participating in it.

That is true, but Maori must be given sufficient culturally and socially accessible information to make an informed choice as to whether or not they will participate. The Waitangi Tribunal has declared that such information is part of their right.

²⁴⁹Above n 76, 25.

APPENDIX I: CHANGE OPTIONS FOR THE 1992 ELECTORAL REFERENDUM

(Information from P Temple *Making Your Vote Count: Referendum '92 A Guide to Electoral Reform* (John McIndoe Limited, Dunedin, 1992).)

SUPPLEMENTARY MEMBER SYSTEM (SM)

SM involves the retention of FPP but additional ("supplementary") seats being created and allocated to parties in proportion to either their share of the total vote or their share of a second party list vote.

SINGLE TRANSFERABLE VOTE SYSTEM (STV)

Each electorate is represented by several MPs. An elector numbers the candidates for the electorate in order of preference. A candidate must obtain a quota of votes to be elected. This quota is a percentage of the total vote in the electorate. The size of the percentage required depends upon the number of MPs in the electorate.

The remaining seats are filled by eliminataing the lowest polling candidate and transferring their votes to the person numbered as the second preference on those votes, and redistributing the surplus preference votes for elected candidates, until enough candidates have sufficient percentage of the electorate vote to be elected, that is all the seats are filled. Temple describes the system like thisⁱ

In a way, a vote under STV is an instruction, directing the Returning Officer to transfer your vote in accordance with your preferences so that it can be of maximum use in electing candidates.

ⁱ P Temple *Making Your Vote Count: Referendum '92 A Guide to Electoral Reform* (John McIndoe Limited, Dunedin, 1992) 41.

MIXED MEMBER PROPORTIONAL SYSTEM (MMP)

Half the MPs are elected by FPP and the other half from party lists. A party gets the same percentage of seats in parliament as the percentage of the total vote they receive. If a party wins less electorate seats than the percentage of the vote it receives its quota is topped up by list seats. If a party wins no electorate seats it only receives list seats. If a party wins more electorate seats than their share of the party vote they keep their seats and the parliament has a few extra for that term. A party must reach a threshold - either a certain number of electorates or a percentage of the total vote - to get any list seats.

Each voter has two votes - one for the party they support and the other for the candidate they wish to represent their electorate.

PREFERENTIAL VOTING (PV)

Each electorate is represented by one MP. Voters number the candidates in order of preference. If no candidate gets at least 50% of the first preference votes the candidate with the fewest first preference votes is eliminated and the votes are transferred to the candidates marked as the voters' next preference.

There are two versions of PV. In one it is compulsory for the voter to number *all* candidates on the ballot paper. In the other the voter *must* note their preference for at least one candidate and *can* show further preferences.

APPENDIX II: SECTIONS OF THE ELECTORAL ACT 1993 GOVERNING THE MAORI ELECTORAL OPTION AND MAORI ELECTORAL OPTION NOTICE

Subs 35(7) Upon receipt of the report of the Government Statistician, the Surveyor-General shall prepare maps showing the distribution of the population and provisional boundaries for the electoral districts, and shall then call a meeting of the Commission.

Section 38 Notice of proposed boundaries and classification -

(1) Where the Commission proposes to make a division under section 35 of this Act, it shall publish in the *Gazette* a notice -

- (a) Stating places at which the public may inspect, without charge, -
 - (i) A description of the boundaries of the proposed districts; and
 - (ii) Any classification of the proposed districts that is required for the purposes of the Higher Salaries Commission Act 1977; and
 - (iii) A summary, in respect of each proposed district, the reason why the boundaries described are being proposed; and
- (b) Stating the last date on which the Commission will receive written objections to the proposed boundaries or any of them and to the proposed classification (if any) (which date shall be not less than one month after the date of the publication of the notice in the *Gazette*).

(2) the places stated pursuant to subsection (1) (a) of this section shall include the office of each Registrar of Electors.

(3) Any failure to comply with subsection (1) (a) (iii) of this section shall not of itself invalidate any decision or proceedings of the Commission.

(4) Where any objections are received under subsection (1) (b) of this section, the Commission shall publish in the *Gazette* a notice -

- (a) Containing a summary of the objections; and
- (b) Stating a place or places at which the objections are available for public inspection; and
- (c) Stating the last date on which the Commission will receive written counter-objections to those objections or any of them (which date shall not be less than 2 weeks after the date of the publication of the notice in the *Gazette*)...

Section 45 Maori representation - (1) It shall be the duty of the Commission, for the purposes of the representation of the Maori people in the House of Representatives, to divide New Zealand into Maori electoral districts from time to time in accordance with this section and section 269 of this Act.

(2) The Commission -

- (a) Shall effect the first division under subsection (1) of this section as soon as practicable after the commencement of this section; and

- (b) Shall, in accordance with section 77(5) of this Act, effect the second division under subsection (1) of this section after the census taken in the year 1996; and
 - (c) Shall effect each subsequent division under subsection (1) of this section only after each subsequent periodical census and on no other occasion.
- (3) Subject to section 269 of this Act, each division effected under subsection (1) of this section shall be effected on the following basis:
- (a) The Maori electoral population of New Zealand shall be divided by the quota for General electoral districts in the South Island and the quotient so obtained shall be the number of Maori electoral districts:
 - (b) Where the quotient includes a fraction, the fraction shall be disregarded unless it exceeds a half, in which case the number of Maori electoral districts shall be the next whole number above the quotient.
 - (c) Subject to subsection (7) of this section, the Maori electoral districts shall each contain an equal number of members of the Maori electoral population.
- (4) Upon receipt of the report of the Government Statistician under section 35 (6) of this Act, the Surveyor-General shall prepare maps showing the distribution of the Maori electoral population and provisional boundaries for the Maori electoral districts.
- (5) The report so made by the Government-Statistician and the maps so prepared by the Surveyor-General shall be sufficient evidence as to the Maori electoral population.
- (6) In dividing the Maori electoral population equally between the Maori electoral districts, due consideration shall be given to -
- (a) The existing boundaries of the Maori electoral districts; and
 - (b) Community of interest among the Maori people generally and members of Maori tribes; and
 - (c) Facilities of communications; and
 - (d) Topographical features; and
 - (e) Any projected variation in the Maori electoral population of those districts during their life.
- (7) Where, in the opinion of the Commission, the Maori electoral population cannot, consistently with the considerations provided for in subsection (6) of this section, be divided equally between the Maori electoral districts, the Commission may for any district make an allowance by way of addition or subtraction of Maori electoral population to an extent not exceeding 5 percent.
- (8) Due notice of the issuing of the proposed boundaries of the Maori electoral districts shall be given in the *Gazette* and section 38 of this Act, with all necessary modifications, shall apply accordingly.
- (9) The Commission shall, in every case within 6 months after the date of the meeting of the Commission called pursuant to section 35 (7) of this Act or, in the case of the meeting called pursuant to section 269 (4) of this Act, within 8 months after the date of that meeting, -

- (a) Report the boundaries fixed by it in respect of the Maori electoral districts to the Governor-General; and
- (b) Publish in the *Gazette* a notice -
 - (i) Stating that the Commission has fixed the boundaries of the Maori electoral districts: and
 - (ii) Stating that the boundaries fixed by the Commission in respect of the Maori electoral districts are available for public inspection; and
 - (iii) Stating places at which copies of the boundaries fixed by the Commission are available for public inspection without charge (which places shall include the office of each Registrar of Electors).

(10) The boundaries fixed by the Commission in respect of the Maori electoral districts shall be defined by the Commission by the use of such words, maps and graphic means as are sufficient to define those boundaries accurately.

(11) From the date of the gazetting of the notice required by subsection(9) (b) of this section, the boundaries of the Maori electoral districts as fixed by the report shall be the boundaries of the Maori electoral districts for the purposes of the election of the members of Parliament for those districts after the dissolution or expiration of the then existing Parliament, and shall so continue until the next report of the Commission takes effect as a result of the publication in the *Gazette* of that notice required by subsection (9) (b) of this section in respect of that report.

(12) Notwithstanding the foregoing provisions of this section or any other provision of this Act, -

- (a) If on the application of paragraphs (a) and (b) of subsection (3) of this section a quotient is obtained that does not require the division of New Zealand into a Maori electoral district or districts, New Zealand shall not be divided into a Maori electoral district or districts and the other provisions of this Act shall, so far as they are applicable, apply with any necessary modifications; and
- (b) If on the application of paragraphs (a) and (b) of subsection (3) of this section a quotient is obtained that requires the division of New Zealand into one Maori electoral district, the foregoing provisions of this Act shall, so far as they are applicable, apply with any necessary modifications.

Section 76 Maori option - (1) Subject to this section and to sections 77 to 79 of this Act, a Maori who possess the qualifications prescribed in that behalf by this Act shall have the option of being registered either as an elector of a Maori electoral district or as an elector of a General electoral district.

(2) Every such option shall be exercised -

- (a) At the time the Maori first qualifies and applies to be registered as an elector of any electoral district; or

- (b) In the case of a Maori who has not registered as an elector of any electoral district on the first day of the period last specified in a notice published under section 77 (2) of this Act, on the first subsequent application for registration as an elector; or
- (c) In any other case, in accordance with section 77 or section 78 of this Act.

Section 77 Periodic exercise of Maori option and determination of Maori population - (1) Every elector who is a Maori may exercise periodically, in accordance with this section, the option given by section 76 (1) of this Act.

(2) The Minister shall, in accordance with this section, specify from time to time, by notice in the *Gazette*, a period of 2 months during which any Maori may exercise the option given by section 76 (1) of this Act.

(3) The Minister shall, as soon as practicable after the commencement of this section, and in accordance with section 269 (2) of this Act, publish the first notice under subsection (2) of this section.

(4) Subject to subsections (3) and (5) of this section and to section 269 (2) of this Act, the Minister shall, in every year that a quinquennial census of population is taken, but in no other year, publish a notice under subsection (2) of this section.

(5) Notwithstanding subsection (4) of this section, where a Parliament is due to expire in a year in which a quinquennial census of population is to be taken, the Minister shall not, in that year, publish a notice under subsection (2) of this section, but shall instead, in the year following the year in which the quinquennial census of population is taken, publish such a notice.

(6) For the purpose of enabling the Government-Statistician to calculate the Maori electoral population, the Chief Registrar shall, as soon as practicable after the last day of each period specified in a notice published under subsection (2) of this section, supply to the Government Statistician -

- (a) The total number of persons registered as electors of the Maori electoral districts as at the close of that last day; and
- (b) The total number of persons registered as electors of the General electoral districts, who, as at the close of that last day, are recorded as having given written notice to the Registrar that they are persons of New Zealand Maori descent.

Section 78 Exercise of Maori option - (1) Notwithstanding section 83 (6) of this Act, every Maori who is registered as an elector on the first day of any period specified in a notice published under section 77 (2) of this Act may exercise once in that period the option given by section 76 (1) of this Act.

(2) In each period specified in a notice published under section 77 (2) of this Act, the Registrar shall send by post on the first day of that period a notice in the form prescribed for the purposes of this section to -

- (a) Every person registered as an elector of a Maori electoral district; and

(b) Every person registered as an elector of a General electoral district who has given written notice to the Registrar that that person is of New Zealand Maori descent.

(3) Every Maori -

(a) Who is registered as an elector on the first day of the period in which the notice is sent under subsection (2) of this section; and

(b) Who -

(i) Being registered as an elector of a Maori electoral district wishes to be registered as an elector of a General electoral district; or

(ii) Being registered as an elector of a General electoral district wishes to be registered as an elector of a Maori electoral district, -

shall indicate his or her choice on the prescribed form, sign and date it, and return it to the Registrar.

(4) The Registrar, on receipt of any duly completed form, shall send the form to the Registrar in whose district the elector resides.

(5) Every duly completed form received by a Registrar pursuant to subsection (4) of this section shall be deemed, for the purposes of the definition of the term "electoral roll" in section 3 (1) of this Act and for the purposes of sections 89, 98, and 103 of this Act, to be an application for registration as an elector and shall be treated accordingly.

(6) No elector shall, by reason only of a failure to return a form sent to him or her under subsection (2) of this section, have his or her name removed from the electoral roll.

(7) Every Maori who is registered as an elector of a Maori electoral district on the first day of any period specified in a notice published under section 77 (2) of this Act and who fails to exercise in that period the option given by section 76 (1) of this Act shall be deemed to have exercised his or her option to register as an elector of a Maori electoral district.

(8) Every Maori who is registered as an elector of a General electoral district on the first day of any period specified in a notice published under section 77 (2) of this Act and who fails to exercise in that period the option given by section 76 (1) of this Act shall be deemed to have exercised his or her option to register as an elector of a General electoral district.

(9) Where a document by which the option given by section 76 (1) of this Act may be exercised, being the notice in the form prescribed for the purposes of this section or an application for registration, is received by the Registrar by post after the end of a period specified in a notice published under section 77 (2) of this Act but not later than noon on the day after the last day of that period, that document shall be deemed to have been received in that period, and the elector shall, if the document is otherwise in order, be deemed to have exercised the option given by section 76 (1) of this Act in that period.

(10) Where the Registrar receives, in a period specified in a notice published under section 77 (2) of this Act, a document by which the option given by section 76 (1) of this Act may be exercised but which does not comply with requirements concerning the signing or datings of that

document or the particulars that it must contain, the Registrar may treat the document as being in accordance with those requirements before the end of that period if the non-compliance is remedied within 6 days after the end of that period.

Section 79 Restriction on transfer between General and Maori electoral rolls - Except as provided in sections 76 to 78 of this Act, -

- (a) No Maori may transfer from a General electoral roll to a Maori electoral roll or vice versa:
- (b) No Maori whose name has been removed from an electoral roll or who ceases to be qualified as an elector of an electoral district may be registered as an elector for a different type of electoral district.

Front of form



Maori Option 1994

To the Elector, from the Registrar of Electors

If you are a New Zealand Maori or a descendant of a New Zealand Maori, this card lets you choose, before the close of 14 April 1994, the type of roll (Maori or General) you want to be on. The next time you may choose will be in 1997.

If you wish to change your type of roll, you must, before the close of 14 April 1994, fill in this card and post it back in the envelope provided. If you need help, ask at any New Zealand Post Shop.

Your name is on the roll for this electorate

Your full names and postal address are recorded as:

Your residential address is recorded as:

Your occupation is recorded as:

(This may be printed in shortened form)

Your date of birth is recorded as:

(This will not be shown on the published roll)

If any of your above details need changing, use the panels on the back of the card to make the changes.

Official use only

Maori Option

Before the close of 14 April 1994 you may choose whether you want to be on a Maori roll or on a General roll.

At the moment you are on a roll.

If you wish to change the type of roll you are on, enter, in the box below, either the word **Maori** or the word **General**.

I am a New Zealand Maori or a descendant of a New Zealand Maori and I want to be on a roll.

You must sign and date this card yourself.

Signature of Elector

Date: ... / ... / 1994 Contact telephone no.

Now that you have signed and dated this card, please post it in the envelope provided.

If you do not wish to change your type of roll and your details are correct, do nothing.

Back of form

Where details are wrong on the front of the card, print below, in BLOCK letters, the correct details:

my title (e.g., Mr/Mrs/Miss/Ms) should read:

my surname or family name should read:

my full given or christian names should read:

my postal address should read:

my residential address should read:

Flat/House no.

Street/Road

Suburb:

Town, City or Locality:

If this is a New Zealand address, follow this line

If this is an overseas address, follow this line

my occupation should read:

my date of birth should read: day / month / year

for New Zealand Post Limited Use

People living overseas - details needed
If you live overseas, please give the following details so that you can be registered for the correct electorate.

I was last in New Zealand on / / 19

I moved overseas on / / 19

The addresses in New Zealand at which I resided within the last 12 months before moving overseas are:

Address	period resided
Flat/House no.	from
Street/Road	to
Town, City or Locality	
Flat/House no.	from
Street/Road	to
Town, City or Locality	

People living in New Zealand - change of address

If you have shown a new residential address, have you lived at this address for at least the last month? Answer YES or NO here

I moved to my present residential address on / / 19

The other addresses at which I have resided within the last 12 months are:

Address	period resided
Flat/House no.	from
Street/Road	to
Town, City or Locality	

If you have
please answer
question

APPENDIX III (Source: The Appendices to the Journal of the House of Representatives 1982, 1984 - 85, 1988, 1991, 1993 and 1994 E.9)

TABLE I: % INFORMAL VOTES TO VOTES CAST

Year	Overall	Maori electorates	General electorates
1981	0.5	1.11	0.48
1984	0.39	0.99	0.37
1987	0.61	1.36	0.58
1990	0.55	0.94	0.54
1993	0.59	1.05	0.57
Mean (1981 - 1993)	0.53	1.09	0.51

TABLE II: % SPECIAL VOTES DISALLOWED TO VOTES CASTE

Year	Overall	Maori electorates	General electorates
1981	2.7	10.6	2.4
1984	2.1	8.5	1.9
1987	2.2	8.1	2.0
1990	2.3	10.2	2.0
1993	2.2	7.2	2.0
Mean (1981 - 1984)	2.4	9.6	2.2
Mean (1987 - 1993)	2.2	8.5	2.0
Mean (1981 - 1993)	2.3	8.9	2.1

TABLE III: % SPECIAL VOTES CAST TO TOTAL VOTES CAST

Year	Overall	Maori electorates	General electorates
1981	11.2	35.6	10.4
1984	10.4	32.3	9.6
1987	11.6	41.1	10.6
1990	12.4	45.3	11.4
1993	11.4	41.5	10.3
Mean (1981 - 1993)	11.4	39.2	10.5

TABLE IV: % SPECIAL VOTES DISALLOWED BECAUSE THE VOTER WAS NOT ENROLLED TO TOTAL SPECIAL VOTES DISALLOWED

Year	Overall	Maori electorates	General
1981	86.8	88.6	86.5
1984	89.4	94.4	88.6
1987	91.4	94.9	90.9
1990	94.5	94.6	94.5
1993	95.8	98.6	95.4
Mean (1981 - 1993)	91.6	94.2	91.2

TABLE V: % TWV ALLOWED TO TWV RECEIVED

Year	%
1987	97.5
1990	96.4
1993	99.3
Mean (1987 - 1993)	97.7

TABLE VI: % OF TWV TO TOTAL VOTES CAST IN THE MAORI ELECTORATES

Year	%
1987	28.2
1990	23.1
1993	26.1
Mean (1987 - 1993)	25.8

SPECIMEN ORDINARY BALLOT AND VOTING PAPER

000000

In this of
Electoral District:

Roll no. Roll
(to be filled in by the elector)

BALLOT PAPER
AUKAARATA Electoral District

Election of Member of Parliament

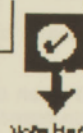
Directions
(Read carefully before voting)

1. Vote for only one candidate.
2. Vote by putting a tick in the circle immediately after the name of the candidate you choose.
3. After voting, fold the ballot paper so that no writing can be seen and place it in the ballot box.
4. If you spoil the ballot paper, return it to the officer who handed it and apply for another.
5. You must not take the ballot paper out of the polling booth.

000000

OFFICIAL MARK

Vote for only one candidate.



Vote Here

ARNOLD, Kiriwene Wendy Jane LABOUR	<input type="radio"/>
BABBINGTON, Gairdrene NEW ZEALAND PARTY	<input type="radio"/>
CAPSTEEN, Timothy John Alban CITIZENS AGAINST POLITICAL PARTIES	<input type="radio"/>
CHRISTENSEN, Guy Stephen INDEPENDENT	<input type="radio"/>
HIGGINSON, Florence Joan NEW ZEALAND PARTY	<input type="radio"/>
NIGHTINGALE, Garmeth DEMOCRATS	<input type="radio"/>
O'SULLIVAN, Eamonn NATIONAL	<input type="radio"/>
PHILLIPS, Joseph NEW LABOUR	<input type="radio"/>
SEARANKE, John MAHA MATUANGA	<input type="radio"/>
SHAW, Denis IMPERIAL BRITISH CONSERVATIVE	<input type="radio"/>

VOTING PAPER
AUKAARATA Electoral District

**Poll on Proposal to
Change the Term of Parliament**

Directions
(Read carefully before voting)

1. Vote for only one proposal.
2. Vote by putting a tick in the circle immediately after the proposal you choose.
3. After voting, fold the voting paper so that no writing can be seen and place it in the ballot box.
4. If you spoil the voting paper, return it to the officer who issued it and apply for another.
5. You must not take the voting paper out of the polling booth.

000000

OFFICIAL MARK

Vote for only one proposal.



Vote Here

I VOTE FOR 3 YEARS AS THE TERM OF PARLIAMENT as at present.	<input type="radio"/>
I VOTE FOR 4 YEARS AS THE TERM OF PARLIAMENT.	<input type="radio"/>

NOTE: The result of the poll will not affect the term of the Party membership elected at this general election.

APPENDIX V. SPECIAL VOTE STATEMENT AND DECLARATION
 (Source: Chief Electoral Office, Handbook - Elections New Zealand, E3-90/15577 (Government Printer, Wellington, 1990) insert.)

961990

**STATEMENT BY SPECIAL VOTER OUTSIDE
 ELECTORATE ON POLLING DAY**

This form can be completed only where the elector stands in person on polling day at a polling place that is outside of the elector's electoral district.

Details of Elector and Electorate

My surname is:

My full given or christian names are:

My occupation is:

My date of birth is:

(You do not have to show your date of birth but you will help with the checking of your enrolment if you do so.)

If your name has changed since you enrolled, please complete the following statement:

My former name was:

(You do not have to show your former name but you will help with the checking of your enrolment if you do so.)

The electorate for which I am qualified to be registered is:

[This must be the electorate in which you last resided continuously for at least one month]

My residential address in that electorate is or was:

house/flat no: _____
 street/road: _____
 town, city, or locality: _____

Office use only		Page	Line
No. on Roll			
No. licence District			
Ecken	Grey Lynn	Roskell	Tararua
			Wellington East

OFFICIAL MARK

OFFICIAL MARK

DECLARATION BY 961990

DECLARATION BY
SPECIAL VOTER

OFFICIAL MARK

A — Details of Elector and Electorate

My surname is

My full given or christian names are:

My occupation is:

My date of birth is:

(You do not have to show your date of birth but you will help with the checking of your enrolment if you do so.)

If your name has changed since you enrolled, please complete the following statement:

My former name was:

(You do not have to show your former name but you will help with the checking of your enrolment if you do so.)

The electorate for which I am qualified to be registered is:

(This must be the electorate in which you last resided continuously for at least one month.)

My residential address in that electorate is or was:

house/flat no:

street/road:

town, city, or locality:

B — Grounds for Special Vote

Show the ground or grounds applying to you. Where a ground applies, write the word "true" in the box provided.

true

Not on printed roll: My name does not appear on any of the printed rolls for the district or has been wrongly deleted from a printed roll for the district.

Outside electorate: I am or intend to be absent from the district on polling day.

Overseas: I intend to be outside New Zealand on polling day.

Illness, infirmity, pregnancy, or recent childbirth: My illness, infirmity, pregnancy, or recent childbirth prevents or will prevent me from attending at any polling place in the district.

Religious objection: I have a religious objection to attending to vote on the day of the week on which polling day falls.

Hardship or serious inconvenience: I have satisfied the Returning Officer or Deputy Returning Officer that attendance at a polling place in the district would cause hardship or serious inconvenience to me because:

(Give reasons)

I declare that to the best of my knowledge and belief both the details given in part A and the ground(s) marked "true" in part B are true.

Signature of elector

Date

C — Details of Witness — If witness is NOT the issuing officer

My surname is:

My full given or christian names are:

My residential address is:

house/flat no:

street/road:

town, city, or locality:

I certify that this declaration was signed in my presence by the above named elector.

Signature of witness

Qualification of witness Delete those not applicable:

- Issuing Officer, or
- Solicitor or Justice of the Peace or Other person authorised to take a statutory declaration, or
- Person approved for the purpose by the Returning Officer, or
- Relative, or member of the household, of the special voter.

Office use only		Page	Line
No. on Roll			
No licence District			
Eden	Grey Lyon	Roskill	Tawa Wellington East

OFFICIAL MARK IF

WITNESS IS ISSUING OFFICER

83



TW 961990

TANGATA WHENUA

This form can be completed only where -

- (a) The elector attends in person at a General polling place that does not provide ordinary Maori voting facilities; and
- (b) The elector's name appears on the roll for a Maori electoral district; and
- (c) The General polling place is situated in that Maori electoral district.

In all other cases, the elector must complete the special voting declaration on the other side of this form.

ROLL DETAILS

(to be completed by polling official)

Maori Electoral District:

surname:

full given or christian names:

residential address shown on roll:

house flat no:

street road:

town, city, or locality:

The elector's date of birth is:

(You do not have to show the elector's date of birth but you will help with the checking of the enrolment if you do so.)

If the elector's name has changed since the elector enrolled, please state the elector's former name.

Former name of elector:

(You do not have to show the elector's former name but you will help with the checking of the enrolment if you do so.)

NOTE: The elector's name should NOT be ruled through on the roll.

Office use only		Page	Line
No. on Roll:			
No-licence District			
Eden	Grey Lynn	Roskill	Tawa Wellington East

OFFICIAL MARK

OFFICIAL MARK



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