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**REPRESENTATION VS STABILITY: THE FIVE
PER CENT THRESHOLD IN MMP**

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I INTRODUCTION

This essay examines the five per cent electoral threshold in New Zealand's Mixed Member Proportional ("MMP") electoral system and whether it is justified. After an outline of MMP and its important principle of proportionality, the essay will briefly examine the history of the electoral threshold, compare it to overseas systems, and detail its impact on elections held so far under MMP. A summation of the reasons *for* the imposition of an electoral threshold – 'the case for a threshold' - will then be offered, followed by the arguments that can be made against it. The essay will conclude that the question of whether to have an electoral threshold essentially turns on the appropriate weight given to two of the (conflicting) goals of an electoral system: diverse representation of interests, or stable and effective government. This writer submits that the principled and practical arguments against the five per cent threshold must defeat the small risk of instability created by its abolition.

II BACKGROUND

A MMP and Proportionality

Since 1996, New Zealanders have voted in triennial elections using the Mixed Member Proportional (MMP) system, after the First-Past-the-Post (FPP) system was narrowly defeated in a binding referendum in 1993.¹ Every person eligible to vote has two votes. The "party vote", the most important, determines the composition of the entire Parliament (of, normally, 120 seats). A party's percentage share of the overall vote determines its allocation of seats.² The "electorate vote" is a hang-over from FPP. It is used to elect people into single-member constituency seats (69 in 2005) on a simple plurality basis. The remaining "list seats" in Parliament are distributed using the party vote.

The fundamental basis of MMP is proportionality. That is, parties receive seats in the House of Representatives (roughly) in proportion to their total share of the "party

¹ Jeffrey A Karp and Shaun Bowler "Coalition Politics and Satisfaction with Democracy: Explaining New Zealand's Reaction to Proportional Representation" (2000) 40 *European Journal of Political Research* 58.

² Philip Joseph *Constitutional and Administrative Law* (2ed, Brookers, Wellington, 2001) 191.

vote”.³ MMP has certainly delivered more proportionate election outcomes than FPP.⁴ However, a number of elements of the MMP system distort true proportionality in the distribution of parliamentary seats.⁵ One of these is the provision in the Electoral Act 1993 which provides that a party is entitled to a proportional share of seats, but only if it wins five per cent or more of all the party votes (the “five per cent threshold”).⁶ That requirement is, however, waived by the party winning at least one electorate seat (the “electorate threshold waiver”).⁷

The threshold distorts proportionality since it produces an “electoral deficit that inflates the percentage share of party votes of those parties that share in the allocation of seats.”⁸ The electorate waiver helps preserve proportionality, because it ensures that votes that would otherwise have been lost are used to determine a party's allocation of total seats.⁹

B The Royal Commission's Report

It is well known that the Royal Commission on Electoral Reform (“Royal Commission”) which reported in 1986, recommended the introduction of MMP.¹⁰ What is less well known is that it proposed an electoral threshold of four, rather than

³ One of the major reasons why MMP was put on the political agenda, and then received such support, was the perceived unfairness in election results under FPP. For example, in 1978 and 1981 Labour received more votes across the country than National, but won fewer seats. The FPP system also discriminated against third parties. In 1981 the Social Credit Political League had received 21 per cent of the votes, but only two seats in a Parliament of 92 seats. See Jack Vowles “The Consolidation of Reform?” in Michael Gallagher and Paul Mitchell (eds.) *The Politics of Electoral Systems* (Oxford University Press, Oxford, 2005) 297.

⁴ The greatest difference in percentage points between the proportion of seats won by a party, and the proportion of votes won by a party, was 2.9 in 1996. This compares to differences of between 10.8 and 21.3 under FPP between 1984 and 1993. For example, in 1984, Labour won 43.0 per cent of the total vote, and 58.9 per cent of the seats (56 out of 95) - a difference of 15.9. The difference was even more pronounced in the landslide National win of 1990, when it won 47.8 per cent of the vote and 69.1 per cent of the seats (67/97). See Geoffrey Palmer and Matthew Palmer *Bridled Power* (Oxford University Press, Auckland, 2004) 26.

⁵ Apart from the subject of this essay, others include the determination of electoral districts (which affect the ratio of electorate to list seats, and thus what seats are available), the problem (partly linked to electoral districts) of overhang seats, and the ability for MPs to “party-hop” (although this was somewhat constrained during the 1999 to 2005 Parliaments by the Electoral (Integrity) Act 2001).

⁶ Electoral Act 1993, s 191(4)(a)

⁷ Electoral Act 1993, s 191(4)(b)

⁸ Joseph, above n 3, 192.

⁹ Mark White-Robinson *Electoral Reform: MMP, political parties and proportionality* (LLB (Hons) Research Paper, Victoria University of Wellington, 2005) 42.

¹⁰ Royal Commission on the Electoral System *Report of the Royal Commission on the Electoral System: Towards a Better Democracy* (Wellington, 1986) 11-12.

five, per cent.¹¹ It also proposed the electorate threshold waiver.¹² The Commission stated that the choice of the four per cent threshold was “designed to provide small parties with a reasonable chance of gaining seats while discouraging the proliferation of minor and/or extremist groups in the House.”¹³ The Commission was “persuaded that if no threshold is set or if it is set too low, the operation of effective government would be very likely to be frustrated....” because of a “proliferation of small parties with few seats in the House.”¹⁴ The adoption of an appropriate threshold was a “key element” to their proposal, and having no threshold was “clearly undesirable.”¹⁵

C The Electoral Law Committee's Report

In 1988 the Electoral Law Committee of the House of Representatives considered the Royal Commission’s report. The Committee was opposed to the introduction of MMP, essentially recommending that FPP be retained.¹⁶ However, the Committee did express a view on the appropriate level of an electoral threshold if MMP was adopted. The Committee favoured a five per cent threshold, “based upon the West German system”.¹⁷ The Committee did not expand on this, and nor did it express a view on the electorate waiver.

D Referenda in the early 1990s

After referenda in 1992 indicated overwhelming support for MMP, the government introduced an Electoral Reform Bill into the House, providing for a binding referendum during the 1993 General Election, and the details of the MMP system as

¹¹ Even less well known is the Royal Commission's proposal that the Māori seats be abolished, but that the proposed four per cent threshold be waived for parties representing parties primarily representing Māori interests. See Royal Commission on the Electoral System, above n 1, 66. The Commission also speculated that “[t]his waiver could be extended to parties representing other minority ethnic groups, such as Pacific Islanders, if this was thought desirable.” (66).

¹² Royal Commission on the Electoral System, above n 1, 66-67.

¹³ Royal Commission on the Electoral System, above n 1, 66.

¹⁴ Royal Commission on the Electoral System, above n 1, 66.

¹⁵ Royal Commission on the Electoral System, above n 1, 67.

¹⁶ Electoral Law Committee “Inquiry into the report of the Royal Commission on the Electoral System” [1988] AJHR I 13B 20. Jack Vowles notes that “greeted by derision and contempt by the Electoral Reform Lobby, the proposal was shelved by an embarrassed government.” Jack Vowles, “The Politics of Electoral Reform in New Zealand” (1995) 16 *International Political Science Review* 103.

¹⁷ Electoral Law Committee, above n 16, 15.

determined by the government.¹⁸ The Bill included an electoral threshold of four per cent.¹⁹ The Bill was referred to the Electoral Law Select Committee which reinserted the five per cent threshold.²⁰ Why it did this is unclear.²¹

E The MMP Review in 2000

On election night in 1993, New Zealanders voted by 53.9 per cent to 46.1 per cent to adopt MMP.²² The newly-enacted Electoral Act 1993 made it compulsory for Parliament to establish a select committee as soon as possible after 1 April 2000 to review MMP.²³ This was duly established, and the committee published its findings in July 2001 by way of a lengthy report.²⁴ Sixty nine submissions were received on the appropriate party vote threshold. One-fifth advocated the retention of the status quo, and nearly half proposed that the threshold be lowered to four per cent. Approximately one-fifth proposed the threshold be abolished altogether.²⁵

The committee unanimously considered that the arguments for having a threshold were “conclusive.”²⁶ The ACT, Green and United parties supported a threshold of four per cent. The Alliance, Labour and National parties supported a five per cent threshold, believing “there were no compelling reasons to reduce it and very good

¹⁸ During the 1990 election, both Labour and National promised a referendum on electoral reform. Labour had promised a referendum in 1987, after David Lange misread his speech notes for a television debate. Seeking to make political capital out of this, the National Party in their 1990 manifesto promised a binding referendum by the end of 1992 on electoral reform. This was matched by Labour. A non-binding referendum was thus held in 1992. Voters were asked two questions: if they wanted to abolish MMP, and which voting system should replace it. Over 85 per cent of voters who turned out voted to abolish FPP, and MMP was the preferred alternative to three other voting systems with 65 per cent support. See Jack H Nagel “What political scientists can learn from the 1993 electoral reform in New Zealand” (Sep 1994) 27 PS: Political Science & Politics 526.

¹⁹ Alan McRobie *Taking it to the People? The New Zealand Electoral Referendum Debate* (Hazard Press, Christchurch, 1993) 76. The Bill also included the structure and functions of a proposed Senate (a new Upper House) which would have come into effect if the voters in the referendum had endorsed FPP, as well as the Senate proposal.

²⁰ Electoral Law Select Committee “Report on the Electoral Reform Bill 1992” [1991-93] XXIV AJHR I 17C 13.

²¹ Alan McRobie and Keith Jackson *New Zealand Adopts Proportional Representation: Accident? Design? Evolution?* (Aldershot, Ashgate, 1998) 147. The Committee also notably removed the waiver on the threshold for parties representing Māori interests.

²² Jack Vowles, above n 16, 96.

²³ Electoral Act 1993, s 264.

²⁴ MMP Review Committee *Report on the Inquiry into the Review of MMP* [2001] AJHR I 23A. NZ First declined to participate in the Select Committee, for no readily apparent reason.

²⁵ MMP Review Committee, above n 23, 46-47.

²⁶ MMP Review Committee, above n 23, 48.

reasons for keeping it as it is”.²⁷ All the parties represented on the Committee, apart from ACT, supported keeping the electorate waiver.²⁸

F The overseas experience

Other countries that use proportional electoral systems also have thresholds to representation. New Zealand has a comparatively high threshold. Palmer and Palmer note the five per cent threshold is “a substantial hurdle to overcome - five per cent of the number of registered voters amounted to about 134,000 votes in 2002.”²⁹ Germany is the only other country to a threshold set at five per cent. The threshold is two per cent in Israel and Denmark, and four per cent in Norway and Sweden.³⁰

III ELECTIONS WITH NO THRESHOLD: WHAT WOULD HAVE CHANGED?

The following section outlines, in table form, what would have been different in each election held under MMP if no threshold had been in force. The tables show the clear disproportionate effect of the five per cent threshold (particularly in 1996 and 2002), as well as the ameliorative effect on proportionality of the electorate waiver.

Table 1: Thresholds and the 1996 General Election³¹

Party and share of the party vote	Actual results in seats	No Threshold
National (33.8 per cent)	44	42
Labour (28.2 per cent)	37	35
New Zealand First (13.4 per cent)	17	16
Alliance (10.1 per cent)	13	12
ACT (6.1 per cent)	8	7
Christian Coalition (4.3 per cent)	0	5
Aotearoa Legalise Cannabis Party (1.7 per cent)	0	2
United NZ (0.9 per cent)	1*	1

²⁷ MMP Review Committee, above n 23, 49.

²⁸ “[t]he ACT party supported abolishing this threshold but only if the party vote threshold for parliamentary representation was lowered to four per cent.” MMP Review Committee, above n 23, 50. This is ironic given ACT’s woes in the 2005 election, when it only ensured survival in Parliament by dint of the electorate threshold waiver (Rodney Hide defeating Richard Worth in Epsom), and received only 1.5 per cent of the party-vote.

²⁹ Palmer and Palmer, above n 5, 25.

³⁰ MMP Review Committee, above n 23, 49.

³¹ (*) indicates that the party met the electorate threshold but not the vote threshold.

Table 2: Thresholds and the 1999 General Election

Party and share of the party vote	Actual results in seats	No threshold
Labour (38.7 per cent)	49	48
National (30.5 per cent)	39	37
Alliance (7.7 per cent)	10	9
ACT (7.0 per cent)	9	9
Green Party (5.2 per cent)	7	6
New Zealand First (4.3 per cent)	5*	5
Christian Heritage (2.4 per cent)	0	3
Future NZ (1.1 per cent)	0	1
Aotearoa Legalise Cannabis Party (1.1 per cent)	0	1
United NZ (.5 per cent)	1*	1

Table 3: Thresholds and the 2002 General Election

Party and share of the party vote	Actual results in seats	No threshold
Labour (41.3 per cent)	52	49
National (20.9 per cent)	27	25
New Zealand First (10.4 per cent)	13	12
ACT (7.1 per cent)	9	9
Green Party (7.0 per cent)	9	8
United Future (6.7 per cent)	8	8
Progressive (1.7 per cent)	2	2
Christian Heritage (1.4 per cent)	0	2
Outdoor Recreation (1.3 per cent)	0	2
Alliance (1.3 per cent)	0	2
Aotearoa Legalise Cannabis Party (0.6 per cent)	0	1

Table 4: Thresholds and the 2005 General Election

Party and share of the party vote	Actual results in seats	No threshold
Labour (41.1 per cent)	50	50
National (39.1 per cent)	48	47
New Zealand First (5.7 per cent)	7	7
Green Party (5.3 per cent)	6	6
Māori Party (2.12 per cent)	3 (+1 overhang)	3 (+1 overhang)
United Future (2.7 per cent)	3*	3
ACT (1.5 per cent)	2*	2
Progressive (1.2 per cent)	1*	1
Destiny (0.6 per cent)	0	1

IV THE CASE FOR A THRESHOLD

There is clearly a broad consensus that some form of electoral threshold is desirable. Debate has mainly revolved around whether the appropriate level of threshold is four per cent or five per cent. This next section of the essay outlines the arguments

advanced by proponents of electoral thresholds (at four or five per cent).

The premise behind many of the arguments for a threshold is that if no threshold existed, then there would be a “proliferation” of minor parties gaining representation and fragmenting the House.³² Jackson and McRobie note that “[s]ome PR [proportional representation] systems with a very low, or no threshold, can result in as many as fourteen of fifteen political parties.”³³

Examining New Zealand, it is certainly true that if no threshold had existed from 1996 onwards, more parties would have entered the House. In the 1996 election, for example, two more parties than actually did, would have gained representation, taking the total number of parties in the House to eight at the start of the Parliament.³⁴ In 1999, three more parties would have gained representation, taking the total to ten.³⁵ In 2002, four more parties would have taken the total to eleven.³⁶ In 2005, only one party (Destiny NZ) would have gained a seat if no threshold had been in force, taking the total number of parties to nine.³⁷

The above analysis does not take into account the effect of the threshold on voting behaviour. It is highly likely that with no threshold, voters would have been more likely to vote for smaller parties, because of the significantly heightened chance of them gaining representation in Parliament. It is therefore likely that the amount of parties in Parliament would have been more than the figures above suggest.

Bearing that analysis in mind, it is submitted that there are five major arguments put forward for retaining a threshold at four or five per cent.

³² Joseph, above n 3, 191.

³³ McRobie and Jackson, above n 20, 320.

³⁴ The Christian Coalition's 4.3 per cent of the vote would have entitled it to five seats in the House, and the Aotearoa Legalise Cannabis Party's 1.7 per cent of the vote would have entitled it to two seats.

³⁵ Christian Heritage's 2.4 per cent of the vote would have entitled it to three seats, the Aotearoa Legalise Cannabis Party's 1.1 per cent would have entitled it to a single seat, as with Future New Zealand's 1.1 per cent.

³⁶ Christian Heritage's 1.4 per cent of the vote would have entitled it to two seats, the Outdoor Recreation Party's 1.3 per cent would have entitled it to two seats, the Alliance's 1.3 per cent would have entitled it to two seats, and the Aotearoa Legalise Cannabis Party's 0.6 per cent would have entitled it to a single seat.

³⁷ Destiny NZ received 0.6 per cent of the vote.

A *Governments would be harder to form*

It is alleged that in a no-threshold environment, governments will be harder to form due to the proliferation of small parties. The Royal Commission noted that “[w]e are persuaded that if no threshold is set or if it is set too low, the operation of effective government would be very likely to be frustrated”.³⁸ It is likely that smaller parties' seats in Parliament under a no-threshold system could be vital to the formation of a government. For example, in 2002 the minority Labour-Progressive government would have had to secure at least one more party on confidence and supply than it actually did, in order to be sure of being able to govern.³⁹

B *Legislation would be harder to pass*

The corollary of the above argument is that if governments are harder to form under a no-threshold system, legislation would be harder to pass. Governments, even under MMP, need to exert some semblance of control over Parliament in order to advance the program they have been elected to implement. MMP has already led to a weakening of the executive in relation to Parliament; a no-threshold system would diminish executive power even further.

C *Instability*

It is also argued that more parties in Parliament create more unstable governments and parliaments. There is evidence to back this assertion up. Israel's electoral system currently has a two per cent threshold.⁴⁰ Prior to 1992 the threshold was 1 per cent, when it was raised to 1.5 per cent. It was raised to two per cent in 2004.⁴¹ As a consequence, since 1948:⁴²

³⁸ Royal Commission on the Electoral System, above n 1, 66.

³⁹ White-Robinson, above n 10, 41.

⁴⁰ Abraham Diskin and Hanna Diskin 'The Politics of Electoral Reform in Israel' (1995) 16 *International Political Science Review* 31.

⁴¹ Gideon Rahat and Reuven Y Hazan “Israel: The Politics of an Extreme Electoral System” in Gallagher and Mitchell, above n 4, 337.

⁴² Rahat and Hazan, above n 41, 341-342.

no party in Israel has ever won a majority at an election, and several parties are needed to form a governing coalition. Premature collapse of the government took place all too often, and few Knessets [the Parliament] were able to last their full, four-year term.

McRobie and Jackson note that “[t]hresholds...are designed to winnow out the smaller political parties...to introduce a deliberate element of disproportionality in representation in order to maintain a degree of executive stability in parliament.”⁴³ The MMP Review agreed, stating that the threshold acted to “reduce instability that can flow from the fragmentation of parties.”⁴⁴

D Minority parties would exert disproportionate influence

MMP dictates that governments must often compromise in order to secure a majority for legislation. It is argued that if no threshold existed, small parties would exert influence far in excess of their share of the vote. Israel again provides an apposite example. From 1977 onwards:⁴⁵

The two major parties competed fiercely for the support of the smaller parties, some of whom successfully played one major party off against the other and not only demanded a high fee for their inclusion, but also continuously threatened to bring down the government if their increasing demands were not met.

E Elimination of extreme elements

Finally, the MMP Review Committee reported that submitters supported keeping the threshold because it “eliminated truly extreme elements and ensured parties would provide platforms that were sufficiently ‘middle of the road’ to attract voters.”⁴⁶

V THE CASE AGAINST A THRESHOLD

The next section of this paper seeks to summarise the major arguments that can be mounted against any form of electoral threshold.

⁴³ McRobie and Jackson, above n 20, 121.

⁴⁴ MMP Review Committee, above n 23, 48.

⁴⁵ Rahat and Hazan, above n 41, 342.

⁴⁶ MMP Review Committee, above n 23, 48.

A *Democracy and representation*

The very simple and powerful argument against a threshold is that it denies representation to those who voted for parties which fall below the threshold. MMP was introduced to be a fairer and more representative system than FPP; yet the operation of a threshold prohibits those goals being fully realised. Merely because a party falls below an arbitrary number should not deny it members in the House of Representatives; to do so is undemocratic and unprincipled.

This argument goes to defeat the point about “extremism” made above. It is contended that so-called “extremist” views have a right to be represented in Parliament. The proper, democratic, way to defeat “extremist” ideas is through reasoned and rational debate, rather than shutting those views out of Parliament so they cannot be heard. If such ideas are so absurd then they should be easy to argue against and simple to persuade others as to their detriments in the “marketplace of ideas.” That is the essence of democracy.

B *Disenfranchisement*

The operation of the threshold means that party votes for parties who do not make the threshold, or who fail to win an electorate seat, are wasted. At the first 1996 MMP election in 1996, 8.4 per cent of the party vote went to minor parties that failed to gain representation.⁴⁷ In 1999 the figure was six per cent, in 2002, 4.9 per cent, and in 2005, 1.3 per cent.⁴⁸ Those voters are essentially disenfranchised from the political process.⁴⁹ Moreover, the wasted votes mean proportionality is violated.⁵⁰

A particularly egregious example of disenfranchisement occurred in 1996, when the Christian Coalition received 4.3 per cent of all party votes cast, but no seats in the House. 90,000 New Zealanders' votes were discarded. Citing the Christian Coalition example, the MMP Review in 2001 noted “that having any threshold would inevitably

⁴⁷ Joseph, above n 3, 192.

⁴⁸ White-Robinson, above n 10, 40.

⁴⁹ Rein Taagepera “Nationwide Threshold of Representation” (2002) 21 Electoral Studies 383.

⁵⁰ Claudia Winkler “The electoral systems in Germany and in New Zealand” (LLM Research Paper, Victoria University of Wellington, 2003) 48.

shut out the representation of some views, and an arbitrary boundary led to a sense of grievance by those just under the threshold.”⁵¹

C Distortion of voting behaviour

The electoral threshold also distorts voting patterns and behaviour. As Vowles notes, “threshold issues loom large in election campaigns under MMP in New Zealand.”⁵² Whether or not minor parties will reach the five per cent threshold is a constant focus of media attention. It seems likely that some people avoid voting for smaller parties on the basis that they will miss reaching the five per cent threshold and thus their vote will be wasted. In this way, people's true political preferences are sidelined.⁵³

The distortion in voting behaviour is made worse by the electorate threshold waiver.⁵⁴ Because of the tough five per cent threshold, minor parties have frequently sought to retain or win an electorate seat as the party's “escape clause”.⁵⁵ Holding the seat, or at least arguing they have a good shot of winning it, thus encourages voters that their vote will not be a wasted vote. Some electorate seats have become strategically vital seats, with local issues and the question of the best representative for the electorate being subsumed into the wider question of minor party survival.

Essentially, voters are exhorted to vote tactically, not for whom they genuinely think would be the best representative of the electorate. Numerous examples abound.⁵⁶ One notable example in the 2005 election was Rodney Hide's (successful) efforts to win the Epsom electorate and ensure ACT's survival. The true voting intentions of the Epsom citizens were utterly distorted because of the importance of the electorate to

⁵¹ MMP Review Committee, above n 23, 48.

⁵² Vowles, above n 4, 300.

⁵³ Vowles, above n 4, 301.

⁵⁴ John Leslie and Elizabeth McLeay (1 November 2005) “MMP's one-seat threshold creates paradox” *The New Zealand Herald*. Taken from http://subs.nzherald.co.nz/event/print.cfm?c_id=1500891&objectid=10352892 (last accessed 18 September 2006).

⁵⁵ Jonathan Boston and others *New Zealand under MMP: A New Politics?* (Auckland University Press, Auckland, 1996) 54.

⁵⁶ In addition to the Hide example: Jeanette Fitzsimons MP in Coromandel in 1999, Rt Hon Winston Peters in Tauranga in 1999, Hon Jim Anderton in Wigram in 2002 and 2005, Hon Peter Dunne in Ohariu-Belmont from 1996-present, Hon Richard Prebble in Wellington Central in 1996.

the nationwide battle and because of the five per cent threshold.⁵⁷

D Deterrent to new parties forming

The five per cent threshold also acts as a disincentive for new parties to form and enter the political landscape.⁵⁸ It would be extremely difficult for a new force to enter Parliament by obtaining over five per cent of the party vote, without having a current MP “party-hop” to the party inside Parliament. The only party to have entered Parliament during MMP without an already sitting MP is ACT. Undoubtedly the five per cent threshold deters many from even trying.⁵⁹

VI CONCLUSION: REPRESENTATION V STABILITY

The abolition of an electoral threshold would provide for a more representative Parliament and a more democratic one. It would empower voters of minor parties, increase the proportionality of Parliament, and reduce voting distortion. However, these factors must be balanced against the criteria of effective and stable government, identified by both the Royal Commission and the MMP Review Committee as important considerations. Overseas evidence suggests that these can be compromised by having no electoral threshold. Essentially the question to be asked is: which is more important, representation or stability?

This writer would abolish the five per cent threshold, as well as the electorate waiver, which is rendered irrelevant under a no-threshold system. The overall aim of MMP is fairness and proportionality, to ensure as many people as possible are represented in the House of Representatives. The five per cent threshold is undemocratic, distorts voting behaviour, and prevents the rise of new political forces.

Concerns about “instability” are over-stated. By definition, minor parties in

⁵⁷ For example, in the final days Labour candidate Stuart Nash urged his supporters to vote for sitting National MP, Richard Worth, to try and prevent a Hide victory. See “Labour candidate votes National to help Labour” (18 September 2005) *New Zealand Herald*. Taken from <http://www.nzherald.co.nz/search/story.cfm?storyid=%1E%FB%F8%C5%2B%B2%BFM> (Last accessed 16 September 2006).

⁵⁸ White-Robinson, above n 10, 40.

⁵⁹ Winkler, above n 50, 49.

Parliament with few seats have as much as power as they do seats (in other words, not very much). The New Zealand electorate does not tolerate minor parties attempting to exercise disproportionate power over major parties.⁶⁰ It has to be doubted whether New Zealand would see similar fragmentation and instability as Israel has seen, due to vast differences in the political cultures of the two countries. MMP has created an environment of fluid voting alignments - every government since 1999 has been a minority government, having to piece together majorities for each piece of legislation.⁶¹ Adding more parties to the parliamentary mix merely means that this process is more important. Arguably this is a good thing, as it means more diverse representation of interest in the process of legislative drafting and amendments.

Ultimately, an electoral system is the mechanism by which people choose their representatives. The five per cent threshold disenfranchises a large swathe of the voting population. Democracy must triumph over stability.

⁶⁰ Witness New Zealand First between 1996 and 1999, when it was nearly obliterated at the 1999 election, and the Alliance after 2002, which lost all Parliamentary representation.

⁶¹ The current Labour-Progressive minority government has confidence and supply arrangements with the New Zealand First and United Future parties, but must secure parliamentary passage of most legislation by negotiation with those two parties, as well as the Māori Party and Green Party.

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