

NEW ZEALAND BUSINESS ROUNDTABLE

**SUBMISSION TO THE MMP REVIEW
COMMITTEE**

JULY 2000

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Summary

- This submission to the MMP Review Committee (the Committee) is made by the New Zealand Business Roundtable (NZBR), an organisation comprising primarily the chief executives of major New Zealand business firms. The purpose of the organisation is to contribute to the development of sound public policies that reflect overall New Zealand interests.
- In this submission we strongly urge the Committee to support a further referendum on the electoral system, in accordance with item (c) of its terms of reference. Politicians and their parties have a strong self-interest in this issue and should not second-guess, pre-empt, obstruct or subvert the public's views on electoral arrangements. There is a widespread public expectation of a further referendum.
- Specifically, we recommend the adoption of the same two-step procedure that was followed in September 1992 and November 1993:
 - In the first referendum voters would be asked: (A) if they want to retain the mixed-member proportional system (MMP) or change it; and (B) which of four alternatives – first-past-the-post (FPP), preferential voting (PV), supplementary member (SM), or single transferable vote (STV) – they prefer
 - If a majority vote for change in response to (A), a second referendum would be held. In this referendum voters would choose between MMP and the alternative in (B) that attracted the most support in the first referendum.
- This proposal is the most neutral *in relation to the original decision* that we can envisage. In 1993 it was deemed constitutionally appropriate to allow a simple majority of voters to determine the adoption of MMP, subject to provision for its future review. Given that background, we argue that a simple majority of those voting should determine the future of MMP *as part of the current review*.
- While we favour this approach in relation to the review of MMP because of the way it was introduced, we also recommend that major changes to longstanding and well-understood elements of New Zealand's constitutional arrangements should normally require a supra-majority of those voting, and perhaps confirmation in a second referendum held at least three years after the first. In our view it is highly desirable for the stability of government that a conservative approach is taken to proposals to amend proven constitutional arrangements.

- We believe that these recommendations provide for a democratic, fair and neutral process without bias in respect of past processes and future outcomes. We believe that there would be widespread suspicion of any recommendation by the Committee that looked to be defensive of present arrangements.
- While we believe our recommendation is neutral with respect to outcomes, our analysis is not. We agree with the body of opinion that believes MMP has been tried and found wanting in relation to FPP. We accept that some prefer MMP on grounds of diversity of representation, but we question the magnitude of any such differences in the longer term. In any case, this should not be the primary consideration. We prefer FPP to MMP primarily on the criteria of accountability to voters, the ability to decisively remove governments that the electorate dislikes, and the likely quality of government decision making, particularly in a crisis. Although this view is not central to our recommendations which are focused on process, we think New Zealand is likely to be a more prosperous and cohesive country under FPP than under MMP.

1 Introduction

1.1 This submission to the MMP Review Committee (the Committee) is made by the New Zealand Business Roundtable (NZBR), an organisation comprising primarily the chief executives of major New Zealand business firms. The purpose of the organisation is to contribute to the development of sound public policies that reflect overall New Zealand interests.

1.2 In this submission we focus solely on item (c) in the Committee's terms of reference. Item (c) is concerned with whether there should be a further referendum on changes to the electoral system. This focus reflects our view of its paramount importance for New Zealand.

1.3 Our interest in the issue of alternative voting systems for New Zealand is a longstanding one. In 1992 we commissioned a study of proposals for constitutional change in New Zealand from independent experts.¹ In this submission we are concerned only with the section of this study that analysed the issue of proportional representation.

1.4 In evaluating New Zealand's experience to date with MMP, there is a need to ascertain the degree to which any good or bad experiences should be regarded as transitional or as indicative of fundamental features. For this reason our submission starts with a review in section 2 of the 1992 study's findings on the fundamental differences between MMP and FFP.

1.5 Section 3 uses this framework to review New Zealand's experience to date with MMP. Section 4 discusses the implications of this experience and section 5 presents our conclusions.

2 Review of the differences between MMP and FPP

2.1 In 1988 the eminent philosopher, Karl Popper, published an article in *The Economist* that explored the issue of how rulers or representatives should be chosen.² He proposed that a decisive test of any political system should be how well it allows an electorate to get rid of a bad government by voting it out of office. He pointed out that the system of coalition governments associated with proportional representation reduced accountability. On election day, no party may have been dismissed or appointed. A majority of voters might vote against a major party, only to find it still in a governing coalition. He also pointed out that proportional representation conferred a special status on parties – that is, on ideologies – that was not conferred by a Westminster system. This made (list) MPs primarily responsible to their political

¹ *An Analysis of Proposals for Constitutional Change in New Zealand* by Penelope Brook Cowen, CS First Boston, Tyler Cowen, George Mason University, Alexander Tabarrock, George Mason University, with a foreword by Richard Epstein, University of Chicago, New Zealand Business Roundtable, September 1992.

² "The Open Society and its Enemies Revisited", *The Economist*, 23 April 1988, pp 25-28.

parties. It deprived them of the freedom to exercise their judgment about what was in the best interests of the voters they represented and to whom they would be accountable under the Westminster system.

2.2 The 1992 report for the New Zealand Business Roundtable analysed, in chapter 3, the four alternatives to the Westminster system that were proposed at the time for New Zealand – preferential voting, the single transferable vote, mixed member proportional systems, and supplementary systems. It concluded that the single transferable vote system should be rejected on the grounds that it appeared to have unambiguously negative consequences for the community. While preferential voting was a safe choice, its virtues did not appear to be sufficient to warrant a change from FPP. Turning to supplementary systems, the study found that these would complicate the FPP system without necessarily satisfying those seeking the virtues of proportional representation. The authors therefore focused on MMP as an alternative to FPP.

2.3 We summarise the primary differences they identified between MMP and Westminster-FPP systems as follows:³

- MMP and Westminster systems differ in their underlying concept of democracy. Proportional systems attach primary importance to ensuring that representative *processes* drive parliament's decisions. (In MMP the prime consideration is the proportionality of political *parties* in the composition of parliament.) In contrast, the Westminster system can be seen as satisfying a requirement that the *outcomes* of parliament's decisions should meet the needs of the representative (median⁴) voter.⁵ Political parties get no specific recognition;
- Westminster systems have the effect of pushing political parties who seriously desire parliamentary representation to the middle of the political spectrum (ie towards the median voter). MMP leads to greater ideological differentiation amongst parliamentary parties;
- MMP encourages greater proliferation of minor parties in parliament;
- politicians are less accountable to voters and more accountable to the parties making up a governing coalition under MMP;

³ Refer to pages 3.23 and 3.24 in the study.

⁴ They define the median voter is the voter who stands in the middle of the spectrum. This can be thought of in relation to gender, age, race, religion or other characteristics.

⁵ The argument is that under FPP only parties that have a broad-based appeal to the population at large (ie to the median voter) can expect to form a government.

- politicians are under less pressure to maintain appeal to the median voter under MMP and are under more pressure to conform with the views of their political colleagues;
- there is likely to be greater separation of powers between the executive and the legislature under MMP; and
- the stability of MMP systems may depend on limiting the representation of minor parties.

2.4 In respect of the first point, the study observed that Westminster systems are consonant with the notions of accountability and clear demarcation of power. Because FPP systems usually lead to one-party government, voters commonly determine directly who can form a government and know exactly which party to hold to account for the government's decisions.

2.5 The need for the major parties to be 'broad churches' of opinion under FPP forces these parties, when in government, to take decisions that are intended to produce outcomes that should generally satisfy the preferences of the representative or median voter. This is why FPP is characterised as a system for producing *representative outcomes* in contrast to proportional systems that ensure *representative (parliamentary) processes*.

2.6 On balance the independent experts we commissioned did not favour the MMP system for New Zealand for the following main reasons:⁶

- MMP may allow minority interests to obtain undue power. In this sense it risks being less democratic and less representative;
- MMP can make governments less accountable to voters because of the greater frequency of coalition government. Post-election coalition negotiations are contrary to democratic principles because they undermine accountability for pre-election promises;
- MMP confers power over individual MPs to parties at the expense of the power enjoyed by voters; and
- MMP systems arguably tend to disenfranchise the large and apparently irreducible proportion of voters who fail to understand that only the party vote counts for party representation.

⁶ For a fuller, verbatim summary of the conclusions, see the appendix.

2.7 A more recent commentary by the legal scholar Richard Epstein has added to these reflections. He questioned the likely policy stability and coherence under MMP compared to FPP:

Often there is no convergence to the centre under proportional representation. There are inconsistent policies involving an uneasy alliance between ministers from Party A, representing issues the general public cares about, and ministers from Party B, representing issues that only a fraction of the public cares deeply about. These difficulties make it more difficult for the government as a whole to operate coherently on many issues.⁷

In this commentary Epstein also questioned the relative stability of governments between scheduled elections under MMP: "If a coalition is built to handle problem A, and then problem B surfaces, the coalition may fall apart".⁸ This could be a disconcerting factor for those trying to plan irreversible investments or make spending decisions. He also noted that it was desirable for a government to be able to speak with a single clear voice at times of crisis or when dealing with matters of international significance. (For example, it is clearly undesirable for one senior coalition member to be seeking to maintain international investor confidence in New Zealand while others are raising concerns about foreign investment, the future of the Reserve Bank Act or respect for the sanctity of contracts in New Zealand.)

2.8 Epstein observed that the distinction MMP introduces between list MPs and constituency MPs is bound to prove troublesome.⁹ He also pointed out that virtually everything in an electoral system influences everything else. For example, a system that is more prone to the tensions associated with coalition governments could well increase the ability of bureaucracies to run their own agendas.

2.9 Section 3 draws on these perspectives in reviewing New Zealand's experience with MMP since the first MMP election in 1996.

3 New Zealand's experience to date with MMP

3.1 ***The 1996 election.*** Few would dispute that MMP got off to an unsatisfactory and embittered start in 1996.

⁷ See p 17 in *MMP, The Right Decision?*, Richard Epstein, New Zealand Business Roundtable, 1999.

⁸ *Op cit*, p 11.

⁹ *Op cit*, pp 11-13. The difficulty with MPs who resign from their parties illustrates this point.

3.2 First, the aftermath of that election demonstrated with a vengeance that the electorate had lost the ability to determine who would form a government.

3.3 Second, New Zealand First's much-delayed decision to form a coalition with National was also consistent with the study's prediction that MMP would tend to undermine the value of pre-election promises. (New Zealand First had campaigned in good part on the slogan that a vote for New Zealand First was the only way voters could keep National out of power.)

3.4 Third, the experience amply demonstrated how decisively MMP could hand disproportionate power to a minor party. New Zealand First extracted from National: (i) a promise to raise government spending (of dubious value) by \$5 billion over three years¹⁰; (ii) the position of Treasurer for its leader, a person who had no previous experience in the finance portfolio and could not have been expected by the dominant party to readily gain the respect and confidence of the commercial community; and (iii) disproportionate representation in cabinet for its members, even without taking into account their lack of experience and qualifications.

3.5 Fourth, the election result demonstrated that MMP could also be unfair to minor parties that were around the 5 percent mark. The Christian Coalition scored just below the 5 percent mark, which was a crippling blow to its fortunes.¹¹

3.6 The public's distaste for these events is amply indicated by the movement in the monthly opinion polls at the time recording public support for MMP. After trailing support for MMP for a long time, support for FPP moved 4 percentage points ahead (42 percent to 38 percent) in November 1996. By April 1997 this margin had increased to 22 percentage points (53 percent to 31 percent).¹²

3.7 Most of these lessons illustrate features of MMP that can be expected to be permanent. The elements that could plausibly be argued to be transitional include:

- the time it took to form the coalition;
- the degree to which the major parties handed bargaining power to the minor party and the degree to which the minor party was prepared to frustrate its supporters and be seen to be conducting an auction;

¹⁰ As the New Zealand Manufacturers' Federation pointed out at the time, much of this spending appeared to be likely to transfer wealth in favour of the relatively well off.

¹¹ Arguably this rule would be less crippling if the rules governing the access of public parties to radio and television were less biased in favour of parties enjoying parliamentary representation. (This comment refers to the allocations of media time and taxpayer funding and to section 70 of the Broadcasting Act that significantly limits parties in spending their own funds to buy radio or television time.) However, this is an issue that is common to MMP and FPP.

¹² See p 173 in *Why MMP Must Go*, by Graeme Hunt, *National Business Review*, 1998.

- the depth of the anger and the deep sense of betrayal at the outcome both amongst parliamentarians and amongst New Zealand First voters;¹³ and
- the level of inexperience amongst New Zealand First's cabinet ministers.¹⁴

3.8 ***Other features of the 1996-99 experience.*** Debate about the probity of the selections and rankings of candidates for the party list was also a feature of this period. The party list system is an inextricable feature of MMP and seems likely to be an ongoing source of suspicion and distrust within political parties. Of course, candidate selection processes can also be contentious under FPP, particularly as between the preferences of the party as a whole and the local electorate. However, it is undeniable that MMP reduces the power of voters to have the last say candidate by candidate, and that it undesirably increases the power of those controlling the party.

3.9 Arguably, the first MMP election was consistent with the view that MMP would lead to greater ideological divisions between the parties represented in parliament. The Alliance increased its representation and ACT appeared in parliament for the first time.

3.10 Events also provided support for the view that under MMP individual politicians would see less need to appeal to the median voter. For example, a subset of New Zealand First's members of parliament¹⁵ appeared to be committed to achieving benefits for a minority of New Zealanders – implying that the needs of the median voter were not their paramount concern. (However, this subset did not survive the 1999 general election. Arguably the jury remains out on the issue of whether any party based on minority views about race, gender or religion can obtain and sustain parliamentary representation under MMP.)

3.11 Instability in the coalition government was another feature of this period. It can be difficult for a minority party in a coalition to maintain a safe margin above the 5 percent level when a coalition government finds itself having to take hard decisions that affront sections of popular opinion and/or offend more and more interest groups. The pressure on the minority party to find ways of distinguishing itself from its dominant partner in the public mind is clearly a threat to both the unity of the minority party and that of the coalition government. It also adversely affects perceptions about the cohesion and stability of government policies.

3.12 While parliamentary processes coped with the multiple transitions during this period from majority coalition government to a minority single-party government, in our view the whole experience was seriously negative for the quality of policy making. Individual members of parliament who would never have been endorsed by the electorate under FPP were able to exercise hold-up authority over the government

¹³ The argument that this is transitional may depend on the unhappy assumption that in future the electorate will be more cynical about its electoral system.

¹⁴ The first election under MMP is likely to introduce minority parties to parliament for the first time.

¹⁵ The self-styled 'tight five'.

to an extraordinary degree. Some apparently felt no need to limit the use of their power to the pursuit of the national interest.

3.13 As explained in section 2, there are grounds for surmising that the quality of policy making is likely to be generally worse under MMP. Certainly, it was woeful under the first MMP government. The fiscal position deteriorated markedly. Poor quality spending increases undermined the country's ability to make the tax cuts that are highly desirable if New Zealand is to be internationally competitive. New Zealand's international commercial standing suffered visibly. For example, the rising trend in New Zealand's rating for its sovereign debt was reversed. The rate of unemployment stopped falling. Arguably, the government's passivity about unemployment in the face of the job-destroying decisions by the Employment Court reflected in part the difficulties of MMP government. New Zealand experience confirmed concerns about paralysis in decision making associated with proportional systems. Gains built up can quickly be lost, especially as competitor economies, not shackled by an electoral system such as MMP, continue to make gains.

3.14 Another feature of this first experience with MMP that caused widespread concern was the frequency with which parliamentarians left the parties that had got them into parliament yet stayed on as independents, joined an existing party, or formed a new party. This issue is more controversial under MMP because list MPs can make no claim to having been personally endorsed by the electorate. Yet any solution to this problem is likely to strengthen the power of political parties. As Karl Popper argued (see paragraph 2.1), this transfer of power tends to weaken the power of voters and conflicts with the ethos of the Westminster system which holds parliamentarians responsible to their electorates, not their parties.

3.15 ***Dramatic shift in public opinion.*** The immediate shift in public opinion against MMP in November 1996 and the sustained preference for FPP since that date also suggest that the general public see New Zealand's experience of MMP as an indictment of MMP itself. This interpretation is supported by more detailed polling of changes in public opinion about MMP. Opinion polls between 1993 and 1997 revealed marked declines in the proportion of respondents who believed that MMP would improve the representation of minorities, produce more consensus in decision making, make it harder to introduce unpopular policies such as asset sales, produce a higher quality of MPs or improve MPs' behaviour.¹⁶

3.16 ***The 1999 election and its aftermath.*** The process of government formation was less prolonged and less divisive than in 1996. Even so, the eventual outcome was messy. The delay in determining the number of seats won by the Green Party meant that it could not participate in the coalition negotiations. This experience confirms that the shift in the balance of power in favour of minor parties can cause inequities between the minor parties.¹⁷

¹⁶ Hunt *op cit*, p 171-73.

¹⁷ Supporters of MMP would argue that the system greatly reduces the inequities between minor and major parties in terms of the relation between the proportion of votes and the proportion of seats.

3.17 The new government has demonstrated that radical and far-reaching measures can be quickly pushed through select committee processes and parliament under MMP. It has appealed to its election 'mandate' and has had little regard to expressions of concern about its policies or seen a need to justify them with policy papers. The hopes of greater deliberation and consensus over new legislation held by advocates of MMP have not been realised.

3.18 The minor party in the new coalition government has already slipped markedly in the public opinion polls, leading to speculation as to how it will address that problem. Particularly in the light of the breakdown of the first coalition government under MMP, this can be expected to raise doubts in investors' minds as to the stability of the coalition.

3.19 The finding in the NZBR study that many voters would not be able to understand proportional voting systems appears to have been being validated by New Zealand's experience under MMP to date. The Electoral Commission has reported that public understanding of MMP during the 1999 election was generally lower than during the 1996 general election. Only 76 percent of people knew they had two votes compared with 79 percent in 1996.¹⁸

3.20 The experience with MMP to date has also dashed some other hopes for that system. Few would argue, for example, that MPs' behaviour in parliament has improved. Indeed, there is an argument that MMP will lead to worse behaviour by minor parties that have slipped in opinion polls below the 5 percent threshold and are desperate for publicity.¹⁹ The hope that MMP would put an end to breaches of manifesto promises has not been fulfilled. One tendency has been for parties to be less explicit in their commitments, which arguably reduces accountability.

4 Implications

4.1 New Zealand's experience to date with MMP accords with our study's assessment of the implications of the fundamental differences between MMP and FPP. We therefore heavily discount any suggestion that New Zealand's unfavourable experiences to date with MMP are largely transitional. The analysis in section 3 found some elements that could be transitional, but they are not so material as to affect the overall conclusion.

4.2 In our view the New Zealand experience with MMP provides strong support for the view that it is unwise, as a general rule, to change longstanding, proven constitutional arrangements by a simple majority vote. In-depth polling of a sample of those who voted for MMP on 6 November 1993 indicated that many were seizing the opportunity to protest about the politicians and political decisions of the day rather than to express a clear preference between voting systems. Specifically, pollsters found that only 32 percent of those who voted for MMP said they did so

¹⁸ *The Press*, 11 May 2000.

¹⁹ See the article by John Armstrong, political editor, *New Zealand Herald*, 8 July 2000.

mainly because they were "positively convinced" that it was a better voting system.²⁰ Given that 85.2 percent of registered voters voted and that, of these, only 53.9 percent voted for MMP, this implies that only 15 percent of the electorate voted in favour of MMP in 1993 *primarily* because they thought it was a better system. This figure rises to 25 percent of the electorate if we include the additional 22 percent of those who voted for MMP both because they were positively convinced it was a better system and because they were unhappy with politicians.²¹ These are extraordinarily low proportions in favour of the adoption of such a controversial and far-reaching change.

4.3 Nor can any comfort be derived from asking how well-informed were the views of those who were 'positively convinced' in either direction in 1993. It is noteworthy, for example, that the 'benefits' listed in paragraph 3.15 that voters mentioned to pollsters as reasons for favouring MMP bear little relation to the issues that authorities on electoral systems believe are of major relevance to the choice. These include:

- which system allows the electorate to get rid of governments they dislike most readily?²²
- is it more desirable for an MP to be primarily responsible to a political party – that is, to a particular ideology – rather than to a group of voters who have elected him or her to represent their interests?
- are voting systems that produce complex, unstable governments desirable?
- is a 'fairer' representation in parliament better if it gives undue political power to minority parties?
- do coalition governments reduce accountability, and is this desirable?
- are those controlling party machines more likely to select candidates that are representative of the interests of the electorate if each and every candidate does not have to be voted in by the electorate?

If voters in 1993 were not particularly well-informed on these issues (as the responses to polls may indicate), this may provide a more fundamental

²⁰ Hunt, *op cit*, p 171.

²¹ The only other major category, at 41 percent of respondents, was for voters for MMP who said that did so primarily because they were unhappy with politicians.

²² Those who voted for New Zealand First in 1996 in order to 'get rid of National' may have clear views about the answer to this question.

explanation for the volatility through time of the public's views about the choice between MMP and FPP.

4.4 The lesson we take from the volatility of polls of public opinion is that responses can be heavily influenced by extraneous factors. The original support for MMP was clearly bolstered by a desire to use it as a vehicle for registering a protest vote against FPP-elected politicians and political parties. This implies that the subsequent fall-off in surveyed support for MMP should be interpreted as reflecting (in unknown proportions) a decline in the protest element of support and a reassessment of MMP as a voting system.

4.5 For these reasons our main conclusion and submission is that there should be a further referendum to allow New Zealanders to express a considered view on MMP. This should be the main outcome of the Committee's review. The electorate, not parliamentarians, must determine the future of MMP in New Zealand. Politicians who owe their presence in parliament to the MMP system should not pre-empt public opinion on this issue. They have an overwhelming conflict of interest that must be acknowledged and handled with integrity. In our view this means that they must not be seen to be taking the decision out of the public's hands.

4.6 In the interests of fairness to all viewpoints, we believe that the process that should be followed in setting up a referendum should be identical – to the greatest extent feasible – to the process that brought in MMP. Specifically, we believe there should be a two-stage referendum conducted on the same lines as the previous one, and on the basis of a simple majority vote. We do not believe that changes to important constitutional arrangements should normally be made without a supra-majority requirement being met (and think this was a flaw in the earlier decision), but it would be highly undemocratic for parliament to change the rules for a repeat referendum. However, the Committee might give consideration to the case for supra-majority requirements for other changes to constitutional arrangements. There may even be an argument for requiring confirmation of major constitutional changes by a subsequent referendum held, say, three years after the first so that people can reflect on the issue.²³

4.7 Our belief that the electorate should be given the opportunity to confirm or reject MMP is strengthened by the result of the 1999 referendum on the number of MPs. Voters overwhelmingly endorsed the citizens-initiated referendum to reduce the size of parliament to 99. We believe that parliament should respect this verdict. It is difficult to recall any government that has been more insistent than the present coalition government that policies allegedly endorsed by the electorate should be implemented. There can be no debate about what the electorate endorsed on the issue of the number of MPs. Implementing a reduction in the size of parliament would require significant changes to current MMP arrangements. It therefore makes sense for a referendum to be held which would allow both issues to be considered in a coherent manner.

²³ See Richard Epstein, *op cit*, p 16.

4.8 We are unconvinced by a range of arguments that have been advanced for disregarding the clear outcome of the referendum on the size of parliament. The notion that more MPs must result in a better average quality of MP or in better quality decisions seems naïve. More MPs could simply result in more mediocre government. Similarly, the argument that MPs in cabinet will comprise a higher proportion of all MPs with a smaller parliament depends on the size of cabinet, and we believe there is a good case for a smaller cabinet. In any event, it is the proportion of government MPs to all MPs that decisively limits the ability of the executive to dominate the legislature. Finally, we doubt that the quality of select committee deliberations bears any simple relationship to the number of MPs.

5 Conclusion

5.1 Given our view that MMP has confirmed many of the criticisms made of it and disappointed many of the hopes of its proponents, we consider the electorate should have the opportunity to express another verdict on it. Accordingly, our submission has concentrated on the process that should be followed to give the electorate this opportunity. In our view the select committee should recommend a form of referendum that poses the choices in a neutral manner, taking account of the public's expressed desire for a smaller parliament and any other amendments to the Electoral Act that might need to be made.

5.2 We do not believe it should be the role of the select committee to make judgments about the merits of alternative electoral arrangements, although individual parties and politicians should be free to do so. For that reason we do not see this submission or the select committee hearings as the place to litigate this issue. Nevertheless, we agree with the body of opinion that believes MMP has been tried and found wanting in relation to FPP. We accept that some prefer MMP on grounds of diversity of representation but we question the importance of any such differences in the longer term, and we believe the arguments in favour of MMP are outweighed by the more fundamental ones about the nature of a sound democratic system. In our view, New Zealand's previous Westminster system, or variants of it such as preferential voting, have greater merit. We note that the Labour Party in Britain appears to be backing off plans to introduce a form of proportional representation and that in recent years there have been moves and attempts in Italy and Japan, two countries that have been paralysed in their decision making processes, to make their electoral systems less proportional. In view of the advantages as we see them of FPP, we would be happy for the electorate to be given a straight choice between MMP and FPP. However, in fairness to other views and for reasons of due process, we believe the referendum question should be posed in the same way as on the previous occasion.

5.3 Accordingly we recommend that the Committee should decide that:

- the pending review of the MMP system should be determined by binding public referenda:

- In the first referendum voters would be asked: (A) if they want to retain MMP or change it: and (B) which of four alternatives – first-past-the-post, preferential voting, supplementary member, or single transferable vote – they prefer.
- If a majority vote for change in response to (A), a second referendum would be held. In this referendum voters would choose between MMP and the alternative in (B) that attracted the most support in the first referendum.

5.4 We also suggest that the Committee give serious consideration to recommending that major changes to New Zealand's constitutional arrangements should in future normally require a supra-majority amongst those voting, and perhaps a subsequent referendum (say 3 years later) to confirm that decision.

Appendix

Conclusions in Relation to MMP²⁴

The most serious of the four options under consideration is the mixed-member proportional system, used in Germany. This system would offer parliamentary representation for smaller parties and make coalition governments likely. Experience on the European continent with the mixed-member system (and assorted variants) illustrates that this form of proportional representation is a viable and stable form of government.

The mixed-member proportional system would offer some advantages over current institutions. Specifically, the necessity of assembling and maintaining a coalition government places checks upon governmental powers and allows greater representation for minorities. Furthermore, the process of government is made more representative in the sense that a greater number of different opinions can be heard in the legislative chamber.

Nonetheless, we do not favour the mixed-member proportional system for New Zealand. Under this system, minority interests may hold the ability to extract excessive policy concessions from a government and obtain undue power. In Germany, for instance, the sentiments of the Free Democratic Party (FDP, a minority party that usually wins between five and ten percent of the vote), determine which of the two major parties will come to power. The decision of the FDP concerning which coalition to create supersedes much of the voters' influence. In this sense coalition governments and proportional representation are less democratic and less representative.

Furthermore, government becomes less accountable to voters when coalition formation is present. Voters are never sure which party is responsible for which decision and voters can never decisively turn a party or government out of power. We see the negotiation of coalitions after an election as contrary to democratic principles. Promise-breaking is institutionalised and the influence of party machines

²⁴ Extracted from Chapter 3 of *An Analysis of Proposals for Constitutional Change in New Zealand*, *op cit*.

increases. In addition, under the mixed-member system political parties could obtain even more power by controlling the process of candidate nomination.

The mixed-member system also complicates the electoral mechanism and is not understood by many voters. Even in Germany, a well-educated country where the system has been used for many years, the workings of the system are not well understood.

More generally, we do not favour the mixed-member system because we expect the Westminster system to perform reasonably well in the future, provided that New Zealand remains an open economy. Changing the electoral mechanism would increase policy uncertainty and affect the workings of government in an uncertain manner without a strong presumption in favour of improvement.