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**UNBRIDLED OPTIMISM:
PUBLIC CHOICE, THE PUBLIC SERVICE AND
ELECTORAL LAW REFORM**

A thesis submitted in partial fulfilment of the requirements for the degree
of Master of Arts in Social Policy

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ABSTRACT

This thesis addresses issues that are likely to be confronted by the public service in New Zealand as a result of the advent of electoral law reform.

During the decade since 1984 the institutional arrangements that circumscribe the activities of the core public sector have undergone a process of considerable change. The proposition extended in this research is that the structural configuration that has emerged out of the process of public sector reform will face a number of significant challenges in the emerging political environment.

In the context of a milieu shaped by the imperatives of proportional representation, two particular characteristics of the contemporary public service may prove problematic. Specifically, the nature of the statutory interface between responsible ministers and the chief executives of government organisations may, in conjunction with an 'atomised' core public sector, function so as to compromise both the impartiality of public servants and the ability of an administration to develop and implement policy in a strategically consistent fashion.

The extent to which such difficulties are likely to occur will be the result of the convergence of a series of variables, including the calibre of political leadership provided by future Prime Ministers, and the nature of the advice and guidance provided to public servants in the new climate. Perhaps most significant of all, however, will be the precise configuration of future parliaments returned under the new electoral system. The fusion of the legislative and executive arms of government under New Zealand's constitutional arrangements means that patterns of legislative representation influence the formation of governments; in the future, those patterns may exercise a more direct influence upon the environment within which the public service operates than has historically been the case in New Zealand.

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CHAPTER ONE: INTRODUCTION

1 INTRODUCTION

During the last decade New Zealand has passed through two wrenching processes of reform that have markedly altered its constitutional landscape. The first of those fundamentally redesigned the institutional contours of the public sector; the second promises to have an equally profound impact on the composition of the legislative and executive branches of government. The convergence of the institutional outcomes of the dual processes of state sector and electoral law reform represents a defining moment in the history of public administration in this country, and it is my intention in this thesis to explore a number of issues that have been thrown into sharp relief by the interface between the two.

The purposes of this introductory chapter are threefold. The first task is the articulation of the research hypothesis. The second is the operationalisation of that hypothesis, which entails detailing the proposed logic and structure of the research process as it will unfold through the sequence of chapters that make up the thesis. Finally, there is a discussion in two sections concerning (a) the nature of the interface between the political and administrative arms of the executive branch of government, and (b) the political configurations that are likely to prevail in the future given the advent of proportional representation. This research canvasses issues that go to the heart of the relationship between politics and administration in the context of the new electoral system, and the preliminary comments offered here comprise a necessary backdrop to the discussions and analyses that are presented in subsequent chapters.

2 ARTICULATING AND OPERATIONALISING THE HYPOTHESIS

The hypothesis that lies at the centre of the research is that there are points at which disjuncture will occur between the anticipated patterns of executive government under proportional representation and key features

of the institutional configuration that applies in the public service.¹ The substantiation of that hypothesis will require the illumination of the imperatives behind the movement for electoral law reform and the likely consequences of the mixed member proportional system (MMP) for the structure of the political executive; a detailing of the theoretical foundations, codification and institutional outcomes of the process of core state sector reform; and a juxtapositioning of the conclusions drawn in each of those two sections in order that points of incongruence might be illuminated.

In essence, the thesis considers the extent to which a public service topography informed, in part, by the denial of interests possesses the capacity to meet the demands of an electoral system substantially predicated on the rehabilitation of interest-based politics. The theoretical case constructed in the early chapters suggests that the public service's capabilities are likely to be particularly stressed in relation to (a) the traditionally non-partisan status of public servants, and (b) its ability to horizontally co-ordinate the provision and implementation of policy advice. Based primarily on data generated through a sequence of interviews, the conclusions subsequently drawn in Chapters 7 and 8 indicate that the potential for a lack of congruence does indeed exist, and further, that those disjunctures are most likely to be transmitted through the statutory arrangements comprising the politics/administration interface and the institutional contours of the public service.

In seeking to illuminate these fundamental considerations, the research has traversed a series of additional issues that usefully complements the hypothesis that lies at the heart of the thesis. The convergence of the institutional outcomes of core state sector and electoral law reform will not occur in an economic and political vacuum. Accordingly, in the last chapter a prognosis for the future configuration of the machinery of government is offered in the context of the likely dynamics of legislative processes under proportional representation. That discussion canvasses issues that extend beyond the primary domain of the research, but it is offered in order that the

¹ The primary focus of this research is on the relationship between the administrative and political arms of the executive branch of government. Accordingly, two caveats apply throughout the thesis. Firstly, the terms 'executive' or 'political executive' constitute references to Cabinet; secondly, the 'public service' or 'core public sector' denotes those agencies listed in sections 2, 27 and in the First Schedule of the *State Sector Act 1988*.

conclusions previously reached are situated in the context of the wider political-economy.

2.1 Political power and the momentum for electoral law reform

Any analysis of the reasons behind the emergence of electoral law reform as a major political issue in the late 1980s and early 1990s would be substantially deficient were it to ignore the significance of the fact that the political executive in New Zealand has long exercised marked control over the legislative process. Accordingly, the central task of Chapter 2 of this thesis is to articulate a profile of the structural bases of the political and legislative power traditionally enjoyed by the political executive. In particular, that endeavour focuses on the centrality of the simple plurality electoral system (FPP) to that matrix of arrangements, inasmuch as it has systematically delivered to office single party majority governments able to legislate with considerable impunity.

Having established the significance of the simple plurality system to the conduct of past administrations, Chapter 3 explores the antecedents and outcomes of the political process through which that electoral system was assessed, deemed deficient, and subsequently abandoned in favour of the Mixed Member Proportional (MMP) system. It pays particular attention to the pivotal role played by the Royal Commission on the Electoral System in that process, and traces the movement for reform from the emergence and consolidation of a public critique through to the outcome of the final and binding referendum on November 6 1993.

2.2 The theoretical foundations and codification of state sector reform

The other great process of reform that has taken place during the last decade has been that through which the institutional fabric of the state sector has been rendered and rewoven. The precise nature, sequencing and course of the process which was a key part of what has been characterised as 'The Great Experiment' (Castles, Gerritson and Vowles, 1996) was very much a function of the complex interplay between personalities, institutions and circumstances. Perhaps most notably, the contours of that process reflected the political ascendancy at a specific juncture of a body of intellectual analyses and prescriptions for change (for reasons which are elaborated

below); in Chapter 4, the detail of those theoretical traditions is explored, and a series of distinctions drawn between their constituent internal strands.

Chapter 5 is given over to an elaboration of the manner in which those theoretical prescriptions received statutory expression. More specifically, it comprises an evaluation of the considerable extent to which statutory provision reflected theoretical prescription. Put another way, the overriding theme of this chapter is that to a remarkable extent, the changes made to the core machinery of government by the Fourth Labour Government were informed by the sorts of theoretical analyses detailed in Chapter 4. And while it is primarily concerned with the changes made in the late 1980s to the core public sector, the discussion is situated in the context of the structural adjustments that took place within the wider political economy at that time.

2.3 The institutional profile of the public service

The focus in Chapter 6 of the thesis moves from an aggregate assessment of key statutory provisions to a more detailed examination of the structural arrangements characteristic of the core public sector. Part of that endeavour entails presenting a critique of both the theoretical bases and institutional outcomes of the process of reform. The remainder of the chapter is devoted to a commentary on several of the central planks of the current matrix of structures which are of particular significance in the context of this research. Notable amongst those are the decoupling of the roles of politicians and public servants, and the organisational separation of the advice, implementation and other diverse functions of core government agencies.

2.4 Tensions at the political/administrative interface

Chapter 7 is the cornerstone of the thesis. The function of the preceding chapters is to construct detailed profiles of the two processes of state sector and electoral law reform: Chapter 7 is the site on which the tensions and contradictions suggested by the convergence of those two processes are explored in considerable detail. It is also the point at which the field research component of this endeavour is most apparent. As a part of the research process, I interviewed seven participants (see Appendix One), and the

synthesis of their thoughts, reflections and observations, while selectively reflected in other chapters, comprises the substance of Chapter 7.

In the eighth and final chapter of the thesis, I take the opportunity to present a series of concluding comments and observations regarding the likely future of the existing mix of institutional arrangements in view of the probable functioning of the new electoral system. Those comments are based on a number of conclusions reached through both the theoretical and field research components of this thesis, and reflect a sequence of assessments concerning the ramifications that proportional representation is likely to have for both of the constituent elements of the politics/administration dichotomy.

3 THE POLITICS/ADMINISTRATION DICHOTOMY

This thesis has to do with the contemporary nature of the interface between politics and administration. That interface is mediated through the sets of institutional arrangements that respectively comprise the political and administrative arms of the executive branch of government. The character of the politics/administration dichotomy in New Zealand has been substantially altered as a result of the organisational modifications implemented during the decade of state sector reform, and it will again be modified in the wake of the introduction of proportional representation. Given that the interaction between the political and the administrative in the new political environment comprises the field of study, it is important that the research task commence with some preliminary comments concerning the nature of that dichotomy.

In representative democracies there has long been debate over the appropriate location of the distinction drawn between the tasks and responsibilities of politicians elected to public office on the one hand, and on the other, those of officials appointed to the public service. Traditional formulations of the proper division of labour frequently indicate that it is the job of the former, on the basis of a more or less direct public mandate, to promulgate policy, and of the latter to administer and implement that policy. Contingent upon that conception are the specific expectations that (a) it is the legitimate function (and prerogative) of an elected politician to

establish the strategic policy direction(s) to be taken by government, and (b) that it is the duty of public servants subsequently to administer and execute such functions as may be required for the fulfilment of those specified policy objectives. Put another way, just as it is not considered appropriate that a portfolio minister intervene in the administration of their department(s), similarly the proper domain of the bureaucrat is administration, not the determination of policy.

However, such a stark juxtaposition of responsibilities perhaps oversimplifies the nature of and presumed consensus on the respective roles of politicians and bureaucrats. Aberbach, Putnam and Rockman (1981; cited in Campbell and Peters, 1988) acknowledge that such a distinction is very much an ideal type, and have developed a four part typology for distinguishing between the administrative and policy roles. Image I of that framework conforms to the classical conception of the dichotomy; Image II acknowledges that public servants have a circumscribed role in policy making; Image III asserts that, although they demonstrate a degree of political calculation and manipulation in that limited role, career officials operate differently to partisan politicians; and Image IV suggests that many bureaucrats demonstrate a degree of political activity that matches that of elected representatives. Moreover, as John Martin has pointed out, in terms of the 'perennial issue of whether "policy" (and "politics") can be distinguished from "administration" or "implementation" ... there is no problem at the extremes: but there is a great deal of greyness in between' (1994: 51). Certainly there has been a substantial amount of attention paid to the difficulties inherent in maintaining a strict delineation between politics and administration (and the changes made to the contours of the public sector since the mid-1980s have embodied one particular resolution of the set of tensions implicit in that dichotomy). To the extent that role confusion and tensions do emerge they are frequently explained in terms of disagreements between permanent officials, who claim a privileged understanding of problems and solutions based on the skills and expertise they have garnered in a particular policy domain, and politicians who, particularly if newly elected, are arguably less well informed in a given policy domain (Campbell and Peters, 1988). Such explanations are put forward as partial attempts to explain and to justify the extent to which bureaucrats engage in activity that, it is argued, is properly the responsibility of politicians. Subsequently, a great deal of emphasis is placed on the

various means through which politicians can reclaim control over the policy making functions that the traditional dichotomy contends are rightly theirs.

The original formulation of the politics/administration dichotomy has been attributed in various degrees to Woodrow Wilson and Max Weber, both of whom, although motivated by different concerns and writing from distinct intellectual traditions, 'developed the ideal of a fundamental need to separate the establishment of goals from the detailed execution of policies to reach those ends' (Campbell and Peters, 1988: 80). Those original expositions, particularly in the case of Weber, were primarily motivated by a concern with the perceived tendencies of elected representatives to encroach upon the administrative terrain of permanent officials. However, contemporary formulations tend to focus on the reverse proposition; that is, the dichotomy is proposed and utilised as a means of articulating and justifying the prerogatives of the political executive, and protecting these from bureaucratic encroachment (Campbell and Peters, 1988).²

As inferred above, to a considerable extent the substance of the core public sector reforms of recent years have reflected a specific interpretation and implementation of this traditional conception. Put differently, they have been directed at resolving 'the key issue in the development of the public service in New Zealand, [which] has been the tension between conflicting pressures for political control over the unelected bureaucracy and the desire for a non-political public service' (Boston et al, 1996a: 51). Significantly, the public choice conception of the preferred relationship between politicians and bureaucrats in contemporary political society has had a significant impact on the directions the reforms have taken (see Chapter 4). In common with the graded conceptions of the role of the bureaucrat suggested in the framework proposed by Aberbach, Putnam and Rockman, that critique suggests that public servants frequently demonstrate self-serving behaviour which represents an inappropriate intrusion into the policy-

² Certainly, research in the New Zealand context confirms the conception of the policy role of the elected politician suggested by the dichotomy. McLeay (1995), for instance, demonstrates that portfolio Ministers interviewed in the 1990s overwhelmingly saw their major role as that of policy initiator. Amongst the responses made to a question seeking a definition of the role of the Minister were that a good Minister 'needs to be able to apply his or her mind to the policy issues, [should be] creative and introduce policies and ideas that are for the betterment of New Zealand, [and be able to] communicate the big, broad, strategic overview' (1995: 120 - 125).

making responsibilities of elected politicians. More specifically, public choice adherents contend that the information asymmetries enjoyed by bureaucrats over their political masters, and the corruption of the policy process that that has contributed to, have made all the more urgent a need for the articulation and implementation of effective means of constraining the discretion enjoyed by public servants.

The elaboration both of the theoretical principles and prescriptions and the precise nature of the state sector reforms that have been predicated upon those bases is the central concern of Chapters 4 and 5 of this work. It is sufficient here to note that in many respects the reform process has heralded a return to the traditional profile of the dichotomy between politics and administration. In other words, it has resulted in the creation of an institutional and relational apparatus characterised by the understanding that it is the responsibility of public servants to deliver the organisational outputs necessary to the attainment of the policy outcomes specified by the political executive. In this respect, the Niskanen (1971; 1973) approach to public choice, the substantive essence of which is explored in greater detail below, has proved especially influential. Its advocacy of a strict separation of politics and administration through statutory initiative and intra-organisational restructuring has provided the preferred prescription for ensuring the primacy of representative government over the bureaucracy in policy terms.

4 MMP AND THE COMPOSITION OF GOVERNMENT

If it is the case that the process of state sector reform has substantially altered the nature and scope of the administrative function, it is equally so that electoral law reform will substantially impact upon the political dimension of the politics/administration dichotomy. The new electoral system will not *ipso facto* modify the ascendancy of the political over the administrative in terms of the determination of policy, but it will certainly affect the institutional context within which relationships between elected representatives and officials are mediated. In short, it will have important and wide-reaching consequences for the manner in which the public service transacts the government's business (State Services Commission, 1994g).

Those consequences will be attendant upon the manner in which proportional representation will influence the composition of the legislative, and subsequently, the executive branches of government. Boston et al (1995) have pointed out that there are four different forms of government possible under any given set of electoral arrangements: majority single party, majority coalition, minority single party, and minority coalition.³ Each configuration will have distinct implications for the relationship between the executive and legislative branches; more significantly for the purposes of this work, each will also have specific ramifications for the nature of the interface between the political and administrative arms of the executive.⁴

It is not my intention here to canvass each of these implications; that detail is provided in subsequent chapters. Rather, I proceed from the proposition that with the exception of a single party majority government (in which an administration will still be able to bring its majority to bear in the House), attendant upon each of the other three possible (and more probable) configurations are relationships between the political executive and the administration that will be qualitatively different from those that prevailed under the previous electoral regime. In the case of either form of coalition government, for instance, the fundamental issue is likely to concern the manner in which relationships *within* the executive are managed; in essence, challenges will arise to the manner in which collective responsibility is defined, achieved and maintained. The management of that issue will influence markedly the relationships that subsequently function between portfolio ministers and senior public servants (State Services Commission, 1995a). In the case of a minority single party government, on the other hand, the relationships *outside* of government with other parties in the House are those that will assume most

³ Each one of these configurations has been experienced in New Zealand since the 1993 general election. Mills has pointed out that while National initially comprised a majority single party government, the country has also experienced periods of majority coalition (National - United), minority single party (National) and minority coalition government (National - Right of Centre; National - United) (The Manawatu Evening Standard, 8.6.96: 12). Boston et al (1995) also suggest that although it is assumed that single party majority governments will no longer be the norm under MMP, they may well occur from time to time. Other countries which have proportional representation systems, notably Japan and Norway, have experienced lengthy periods of single party majority government.

⁴ See Boston et al (1996b) for a discussion on structural and other changes that might facilitate the functions of the political executive under MMP.

significance. Similarly, however, the manner in which the political executive negotiates the shifting alliances it will require to legislate its programme will impact on the nature of the role played by public servants, and on the relationships that exist between the government and the public service.

5 CONCLUSION

The essential point of the discussion to date is that over the last decade the contours of the institutions through which relationships between politicians and officials are mediated have undergone an extraordinarily comprehensive reformation. New arrangements have emerged which have fundamentally altered the character of the wider political environment. Attendant upon those changes are new sets of challenges, and nowhere will these be more apparent than at the interface between the political and the administrative.

The point can be made that the changes that will be ushered in as a result of the advent of MMP will essentially be political in nature. The constitutional role of the public service will not change; neither will the principles and practices familiar to public servants necessarily undergo a radical transformation. However, the parliamentary consequences of proportional representation, especially as they are manifest in the configuration of the executive, will most certainly mean that in the immediate future the public service will be operating in 'new and unfamiliar circumstances' (State Services Commission, 1996c: 4). The extent to which the core public service will prove fit for purpose given the imperatives of those circumstances is the issue that is addressed throughout the remainder of this thesis.

CHAPTER TWO

MAKING THE CASE: THE POWER OF THE POLITICAL EXECUTIVE

1 INTRODUCTION

Since the election of the first Labour administration in 1935 the levers of New Zealand's ship of State have been in the hands of elected representatives drawn from a single political party that has controlled a majority of the seats in the House of Representatives.¹ The purposes of this chapter are to demonstrate the extent to which the nation's unique constitutional arrangements have afforded considerable power to those who have manipulated those levers, and to illuminate the extent to which the relatively recent disintegration of the traditional bulwarks to the potential misuse of those powers contributed to public support for electoral law reform.

To that end, the chapter commences with a discussion of the central features of New Zealand's constitutional framework, subsequent to which is presented an evaluation of the systemic bases of the power of the political executive. The centrality of Cabinet to New Zealand's system of government is discussed, and several of the political means through which the power of that institution has traditionally been constrained are identified. Finally, the extent of and reasons behind the breakdown of those constraints in recent times are canvassed.

Throughout, the analysis is grounded in the tendency of the simple plurality (FPP) electoral system to deliver single party majority governments. Notwithstanding that that particular configuration is considerably less likely under the new electoral regime, that systemic proclivity is fundamental to an appreciation of both the conduct of recent governments and the emergence of electoral law reform as a major political issue.

¹ That sequence of single party majority governments was broken in 1996 with the formation of the National-United coalition administration.

2 THE CONSTITUTIONAL FRAMEWORK

Clearly, some consideration of the bases of the constitutional framework which prescribes our system of government is fundamental both to an appreciation of the structure and operation of that system, and of the constitutional changes that have taken place in recent times. The legal structure specified by the constitution comprises four elements. As *sovereign*, the Queen in right of New Zealand is the titular Head of State. In keeping with the conventions characteristic of a constitutional monarchy, the sovereign's diverse powers (including the power to appoint and remove ministers, to assent to legislation, and to summon or dissolve Parliament) are exercised on the advice of democratically elected ministers of the Crown (Mulgan, 1994). The primary functions of the *executive* branch are to promulgate and administer government policy. While its formal structure comprises the Executive Council, Cabinet, the system of Cabinet committees and the public service, by virtue of constitutional convention it is Cabinet that exercises executive power. (As Joseph (1993) has pointed out, given its structural location within the legislature, Cabinet is more properly referred to as the *political* executive.) The most important function of the *legislative* branch of government is the passage of legislation: to give legal effect to its political agenda, a government must come before the House and observe due legislative process. Finally, the chief functions of the *judicial* branch relate to the settling of disputes, and the development of the common law through the interpretation of statute law (Gerbic and Lawrence, 1994).

The sources of our constitutional rules are diverse and varied, and any attempt to isolate and prioritise these must of necessity be an arbitrary one. Nonetheless, as the compact which legitimised the British Crown's annexation of New Zealand, the Treaty of Waitangi has increasingly come to enjoy the status of this country's founding constitutional charter (Mulgan, 1994; Cooke, 1995; McLeay, 1995). Notwithstanding that the complex debate over its precise constitutional status has yet to be resolved, there is increasing support for the proposition that a series of recent legislative and judicial initiatives have secured for the Treaty a contemporary status that lies at the very heart of the country's constitutional affairs (Williams, 1990).²

² For instance, Williams refers to the *Treaty of Waitangi Act 1975*, which established the Waitangi Tribunal, as the 'fons et origo' of legal developments enhancing the status of the Treaty (1990: 24). Moreover, in *Huakina Development Trust v. Waikato Valley*

In the absence of an entrenched constitutional document with the status of supreme law, arguably the most significant constitutional statements are to be found in those instances of the statute law of both New Zealand and the United Kingdom which empower government action (Joseph, 1993). The *Constitution Act* 1986, the essence of which is the articulation in one location of the structure and powers of the branches of central government, is promoted as New Zealand's most significant piece of constitutional law (Palmer, 1989). In the context of this thesis, additional examples of statute law with particular constitutional significance would include the *State Sector Act* 1988, the dual aims of which were to redefine the constitutional relationship between responsible ministers and the heads of government departments, and to bring public sector labour market regulations into line with those characteristic of the private sector (Walsh, 1991); and the *Electoral Act* 1993, which codifies the substantive and procedural changes recently made to the electoral system through which we choose our political representatives.

A third source of constitutional regulations is the plethora of constitutional conventions which guide processes of governance. Conventions are accepted, albeit unwritten, political rules and practices that have evolved over time to become the legitimate way to conduct government (McLeay, 1995). Notwithstanding that they do not enjoy legal status, and are therefore unenforceable in the courts, conventions are regarded as obligatory and are obeyed for various reasons amongst which are included 'sheer inertia, habit, the desire to confirm, or the belief that it is right and proper to obey them, or because politicians wish the machinery of government to go on' (Joseph, 1993: 239). In formal legal terms, therefore, although the Sovereign as New Zealand's Head of State possesses considerable powers, by convention these are exercised in accordance with the advice of duly elected ministers. Similarly, although constitutional law does not recognise its considerable powers, by convention it is Cabinet that functions as the body of the Sovereign's advisers which must retain the confidence of the House of Representatives (Joseph, 1993). In a graphic illustration of the not inconsiderable extent to which the constitution is founded upon unwritten

Authority, Chilwell J. stated that the Treaty is part of 'the context in which legislation impinging upon its [the Treaty's] principles is interpreted' ([1987] 2 N.Z.L.R., 188: 210). For an extended discussion on the debate about precisely what was ceded with the signing of the Treaty, and the extent to which subsequent Crown claims of sovereignty were legitimate, see Brookfield (1989; 1992; 1995).

convention, McLeay (1995) points out that nowhere in the written parts of the constitution is mention even made of Cabinet, which is demonstrably the single most important and powerful committee of New Zealand's system of government.

The common law, or the accumulated decisions of the courts, comprises a further significant source of constitutional rules. In fact, it has been argued that in common with those of other self-governing Commonwealth nations, New Zealand's constitution is largely a creature of the common law (Dixon, 1965; cited by Joseph, 1995). Thus, a number of the freedoms enjoyed by citizens are found in 'judge made law', as are certain of the prerogatives enjoyed by the Crown, such as the power to summon, dissolve and prorogue Parliament (Joseph, 1993).

There are additional sources of the constitution that are not canvassed here³, but at this point in the discussion two features of the constitutional framework constituted by these diverse instruments are worthy of further mention. Perhaps the most striking of these is the remarkable degree of flexibility characteristic of the constitution, a phenomenon which is a function of the fact that in the absence of an entrenched constitution, a simple majority in Parliament is all that is required to amend its fundamental structure (Joseph, 1993).⁴ To the extent that it can legislate virtually unimpeded on any issue, the New Zealand Parliament, along with those of the United Kingdom and Israel, is notable for its possession of absolute sovereign powers (Joseph, 1993). As such, a political party

³ For instance, Joseph (1993) discusses the importance of customary international law, the law and custom of Parliament, and instruments issued under the Royal prerogative (such as the Letters Patent 1983 which constitute the office of the Governor General).

⁴ The only exception to this rule is Section 268 of the *Electoral Act* 1993, which specifies a number of reserved provisions that can only be altered through either a majority of 75% of all members of Parliament, or with the support of a majority of the valid votes cast at a poll of electors on the general and Maori electoral rolls. Significantly, the entrenching clause is not itself entrenched, and can therefore be amended or repealed through a simple parliamentary majority. McRobie (1995) contains an interesting discussion on the issue of single as opposed to double entrenchment in relation to the *Electoral Act* 1956, which originally entrenched the reserve provisions. Evidence suggests that the incumbent National government believed that double entrenchment of the reserved provisions would constitute a breach of the constitutional convention that Parliament cannot bind its successors. Sir Geoffrey Palmer has commented that although the state of legal opinion has subsequently changed, the 'moral' entrenchment agreed upon in 1956 has remained intact (Dominion, 4.8.93). See McGee (1994: 293 - 294; 445 - 446) for specific detail concerning the reserved provisions.

commanding majority support in the House wields very considerable constitutional and political powers, and is able to exercise these in a relatively unfettered fashion. In one commentator's words, 'in constitutional terms the majority party in New Zealand's single chamber Parliament possesses powers equivalent to those of any dictator or tyrant' (Wilson, 1987: 153). In this respect, our constitutional framework possesses an adaptability which is perhaps less apparent in those jurisdictions whose essential political foundations are situated in a document which enjoys the status of fundamental law.⁵

An appreciation of the second noteworthy characteristic emerges out of a juxtapositioning of the governmental structure bounded by the constitutional paradigm and the ideal suggested by the doctrine of the separation of powers. Elaborated by the French philosopher Montesquieu⁶, the separation of powers stands as one of the theories of government that collectively provide the constitutional bases of modern Western political systems (Vile, 1967; cited in Chen and Palmer, 1993). Vile defines the doctrine thus:

It is essential for the establishment and maintenance of political liberty that the government be divided into three branches or departments: the legislature, the executive, and the judiciary. To each of these ... there is a corresponding identifiable function of government: legislative, executive, or judicial. Each branch ... must be confined to the exercise of its own function and not allowed to encroach upon [that] of the other branches. Furthermore, the persons who comprise these three agencies ... must be kept separate and distinct, no individual being allowed to be at the same time a member of more than one branch. In this way each of the branches will be a check to the others and no single group of people will be able to control the machinery of the State (1967; cited in Chen and Palmer, 1993: 57).

⁵ Joseph (1993) points out that the distinction between 'flexible' and 'rigid' constitutions was originally articulated by Bryce (1903) in the context of a discussion on the manner in which constitutions can be adapted. See Palmer (1987; 1992) and Mulgan (1989; 1994) for seminal contributions to the debate in the New Zealand context on the relative merits and demerits of a flexible constitution.

⁶ In a 1748 publication, *L'Esprit des Lois* (cited in Joseph, 1993).

However, the relationship between the executive and legislative branches under New Zealand's constitutional arrangements more closely approximates the 'fusion' of those powers articulated by Bagehot in his seminal contribution to constitutional theory, *The English Constitution*.⁷ Bagehot described the 'close union, the nearly complete fusion, of the executive and legislative powers' as the 'efficient secret of the English Constitution' (1967: 65). At the core of that 'efficient secret', contended Bagehot, lies Cabinet. His observation applies equally to New Zealand's constitutional paradigm: by virtue of constitutional convention, Cabinet, a committee on which sits elected members of the legislature from the party (or parties) enjoying the support of the House, functions as the executive body. Expressed differently, New Zealand's governmental system hinges upon an institutional bridge between the legislative and executive branches of government, the linchpin of which is a committee which functions, to use McLeay's apt reference, as the 'black box' of the political structure (1995: 78). Cabinet is the most powerful and authoritative component of the constitutional matrix, 'the central decision-making body to which all major political issues are referred and from which all government policy emanates' (Mulgan, 1994: 70).⁸

There is considerable debate about the extent to which the doctrine of the separation of powers is the most appropriate benchmark against which to evaluate the structure and functioning of New Zealand's constitutional arrangements. As perhaps the most prominent advocate of its utilisation as a critical standard, Sir Geoffrey Palmer argues that 'the theory of the separation of powers provides a useful touchstone against which to find the location of powers in the New Zealand Government and judge the propriety of the arrangement' (1987: 5). Palmer is strongly of the opinion

⁷ Joseph (1993) points out that there exists a much clearer separation between the judiciary, and the legislature and executive. Conventional and statutory guarantees of judicial independence ensure that the relationship more neatly fits the institutional arrangements suggested by Montesquieu's doctrine.

⁸ McLeay (1995) discusses the difficulties associated with arriving at a precise definition of 'Cabinet', and settles for that articulated by Weller (1991: 134):

[Cabinet] is a group of ministers, including the elected heads of the main departments of state, who meet regularly, in part or in whole, to act as the highest authority for the making of decisions; it is a forum where political and administrative interests intersect. The ministers will be members of one of the Houses of Parliament, and are held collectively responsible for all cabinet decisions.

that as a function of the institutional fusion between the executive and legislative branches there is an unhealthy concentration of power in the hands of the political executive. The comprehensive vesting of legislative, executive and judicial powers in a single agency would clearly create the potential for autocratic and despotic rule; while he does not suggest that the New Zealand situation in any way approximates such an extreme case, Palmer does argue that the extensive legislative abilities enjoyed by the political executive do allow for (latent or actual) abuses of executive power.

While Palmer acknowledges that neither complete fusion nor complete separation of powers is either possible or desirable (1987: 7), Richard Mulgan (1994) is considerably less equivocal in his treatment of the institutional link that Cabinet provides between the legislative and executive branches. Mulgan affirms Bagehot's contention that formal constitutional law does not adequately reflect the political reality in Westminster systems that a parliamentary ministry wields effective political power. Moreover, he suggests that some degree of overlap between the legislative and executive branches is quite appropriate and, in fact, necessary to the functioning of parliamentary democracies such as New Zealand. Mulgan's analysis is that democratically elected governments have the constitutional right to implement their political programmes in the absence of the legislative gridlock not infrequently found in jurisdictions characterised by a clear separation of powers.⁹ Put another way, 'governments should be allowed to get on with the business of governing' (Skene, 1987: 75), and as such it is entirely appropriate (and necessary) that administrations be able to count on the support of a parliamentary majority. That notwithstanding, Mulgan does not suggest that the political executive should be enabled to function independently of a matrix of checks and balances; he does, however, argue

⁹ Graphic examples of just such a situation were provided between late 1995 and early 1996, when an *impasse* between the executive and legislative branches of the federal government of the United States over the budget process led to frequent shutdowns of government departments. The Republican Congress insisted the President accede to legislation which contained a requirement that the budget be balanced within seven years; the Democrat President, as executive, vetoed the legislation on the grounds that it sought to achieve budgetary balance through cuts to environmental regulatory schemes and to Medicaid and Medicare (The Guardian Weekly, 26.11.95). Such an *impasse* between the legislative and executive branches would be highly unlikely to occur in New Zealand, given the degree of control over the former enjoyed by the latter. In the case of the United States, however, it was the tenth time in fifteen years that the federal government had begun to close as a result of conflict between the two over the budget (The Guardian Weekly, 26.11.95).

that such constraints as do apply should more properly be of a political, rather than an expressly constitutional nature (see below).

3 THE INSTITUTIONAL FOUNDATIONS OF EXECUTIVE POWER

Irrespective of the relative merits or otherwise of utilising the doctrine of the separation of powers as an heuristic device, it is the case that the fusion of powers through Cabinet provides the structural basis of the control by the political executive of the legislature. Moreover, in conjunction with the absence of a formal constitution, it contributes to a relative lack of enforceable constraints on the exercise of the powers associated with the executive role. In and of itself, however, that institutional fact is insufficient to explain the powerful position occupied by the political executive in New Zealand's political system. A comprehensive understanding of that phenomenon requires a detailed examination of a series of other factors.

In the first instance, the tendency (at least since the emergence of organised political parties) of the simple plurality electoral system to inflate a winning majority and to return single party majority governments has been absolutely fundamental to the powerful positions enjoyed by successive contemporary administrations.¹⁰ The casting of a vote for a single constituency member of Parliament (MP) under FPP significantly misrepresented the centrality of political parties to the parliamentary system, and remained blind to the political fact that governments are formed by the party commanding the majority of seats in the House subsequent to a general election (McRobie, 1995). Significantly, since the fall of the Coalition Government in 1935, all ministries have comprised a single political party able to govern in its own right (McLeay, 1995; Vowles et al, 1995).¹¹ Therefore, and irrespective of the proportion of the national vote secured at an election, the numerical dominance in the House that FPP has

¹⁰ On 6 November 1993 a majority of those who cast a valid vote at the binding referendum held in conjunction with the general election voted for a change from a simple plurality to a mixed member proportional electoral system. The history behind and implications of that change are discussed in detail in subsequent chapters below.

¹¹ This notwithstanding that in other than those held in 1938, 1946, 1949, and 1951, in each of the twenty elections held since (and including) 1935 the successful party has been supported by less than 50% of the voting public (Royal Commission on the Electoral System, 1986).

traditionally afforded governing parties has, in conjunction with the fusion of powers discussed above, functioned as the foundation of executive dominance of the legislature. Moreover, notwithstanding that by constitutional convention Cabinet is accountable to and must retain the confidence of Parliament (that is, enjoy the voting support of a majority of MPs), in political fact no contemporary government has been defeated on a confidence motion (Joseph, 1993: 218).¹² In practice, therefore (and given a fusion of powers), the simple plurality system has been fundamental to the power of New Zealand governments to legislate with considerable impunity (Mulgan, 1992a).

Moreover, the size of Cabinet relative to the total number of MPs in a governing party's caucus tends to ensure that a position articulated in Cabinet prevails in the wider caucus (Jackson, 1992). Political practice dictates that the size of Cabinet is determined by the leader of the majority party. While there exists no precise formula, various factors such as gender and regional considerations, the need to reward loyal and/or experienced caucus members, and the administrative need to ensure that the size of Cabinet is commensurate with cooperative and consensual decision-making contribute to a leader's deliberations (McLeay, 1995).¹³ Since the emergence of the predominantly two party system, the size of Cabinet has increased relative to that of caucus, resulting in what Chapman (1989; cited in McLeay, 1995) has termed the 'fortress Cabinet', that is, one in which the executive dominates caucus through sheer weight of numbers.¹⁴ The single most persuasive explanation for this phenomenon is the need to ensure that the

¹² The only occasion on which a modern government has called a snap election as a result of (allegedly) losing the confidence of the House was in 1984. The resignation of Marilyn Waring from the National party left the government with a majority of one; contrary to the advice of the party president (and notwithstanding that Waring had given a public undertaking not to bring down the government), the Prime Minister requested an early dissolution of Parliament (McLeay, 1995). His government was defeated at the subsequent general election.

¹³ The process for selecting Cabinet members from the parliamentary caucus differs between the two traditional major parties. In the National party, Cabinet members are directly selected by the party's leader, who also allocates portfolios; the Labour caucus elects a number of its members into Cabinet, with responsibility for the subsequent allocation of portfolios resting with the leader of the party.

¹⁴ Expressed as a proportion of the size of the House of Representatives, the size of Cabinet has increased from 16.3% of all MPs in 1935 to 25.8% in the National administration of 1990 (McLeay, 1995). The latter figure included members of the ministry who sat outside of Cabinet.

political executive is able to carry caucus with it on substantive issues of policy (Jackson, 1992). By ensuring that a majority or near majority of the parliamentary party occupy positions that are either directly in the executive or at least supportive of it (party whips, ministers outside of Cabinet, parliamentary undersecretaries, etc.), the political executive ensures that it retains control over the wider caucus (Mulgan, 1992b; McLeay, 1995).¹⁵ For instance, the fourth Labour government's first Cabinet comprised 20 members, who, in addition to the appointment of six Parliamentary Under-Secretaries who sat outside of Cabinet, the Speaker and the two whips, formed a ministry that accounted for more than half of the party's 56 strong caucus (Boston, 1990). In the current administration, over half of National's parliamentary wing are members of the political executive, and therefore bound by the requirements of collective responsibility to support Cabinet decisions in caucus. As McLeay has noted, 'the absence of a constitutional limit upon Cabinet, plus the drive to make Cabinet both representative and *dominant*, are factors which have contributed to creating large ministries' (1995: 25; emphasis added).

The position of relative strength afforded by a majority in the House and the increasing size of the political executive relative to caucus is cemented by the conventional understanding that decisions taken in Cabinet are supported by all members of the administration.¹⁶ The essence of collective ministerial responsibility has been expressed thus by David Lange:

When Cabinet has reached a decision it is the collective decision of all ministers whether present or not, and whether agreeing or not. If a minister feels that he (sic) must publicly dissociate himself from a decision of Cabinet which he cannot accept, he must first resign from Cabinet (1987; cited in McLeay, 1995: 200).

The purpose of collective responsibility is to ensure that Cabinet speaks with a single voice (Wood, 1988), and its chief outcome is to ensure that in other

¹⁵ See McLeay (1995: 18 - 21, 84), for a discussion on the distinctions between the various positions comprising a government.

¹⁶ See McLeay (1995: 198 - 204) for an extended discussion of the operation of collective responsibility, and for examples in which it has been invoked as a sanction against dissenting ministers. She argues that the practice is less an established constitutional convention, and more a tool of political expediency, a 'device to keep the team together and the Prime Minister in office' (1995: 203).

than the most exceptional of circumstances there is unanimity amongst senior members of a ministry on matters of policy (Mulgan, 1994; McLeay, 1995).¹⁷ In fact, the government over which Lange presided until his resignation in 1989 formalised collective responsibility to a considerable extent by instituting a rule forbidding members of Cabinet from opposing Cabinet decisions in caucus, the effect of which was to ensure that challenges by dissident ministers or backbenchers to a policy position settled on in Cabinet was highly unlikely to be successful in the wider caucus (Mulgan, 1992b).¹⁸ Given its relative numerical size, and the aspirations to Cabinet membership held by many in caucus, it is hardly surprising that Cabinet's position tends to prevail in caucus.

Finally, the strong sense of loyalty characteristic of most parties' MPs and the discipline required of their parliamentary wings facilitates the domination of caucus by the political executive. Born in part of the sense of commitment engendered by the apprenticeship and recruitment systems through which MPs of both major parties progress, and in part of the process of majoritarian decision-making utilised within caucus (McLeay, 1995), there is strong normative pressure placed on individual MPs within a given party to adopt positions taken in caucus.¹⁹ The incentive to conform

¹⁷ The fifth chapter of McLeay's text contains a fascinating discussion of the consequences for a government of allowing this conventional imperative to wither away. She points to the second term in office of the fourth Labour government as perhaps the most striking example of how friction within Cabinet can spill out into the public domain, with disastrous personal, political and electoral results. See, too, Jonathon Boston's chapter on Cabinet and the policy making process in Holland and Boston (1990), and Margaret Wilson (1989) for commentary on Labour's experiences during that time. For a comparison with the use made by the Australian Labor Party of a formalised system of factions to mediate conflict within an administration, see Boston and Uhr (1996).

¹⁸ This initiative was almost certainly prompted by the considerable degree of conflict that characterised Cabinet during the Labour government's second term in office. Boston (1990: 74) recounts that:

during 1988 - 1990, there were frequent Cabinet reshuffles, a large proportion of the Cabinet either resigned or was dismissed, and there were repeated allegations that certain ministers, including the Prime Minister, were acting unilaterally and subverting the collective will of the Cabinet.

¹⁹ Arguably, the understanding is more formalised in the Labour Party than in its National counterpart. Nomination as a Labour candidate requires a person to give an undertaking that:

If elected, I will vote on all questions in accordance with the decisions of the Caucus of the Parliamentary Labour Party or, in the case of Local Body questions, a duly constituted meeting of Labour Party representatives on such body (New Zealand Labour Party, 1984: Rule 242 (v); cited in Jackson, 1989: 172).

to a specific policy position and to confine open conflict to caucus itself is reinforced by the three yearly electoral cycle; particularly when in government, it is clearly in the best electoral interests of a parliamentary party to present a unified public face (Mulgan, 1989). In conjunction with a Cabinet the membership of which might well exceed half that of caucus, the strong tradition of parliamentary party loyalty and the cohesion subsequently promoted has traditionally served to cement into place the powerful position of the political executive. Moreover, that position has been bolstered by the fact that Cabinet members enjoy seniority and privileged access to policy advice (in particular, but not exclusively from the public service) to the extent that it is exceedingly difficult for MPs outside of Cabinet to promote alternative policy positions in caucus (Jackson, 1992).²⁰ Clearly, therefore, Cabinet has the capacity to exercise considerable leverage over caucus and 'to treat it as a rubber stamp, its approval a formality to be gained after the event' (Mulgan, 1992b: 521).

4 THE SIGNIFICANCE OF CABINET GOVERNMENT

In combination, then, the institutional fusion of the executive and legislative branches through Cabinet, the functioning of the simple plurality electoral system, the relative size of the political executive, and the traditions of collective decision making and party loyalty have ensured that the political executive has traditionally been able to secure extensive power under the constitution. The significance of this state of affairs is revealed in Sir Kenneth Keith's observation that 'in a broad sense it is the Ministry or Government of the day which governs' (1992: 31). The comment goes to the very heart of New Zealand's system of Cabinet government: although Parliament is the sovereign legal authority to which the administration remains responsible, effective governmental power lies in the hands of Cabinet.²¹ Cabinet, although purely a creature of constitutional convention which has no basis in written constitution law, occupies the pre-eminent

²⁰ In both parties, three years experience as a backbencher is generally considered a basic requirement for appointment to a position in Cabinet (Jackson, 1992).

²¹ Keith's distinction between real power and legal form is an important one in this context. That is, a 'decision taken in fact by Cabinet has then to be taken, as a matter of law, by the Governor General in Council, the Governor General or a Minister' (1992: 31).

position in our political framework as a consequence of its ability to utilise a disciplined majority in the House to control Parliament. As a consequence, it has traditionally been able to 'secure the resources and ensure the legislation necessary to implement its policies' (McLeay, 1995: 21).

The significance of the control of the legislature by the executive lies in the fact that within the Westminster tradition, the legislative branch enjoys virtually unlimited (and illimitable) powers of legislation which cannot be constrained by any other agency (Joseph, 1993). Subject to few, if any, effective constitutional constraints, a political executive that controls the legislature *ipso facto* wields considerable powers. The extent to which that is the case in New Zealand is captured in a somewhat cautionary reflection offered by the former President of the Court of Appeal:

If ever a government indifferent at heart to basic rights were to hold office in this country, it could force through, possibly even in a matter of hours and by the barest of majorities, legislation opposed to basic principles of justice (Cooke, 1984; cited in Joseph, 1993: 4).

5 TRADITIONAL CONSTRAINTS ON THE POLITICAL EXECUTIVE

To suggest that New Zealand Cabinets operate with completely unfettered freedom would perhaps be to misrepresent the extent to which the actions of political executives are moderated by a cluster of constraints. Mulgan (1992b), however, makes the point that with the exception of the triennial election cycle, such limits as do exist to the exercise of executive power have tended to be of a political rather than an expressly constitutional nature.²² Expressed another way, in the absence of an entrenched constitutional document, an effective second chamber, extensive powers of judicial review and so on, the actions of the political executive have traditionally been qualified by governments' adherence to certain accepted principles of political behaviour.

²² Section 17(1) of the *Constitution Act* 1986 specifies the three yearly term of Parliament. That section is itself one of the reserved provisions entrenched in Section 268 of the *Electoral Act* 1993, and therefore not subject to normal parliamentary processes of change (see footnote 4 above).

In reference to one of those principles, Mulgan has also commented that 'from the introduction of universal adult suffrage in 1893 until the election of the Lange Labour government in 1984, New Zealand governments were noted for the extent to which they kept in close touch with popular opinion' (1992a: 3). Moreover, irrespective of the political hue of the party in power, the workings of central government have been traditionally characterised by a pragmatism which favoured negotiated compromises and workable solutions above ideologically coherent and rigorous programmes (Mulgan, 1992a). This approach was based upon frequently close and informal links between the parliamentary and extra-parliamentary wings of political parties (and between ministers and backbenchers within the parliamentary wing), on consultative links with interest groups in the development of policy, and on a commitment both to the political principles articulated in party manifestos and to undertakings given on the hustings (McLeay, 1995; Mulgan, 1995).²³

If popular opinion has to an extent constrained the activities of governments, so too have relationships within political parties traditionally been of some significance. It has long been an accepted principle that the parliamentary wing of a given party should retain close links with its extra-parliamentary colleagues. Political parties offer voters choices between competing (and theoretically alternative) political platforms, and subsequently represent the political views of their supporters in the House (Mulgan, 1994). They are therefore a key means of guaranteeing the validity of voters' expressed political preferences at an election: traditionally, while manifestos provided a public indication of a party's political intentions, the accountability mechanisms linking the extra-parliamentary wing and the caucus system functioned to ensure that the actions of a party's representatives in the House would reflect the principles and programmes espoused by that party. Furthermore, MPs have historically functioned as the primary conduit between the legislative/executive branches and the wider community, to the extent that within a party's parliamentary wing,

²³ Mulgan (1995) identifies the Muldoon years (1975 - 1984) as the culmination of this era. As Prime Minister, Muldoon allegedly kept a copy of the party manifesto in the Cabinet room, and never broke an explicit campaign pledge. Elsewhere, Mulgan (1992a) also has an especially clear and concise discussion of the nature, traditional effect, and demise of these and other political (as opposed to constitutional) constraints on the actions of the executive branch.

members of the executive have traditionally relied upon their backbench colleagues to keep them in touch with public opinion (McLeay, 1995).

In addition, at least until the early 1980s, processes of governance have typically been characterised by close relationships between diverse interest groups and the State. Historically, an important part of the role of the minister has been to represent the interests of those groups operating within his or her ministerial domain(s), and to broker the relationship between those entities and the State (McLeay, 1995). More specifically, democratically elected governments have traditionally accepted that it is incumbent upon them to consult with representatives of the various interest groups seeking to make a contribution to the development of policy (Mulgan, 1992b). Engaging in catholic and inclusive processes of consultation has in the past been regarded as an important means of securing legitimacy and popular support for the implementation of the policy initiatives subsequently arrived at (McLeay, 1995). There have been instances when those representatives have been formally incorporated into the state's policy making processes²⁴, but in addition, the claims of those with a specific interest in a particular policy issue to have input into the formation of relevant policy have generally been recognised as legitimate. Moreover, interest groups, via the select committee process, the various media and so on, have had a part to play in informing the public of a government's actions in a particular policy domain. Accordingly, both in terms of facilitating the administration of a portfolio and maximising their government's chances at the next election, there has functioned an incentive for ministers to be sensitive to the positions articulated by interest groups comprising part of a given policy community (Mulgan, 1992b).

Fourthly, it has been the case that parties have felt themselves bound, at least to a certain extent, by the contents of their pre-election manifestos. The precise political status and effect of the electoral manifesto has long been the subject of considerable debate. Some have argued strongly that the manifesto of a political party that is successful at a general election functions as that government's mandate to implement the programmes and policy

²⁴ For instance, the *Industrial Conciliation and Arbitration Act 1894* accorded the peak organisations of organised labour and capital a statutory role in the development of industrial relations policy (Vowles, 1995).

directions specified therein (Calder, 1989).²⁵ Others are rather more sanguine about the 'mandate theory'; Keith Jackson (1987), for instance, has suggested that the policy prescriptions contained in most parties' manifestos are sufficiently non-specific such that they cannot legitimately be said to constitute anything like a mandate for action.²⁶

Notwithstanding the merits or otherwise of the mandate theory, whilst in government it is the case that both major parties have traditionally placed considerable store by their respective manifestos. Certainly there have been instances in which unforeseen circumstances have required parties to depart from the programmes articulated in advance of an election, but in the main, there has been an expectation both on the part of the parliamentary wing of a party and its supporters that the party's manifesto should be honoured in office (Calder, 1989).²⁷ Mulgan's (1984) observation that a copy of the election manifesto was always kept in the room in which Cabinet met during the Muldoon administration (at least partially so as to facilitate the outflanking of opponents) has already been referred to. Similarly, however, Bassett (1976; cited in Calder, 1989) has noted that during the Kirk ministry, and in the face of mounting economic pressure to do so, the Prime Minister steadfastly refused to resile from a manifesto undertaking not to increase electricity prices. Until recently, therefore, it can be argued that the actions of political executives have been constrained, at least in a conditional sense, by the manifestos upon which they campaigned.

²⁵ The author cites Richard Mulgan's arguments in *Democracy and Power in New Zealand* (1984) as a case in point. See Calder's article for an interesting discussion on the status of a manifesto at law. See, too, Mulgan (1978) for a discussion of the concept of the mandate in New Zealand politics.

²⁶ Jackson's position is borne out by election results over the last forty years, in which no successful party has secured more than 50% of the valid vote cast (Royal Commission on the Electoral System, 1986). It is arguable whether a party that has captured a minority of the popular vote can legitimately claim to have a mandate to implement the prescriptions contained in their manifesto.

²⁷ The measures announced by National on the 19 December 1990 are frequently cited as a case in point. The incoming government had inherited a fiscal crisis (see Dalziel (1992) for an explanation of the bases of the crisis) that was used as a partial justification for the introduction of a series of fiscally austere initiatives which had not been foreshadowed in National's pre-election manifesto. Similarly, unforeseen economic exigencies were cited as the reason the fourth Labour government imposed the superannuation surcharge in breach of the party's 1984 manifesto (Calder, 1989).

6 UNBRIDLED POWER

It is notable that, with the exception of the requirement that a government submit itself to the judgment of the electorate every three years, none of the constraints discussed above possesses any substantive legal status. In the absence of legislative enactment, party manifestos are not legally binding upon a government (Calder, 1989), while relationships between the political executive and interest groups have in the main been governed by considerations of expediency and convention. Yet notwithstanding that they do not constitute legally enforceable bases for the judicial review of executive actions, it is arguably the case that this system of checks and balances has been largely successful in mitigating the worst potential abuses of Cabinet power.

The breakdown of these and other self-regulating political constraints has only recently become a phenomenon of central government politics. The latent potential for the systematic abuse of executive power has long existed, but the regulatory excesses that characterised the Muldoon era (and in particular the extensive use made by that Prime Minister of the extraordinary regulatory powers provided for by the *Economic Stabilisation Act 1948*) and the advent of the fourth Labour government represented the crossing of the Rubicon.²⁸ While it is tempting to seek explanations for what are complex phenomena solely in the behaviour of the political executive, however, the erosion of public confidence, trust and faith in the parliamentary system has been a combined function of a series of factors.

The role that the relationship between the parliamentary and extra-parliamentary wings of political parties has played in moderating the

²⁸ Palmer (1987) explains that in excess of 200 regulations were made under the *Economic Stabilisation Act 1948* (which was repealed by the fourth Labour government). As Prime Minister, Robert Muldoon once remarked that 'you can do anything provided you can hang your hat on economic stabilisation' (Lewis; cited in Palmer, 1987: 165). The most striking example of the use made of the 1948 legislation by the former Prime Minister was undoubtedly the imposition in 1982 of a comprehensive freeze on wages and prices. In response to a legal challenge mounted by the Combined State Unions (on the basis that the public sector wage fixing methods provided for by the *State Services Conditions of Employment Act 1977* could not be superseded by subordinate legislation), the Court of Appeal declared the regulations invalid. The court handed down its decision on 4.12.82; in turn the government introduced legislation validating its original position into the House on 15.12.82 (the *Economic Stabilisation Amendment Bill*), which passed through the House the following day (Palmer, 1987).

actions of Cabinet has been stressed. In recent times, however, that relationship has become increasingly strained. Governments have become noted for their tendency to robustly defend themselves in the face of political opposition stemming not only from traditionally expected sources, but also from *within* their own parties (Mulgan, 1995). Along with public servants and interest groups, political parties have been redefined as simply another sectional interest, the self-serving proclivities of which are properly to be ignored in the wider public interest. The ability of political parties to function as an effective means of holding political executives accountable to the electorate has been consequentially weakened; put more specifically, the role of caucus as the conscience of the party, and the ability of the party organisation to hold its parliamentary executive to account through the manifesto and other means have largely been rendered redundant in recent times (Mulgan, 1995).

The extent and implications of the disintegration of the relationship between a party's parliamentary and organisational wings was graphically illustrated during the years in office of the fourth Labour government. Denemark (1990) argues that the social and economic policy *volte face* embarked upon by the government was primarily driven an economically liberal cabal within Cabinet.²⁹ Throughout Labour's two terms in office, there existed vehement opposition both within the parliamentary party and the party at large to the economic policy directions promulgated by the finance 'troika' of Roger Douglas, Richard Prebble and David Caygill. Ultimately, however, that opposition was to little avail; the Douglas coterie, with the backing of Treasury, prevailed within Cabinet and caucus, and was able to effectively neutralise opposition within the wider party. Elsewhere, Wilson (1989) points out that tension between Labour's organisational wing and its caucus existed well before the 1984 election.³⁰ That the latter

²⁹ Denemark's use of the term *volte face* is slightly misleading. Wilson (1989) points out that the genesis of the economic policies followed by the fourth Labour government lie as far back as 1977, when tensions initially emerged between those within the party who supported an interventionist role for the State in economic policy, and others, including Roger Douglas, who advocated a market-led approach. The strategic victory of the latter was presaged, albeit in generic rather than specific terms, in the economic policy outlined in the party's 1984 manifesto. Therefore, although it is certainly the case that the specific nature and extent of the reforms came as a considerable surprise to many within and outside of the party, it is not strictly accurate to describe them as a *volte face*.

³⁰ She recounts, for instance, the conflict between party and caucus that erupted over the challenge to Wallace Rowling's leadership of the parliamentary party that had been

eventually prevailed when in government was a consequence of a number of factors, not least of which was the parliamentary wing's control of the party's chief policy making organ, the Policy Council. Equally significant was the government's determination to implement policies it believed were 'in the interests of the country as a whole', rather than those of particular sectional interests, and its subsequent exclusion of representatives of the party's organisational wing from key policy forums such as the Economic Summit staged in September 1984 (Wilson, 1989: 36). The victory of the parliamentary over the organisational wing did little to heal the rift within the Labour party, however, which 'hardened into factional positions during the 1980s and ended in a formal split at the end of the decade' (Wilson, 1989: 68).

In addition, the strategic conduct of recent governments has placed considerable pressure upon the network of ties that has traditionally functioned between the executive and backbench sections of parliamentary parties as a means of moderating the actions of the political executive.³¹ The emergence of the 'fortress Cabinet' with its relentless tendency to proceed without due regard for its caucus (or party) has fundamentally redefined the relationship between ministers and MPs (Mulgan, 1994), and the ability of the latter to influence or constrain the actions of the former. To this extent, in recent times Parliament has been rather less than successful in '[bringing] the Government into constant consultation with the elected representatives of a community which is governed by consent' (Burt, 1967; cited by Skene, 1987: 76). For instance, the rift that developed between Labour's Cabinet (or at least the dominant members thereof) and sections of caucus during its second term in office was thrown into sharp and eminently public relief by the resignation from the party of its former president Jim Anderton in 1989. Similarly, the departures from National in 1991 of Gilbert Myles and Hamish MacIntyre over several (unanticipated) policy announcements by the government highlighted the degree of tension that characterised relationships between Cabinet and caucus during the fourth National

instigated by Roger Douglas in 1980. The support extended to Rowling by the extra-parliamentary wing of the party was instrumental in the failure of the attempted coup.

³¹ This is not to suggest that relationships within the executive have always been marked by harmony. On the contrary, there have been periods during which Cabinets have been characterised by a high degree of internal conflict and factionalism. Boston (1990) points to the polarisation of the Labour Cabinet between 1987 - 1988 around economic policy directions as the most remarkable recent case in point.

government's first term in office (Mulgan, 1994). Increasingly, convinced of the political soundness of their policy prescriptions and of the need for decisive and unequivocal decision taking, members of the political executive have been prepared to risk caucus solidarity and to distance themselves from the opinions and considerations of their caucus colleagues. By extension, the wider electorate on whose behalf MPs act has also been increasingly marginalised in debates about the determination of policy settings. To this extent, the dominance afforded Cabinet over caucus that is in large part a function of the simple plurality system has dramatically 'offset the direct links between voters and individual MPs which are amongst the strengths of the [parliamentary] system' (Vowles, 1995: 101), consequently reducing the extent to which governments have effectively been held accountable to the governed.

Recent political history has also witnessed the reinvention of established patterns of consultation between government and the representatives of sectional interests, a process that has been characterised by the discrediting of much interest group activity (Mulgan, 1994). The theoretical analyses of the major variants of public choice have contributed significantly to the recreation of interest groups as 'vested interests', whose actions are motivated by economic and political self-interest to the detriment of the common good.³² As a consequence, since 1984 governments have increasingly been prepared to exclude the representatives of significant sections of public opinion from processes of policy deliberation, ostensibly on the grounds that governments owe a duty to the nation as a whole, rather than to specific interest groups, institutions or political parties (Douglas, 1989).³³ The tendency has, however, been a selective one, and has not resulted in the complete dismantling of processes of consultation between interest groups and the State. Rather, recent administrations have focused on marginalising those groups articulating points of view at odds

³² See chapters 4 and 5 below for a more detailed analysis of the key strands of public choice theory.

³³ For an example of the extent to which this has been the case with regard to the legislative process, see Tunnicliffe (1993) for a discussion of the limited impact of public submissions on the legislative process out of which emerged the *Employment Contracts Act* 1991. The author points out that partially as a result of the opposition to the Bill voiced in many of the 800 submissions presented at the select committee stage, a large number of recommended amendments were suggested by the committee. None of these, however, altered the fundamental principles of the legislation.

with their own, to the extent that the deliberative and consultative practices of recent governments have increasingly revealed an ability to favour certain interests over others (McLeay, 1995).³⁴ In the main, however, and on the grounds that they are avoiding interest group capture, 'Governments no longer [accept] a duty to consult; indeed, they [have] accepted a duty *not* to consult' (Mulgan, 1995: 88; emphasis added).

Arguably, more than any other single factor, the tendency of successive political executives to break manifesto commitments has done most to shatter public faith in the integrity of political executives specifically, and politicians more broadly. Far from regarding themselves as morally bound by the policy prescriptions and political principles contained in their respective pre-election manifestos³⁵, recent Labour and National administrations have both resiled from explicit undertakings. For instance, having promised that it would countenance no such thing, the fourth Labour government proceeded with an extensive programme of state asset sales between 1987 and 1990; prior to the 1990 election, National expressly undertook to abolish both tertiary student fees and the national superannuation surcharge, yet on becoming government retained both. In addition, both governments undertook unheralded (and therefore arguably unmandated) reforms on a frequently grand scale, giving practical effect to Roger Douglas' recommendation that reform be implemented in 'quantum leaps, using large packages' (1989: 14).³⁶ Labour's first budget contained 'a block-buster series of decisions scheduled to impact progressively over an

³⁴ Widely acknowledged as the leading business peak organisation, the influence of the Business Roundtable provides a case in point. The Roundtable's considerable influence can be partially explained by the fact that it is not perceived by key politicians to fit the typology of the classic interest group. Roger Douglas (1991; cited in Mulgan, 1992), for instance, has suggested that by seeking the systematic removal of *all* privilege, including its own, the Roundtable has demonstrated its selflessness. That the Roundtable has endeavoured to portray itself as above self-interest, and that its commitment to an ostensibly level competitive playing field has meshed with the policy orthodoxies of recent governments goes some way to explaining why it has been successful in securing considerable leverage with successive contemporary administrations.

³⁵ Or, in the case of the second term in office of the fourth Labour government, a manifesto published *after* the 1987 general election.

³⁶ Douglas' comments were made with interest groups specifically in mind. He outlined his strategy thus (1989: 14):

Do not try to advance a step at a time. Define your objectives clearly and move towards them by quantum leaps. Otherwise the interest groups will have time to mobilise and drag you down.

extended period with virtually unstoppable momentum' (Douglas, 1989: 14)³⁷; in 1991 the National government used the 'cloak of Budget secrecy' to avoid the need for public discussions in formulating its plans for extensively overhauling policy in the areas of superannuation, public health and the funding of tertiary education (Boston, 1992). Both initiatives occurred either in the absence of prior public consultation and/or in defiance of previously given undertakings, and both represented the new strategy on the part of governments to engage in policy 'first strikes', in an effort to effectively destroy organised opposition to radical policy reforms by imposing uncanvassed changes on a grand scale.

Notwithstanding debates about the precise legal status of a party's manifesto, or attempts by the political elite to portray themselves as capable of taking the 'hard decisions' in the best interests of the country, there is little doubt that electors regard failures on the part of political executives to honour publicly given commitments as significant breaches of faith, and have been prepared to punish governments accordingly (McLeay, 1995). Labour was decimated in the 1990 election, at least in part because of perceived and actual breaches of commitment, and the National government's extraordinary majority between 1990 and 1993 was radically slashed in the general election of 1993 for very similar reasons (Mulgan, 1992b; McLeay, 1995).³⁸

7 CONCLUSION

It has been argued that at the root of the increasing tendency of political executives to act without regard to traditional political constraints lies a

³⁷ Included in that package were the phasing out of producer subsidies, dramatic reductions in both average and marginal rates of income tax, and the introduction of an across-the-board goods and services tax. According to the then Minister of Finance:

nothing like that had happened in living memory. You could hear the jaws dropping open right across the nation as the Budget speech was broadcast, hitting one vested interest after another (Douglas, 1989: 15).

³⁸ In 1990, the swing against Labour of 9.7% resulted in the loss of twenty seven seats, including those of seven Cabinet ministers, four ministers outside of Cabinet, and those of the party's junior and senior whips, the Speaker and Deputy Speaker of the House (Levine and Roberts, 1992a). In the 1993 election, the move against the government was even greater; National lost 12.7% of the vote that it had captured in 1990, which amounted to a loss of seventeen seats (Vowles et al, 1995).

distortion of the notion of collective responsibility, in the sense that demonstrations of solidarity by recent Cabinets have been premised upon a 'loyalty to one another and to the Prime Minister, rather than responsibility to Parliament and public' (McLeay, 1995: 204). The process of collective decision making has been used both as a means of enforcing a minority position within Cabinet, and as a justification for pursuing policy trajectories irrespective of the extent to which those trajectories have enjoyed support either publicly or within caucus. Thus ministers have increasingly excluded from policy considerations the positions articulated by certain interest groups, and by caucus and extra-parliamentary party colleagues. Cabinets have also increasingly indulged a tendency to make a virtue out of taking 'hard decisions' in the face of 'vested interests', using collective responsibility to ensure that such decisions prevail in caucus and the House. The tradition that ministers will keep their ears so close to the ground that 'earwigs might crawl in' has been well and truly redefined in recent times (Lipson, 1948; cited in McLeay, 1995: 167).

The construction and maintenance of that particular notion of collective ministerial responsibility has been considerably facilitated by the systemic tendency of the simple plurality system to return single party majority governments. Ironically, over the last decade or so the use made by such governments of the considerable powers afforded them under New Zealand's constitutional arrangements has contributed in no small way to the creation of a momentum for electoral law reform. In time, that momentum would eventually culminate in the ushering in of a new, proportional electoral system that would render the likelihood of single party majority government far less likely.

**CHAPTER THREE:
THE ROYAL COMMISSION ON THE ELECTORAL SYSTEM AND
THE ADVENT OF PROPORTIONAL REPRESENTATION**

1 INTRODUCTION

The primary purpose of the previous chapter was to enunciate the institutional foundations of the extensive powers that have traditionally been enjoyed by the political executive. My intention in this chapter is to provide a profile of the process through which one of the major bulwarks of that power, the simple plurality electoral system, has been assessed, found wanting, and replaced. While the culmination of that process was the vote in favour of a new electoral system that was registered at the binding referendum held (in conjunction with the general election) late in 1993, a rich and considerable political history lies behind the reforming of the electoral system. Much of that history is the legacy of work that was undertaken by the Royal Commission on the Electoral System between 1985 and 1986, the endeavours of which were eventually to act as one of the primary stimuli to the momentum for change.

Accordingly, this chapter focuses primarily on the significance of the Royal Commission to the process of electoral law reform. It commences with a brief discussion of the historical antecedents of the Commission, canvasses the parameters of the Commission's endeavours, and outlines the reasoning behind and substance of the major recommendations contained in the Commission's Report. Subsequently, the political process which gave effect to the Commission's recommendations on changes to the electoral system is profiled; to that end, the responses of the fourth Labour government to those recommendations, and the manner in which the subsequent National administration grudgingly conducted the two referenda on electoral law reform are detailed.

2 THE ESTABLISHMENT OF THE ROYAL COMMISSION ON THE ELECTORAL SYSTEM

The genesis of the Royal Commission on the Electoral System lies in a series of political events that transpired in the late 1970s and early 1980s. Arguably, the most significant in a sequence of occurrences that was to result in the establishment of the Commission was the general election held in 1978. Described by Vowles (1995: 100) as 'a political watershed for the cause of electoral reform', a number of significant difficulties with the extant electoral system emerged out of that election. Deficiencies concerning the method of compiling the electoral rolls, and a judicial review of the admissibility of votes not marked in accordance with the dictates of the *Electoral Act* 1956 raised serious concerns with the functioning of certain aspects of the system. In combination with the outcome of the election itself, which was won by National with a majority of eleven seats secured with a lower percentage of the vote than its major rival, these and other events indicated that certain central planks of the electoral system were in need of closer scrutiny (Harris, 1992-93).

As a partial consequence, the Select Committee on Electoral Law was established in August of 1979. Membership of the eleven-strong committee was drawn from all three parties represented in the House, and its terms of reference were sufficiently broad to permit it to undertake a comprehensive and wide-ranging inquiry into all aspects of the electoral system (Harris, 1992-93). At the completion of its work, the majority view of the committee was that there was an insufficiently strong case to be made for replacing the existing simple plurality (FPP) system with one based on the principles of proportionality. However, and perhaps not surprisingly in light of the results of the previous election, the Labour members on the committee (who comprised a minority) distanced themselves from that position, advocating instead the establishment of a Royal Commission charged with undertaking a 'detailed investigation into alternative electoral systems in the New Zealand context' (Harris, 1992-93: 54).

That proposal was adopted by the Opposition, and in 1981, Labour indicated in its pre-election policy on Open Government that if successful, it would establish a 3 person Royal Commission which would assess, amongst other facets of electoral law (such as the determining of boundaries and the

duration of the parliamentary term), the system of voting then in use and submit recommendations for change (New Zealand Labour Party, 1981). In the event, the party lost the election (although as in the previous election it won a greater percentage of the vote than the Muldoon administration), but the undertaking to fundamentally reappraise the electoral system through the establishment of a Royal Commission was again a central feature of Labour's manifesto in 1984. In that manifesto a wide-ranging series of other initiatives relating to constitutional reform was also signalled, including undertakings to revamp the role and powers of select committees, and to review the structure and functioning of the public service (New Zealand Labour Party, 1984). In the event, Labour swept to victory, and the Royal Commission on the Electoral System was duly appointed by Warrant on 28 February 1985.¹

3 THE WORK OF THE ROYAL COMMISSION

The Commission's Warrant required that it examine a host of factors associated with the structure and operation of New Zealand's system of democracy. While the thorough examination of the electoral system was arguably the most important of these tasks, and certainly that which subsequently received the most public and political attention, the Commission also took the opportunity to inquire into a whole raft of other arrangements that characterised New Zealand's political and parliamentary system (see the Commission's terms of reference below). Its establishment represented an acknowledgment that the flexible and adaptable constitution had increasingly tipped the balance of power too far in favour of the political executive, and that it was timely to explore and assess the relative merits of various means of constitutional change that might redress that

¹ The establishment of the Commission by the government is most frequently attributed to the influence of the former Prime Minister and Minister of Justice, Sir Geoffrey Palmer. Palmer had long held concerns about certain aspects of New Zealand's constitutional arrangements, notably the machinations of the simple plurality system, which were widely publicised in his influential *Unbridled Power: An Interpretation of New Zealand's Constitution & Government*. (Palmer, 1979). Palmer had been presented by his party with the opportunity to draw up the package of proposed constitutional reforms which comprised part of Labour's 1984 election manifesto. In addition to those identified directly above, amongst them were commitments to increase the number of MPs to 121, to explore the issue of state funding of political parties, and to establish a Royal Commission to examine a series of matters including the workings of the electoral system (Jackson, 1993).

imbalance.) However, rather than significantly deconstructing the Westminster system of responsible government by pursuing a greater institutional *separation* of the powers of the constituent branches of government, the path opted for by the government called for the assessment of options for *bolstering* the powers of the legislative and judicial branches relative to those of the executive (Skene, 1987).²

(Consisting of five members, the Commission was chaired by High Court Judge the Hon. Justice Wallace, and also comprised John Darwin, Sir Kenneth Keith, Richard Mulgan, and Whetumarama Wereta.) Rydon (1987) draws interesting comparisons between the work of the Commission and the process followed by the Hawke Labour government in Australia, which opted to establish a joint parliamentary select committee in May 1983 to inquire into the operations of the federal electoral system. She points out that while the Australian approach was driven by interested parties (the majority of whom were members of the governing party), in New Zealand the Royal Commission functioned as an independent body. Those sentiments are supported by Sir Kenneth Keith, who has commented that:

The Commission's work was something that was essentially out of political control. We just got on and did it. Certainly we were not in the business of trimming our advice to what we thought might be politically acceptable (interview, March 1996).

During the twenty two months of its existence, the Commission pursued its warrant in an energetic and wide-ranging fashion. It had initially thought to undertake its work through the issuing of a number of discussion and research documents in conjunction with a series of public seminars, but decided in the event to adopt a procedure which called for submissions from interested parties, supplemented by its own research and consultation (Royal Commission, 1986). The Commission actively sought input from a number of individuals and organisations which possessed knowledge and

² That the process of electoral reform, which achieved a significant boost with the establishment of the Royal Commission, was initially sponsored by a Labour government is somewhat odd. Skene (1987) has pointed out that National has traditionally been the party most commonly associated with constitutional change. In 1950 Sid Holland's government abolished the Legislative Council; the *Electoral Act* 1956 was passed by a National government under Keith Holyoake; and in 1962, again under a Holyoake administration, New Zealand became one of the first non-Scandinavian nations to introduce the parliamentary office of the Ombudsman.

expertise it felt would contribute to its endeavours.³ Moreover, at various times different members of the Commission made inquiries germane to issues of proportional representation (both in person and through correspondence) in the Federal Republic of Germany, Canada, Ireland, Australia and the United Kingdom (Royal Commission, 1986).

The Royal Commission worked to nine terms of reference (see pps xiii - xiv of the Report), the first and last of which were more general in nature than the other seven, more precise instructions (McLeay, 1987). The two broad instructions granted the Commission the latitude to inquire into and make recommendations upon any aspect of the electoral system. The first of these enabled it to comment upon whether changes to the law and practice governing the conduct of Parliamentary elections were either necessary or desirable, while the ninth instruction offered the Commission the opportunity to comment upon any other question relating to the electoral system. The seven specific instructions required the Commission to report upon:

- whether or not the existing system of representation ought to continue, or 'whether all or a specified number or proportion of MPs should be elected under an alternative system or systems, such as proportional representation or preferential voting';
- whether or not, and if so by how many, the number of MPs ought to be increased;
- whether the existing procedures and formulae for determining the number and boundaries of electoral districts should be changed;
- 'the nature and basis of Maori representation in Parliament';
- the duration of the Parliamentary term;
- the extent to which referenda ought to be used in determining controversial issues, the appropriateness of existing provisions relating to the conducting of referenda, and whether or not the results of referenda ought to be legislatively binding;
- and whether existing limits on election expenses are appropriate, whether or not such limits ought to be extended to the individual or total donations received by individual candidates or parties, and

³ The Commission received 804 written submissions, from parties whose names are listed in Appendix C of the *Report of the Royal Commission on the Electoral Commission: Towards a Better Democracy* (Royal Commission, 1986). Those who presented written submissions were also offered the opportunity to speak to their points of view at public meetings that were conducted at Wellington, Christchurch and Auckland.

whether there ought to be state grants to political parties (Royal Commission, 1986: xiii - xiv).

4 TOWARDS A BETTER DEMOCRACY

The Commission submitted the *Report of the Royal Commission on the Electoral System: Towards a Better Democracy* on 19 December 1986, having had its original date of submission extended from the 31 October 1986. The Report is a substantial document, comprising 302 pages of text and a further 244 pages of appendices, which, in addition to a series of nine chapters (the contents of which mirror the terms of reference identified above) and four appendices, contains seventy one recommendations in total.⁴

For the purposes of this work, the most significant of these recommendations are those which arose out of the Commission's assessment of the strengths and shortcomings of various voting systems.⁵ The fundamental importance of a voting system in those jurisdictions with a Westminster heritage arises from the fact that an election is the means through which a parliament, and subsequently a government, is composed. Elections therefore function as the mechanism through which voters choose those who will wield the considerable powers accorded New Zealand governments, and by which those voters give their consent to the use of these powers (Royal Commission, 1986). For the Commission, then, the critical issue in any assessment of the electoral system concerned the 'fairness and equality of the ways in which the votes of New Zealanders, at the national rather than the constituency level, are turned into representation in Parliament and into the establishment of a Government' (Royal Commission, 1986: 5). In evaluating the merits of respective voting systems, the precise question the Commission posed itself was: 'How should

⁴ McLeay (1987) notes, however, that the sequence of the chapters contained in the Report does not replicate that of the terms of reference. The chapter on Maori representation immediately follows the first on the electoral system, whereas the issues canvassed in that chapter constituted the fifth of the Commission's terms of reference. See pps 295 - 302 of the Report for the list of recommendations.

⁵ See Chapter 2 of the Report. The recommendations concerning the electoral system are the first two of the seventy one recommendations (see the Royal Commission, 1986: 295). The first recommends the adoption of the Mixed Member Proportional system, and the second that a referendum on the adoption of MMP be held at or before the next general election after 1987.

voting support for candidates, parties and groups in the community be translated into the election of members of Parliament and the establishment of Governments?' (Royal Commission, 1986: 9).

In reaching a conclusion to that question, the Commission sought to assess the operation of a range of electoral systems against ten indices, and to describe and evaluate those methods which it felt would represent an improvement on the existing plurality system. Although it acknowledged that no one voting system could meet all of the criteria completely, the Commission suggested that the best system would be that which attained 'the most satisfactory overall balance between them, taking account of ... history and current circumstances' (Royal Commission, 1986: 11). The ten criteria were:

- a fairness between political parties (where seats captured by a political party should be proportional to the numbers of voters who supported that party);
- b effective representation of minority and special interest groups;
- c effective Maori representation;
- d political integration (in the sense that a good electoral system ought to ensure the representation of the opinions of diverse interest groups, while fostering mutual respect for each other and the community as a whole);
- e effective representation of constituents;
- f effective voter participation (ensuring that the votes of all electors carry equal weight in determining election results);
- g effective government (enabling governments to act decisively);
- h effective Parliament (enabling the legislature to carry out its diverse functions);
- i effective parties; and
- j legitimacy in the eyes of voters (Royal Commission, 1986: 11 - 12).

In its assessment of the existing system against the specified indices, the Commission acknowledged that FPP possessed certain merits. Specifically, it pointed out that the simple plurality system functioned in such a fashion as to provide a strong link between electorate-based MPs and their constituents. In the context of the unitary nature of New Zealand's polity and the extensive powers exercised by government, this facilitation of the effective representation of voters in decision making processes was

identified as a significant strength of the plurality system by the Commission. Moreover, the Commission pointed out that the relative simplicity of FPP lent itself to consistently high levels of voter participation in general elections; for instance, in 1984 94% of registered voters on the General roll voted, while in 1981 the turnout was approximately 91% (Royal Commission, 1986: 22).

However, the Report also noted that even those strengths that did characterise the simple plurality system required some qualification. There were weaknesses in the model of constituency representation, for example, particularly those arising from the fact that a significant proportion of the nation's voters were represented by MPs belonging to a party for which they did not vote.⁶ In such instances a constituent may be deterred from approaching their own political representative, preferring instead to seek assistance from a neighbouring MP of a more sympathetic persuasion. However, given that in the past a single political party has on occasion monopolised seats throughout an entire region (as was the case in 1981 when National captured all six seats in the Waikato area, or in 1984 when Labour secured all ten seats in the Wellington area), such a course of action has not always been a viable option (Royal Commission, 1986: 21).

In addition, while FPP encouraged high levels of voter turnout, the Commission argued that this in itself did not constitute genuine voter participation. That is, the simple plurality system effectively required that voters make two choices with a single vote; while they were able to exercise a choice regarding their preferred electorate MP, it did not allow a voter to exercise the same choice *vis a vis* their preferred party of government. The Commission also pointed out that two systemic tendencies of FPP mitigated against the equality of all individual votes. In the first instance, the votes of those who did not support a winning candidate had no bearing on the eventual composition of the House or, accordingly, on the resultant government. Secondly, while the votes of electors inhabiting safe seats and who opposed the winning candidate were relative ineffective, the reverse could apply in marginal seats, where a handful of votes could determine the result of the electoral competition. And in the case of the latter, determination of the government itself could rest on the decisions of a

⁶ In 1984 only 50.2% of all voters were represented by a member of the party for which they voted (Royal Commission, 1986).

relatively small number of voters. In 1981, for instance, had 154 voters in three marginal electorates totalling 56,871 voters changed their votes from National to Labour, a change of government would have resulted (Royal Commission, 1986: 23). Therefore, the Commission pointed out, under FPP the effective power to change governments tended to lie in the hands of a minority of voters in marginal electorates, whose 'enhanced participation [came] at the price of lessened participation for the vast majority of voters' (1986: 24).

These observations aside, with respect to the remaining criteria the Report concluded that the simple plurality system possessed inherent tendencies that misrepresented the reality of contemporary politics, and which had frequently delivered disproportional electoral outcomes that were significantly anti-democratic. A series of examples drawn from New Zealand's recent electoral history substantiates the Commission's conclusion. In the first instance, FPP did not ensure fairness between political parties (Criterion a). The electoral law as it stood under the *Electoral Act* 1956 conceived of general elections as contests between individual candidates, and did not therefore permit a direct vote for the party supported by an elector. In short, it ignored the centrality of political parties to the parliamentary system, and the fact that most voters use their franchise on the basis of support for or opposition to a specific political party (Harris, in Holland, 1992).⁷

In addition, significant evidence has emerged to indicate that, with regard to the relationship between votes won and seats secured, plurality voting translated expressed political preferences in a manner that was 'grossly unfair to supporters of minor parties' (Royal Commission, 1986: 14). In all elections since 1954 (which was the first contested by the Social Credit party), at least 7.5% and as much as 22.3% of the national vote has been captured by third or minor parties, and yet never have more than 2.2% of parliamentary seats been won by those parties (Royal Commission, 1986).⁸ As a

⁷ In the context of its discussion concerning the extent to which FPP failed to achieve fairness between political parties, the Commission made the not insignificant observation that political parties did not exist when plurality was introduced (Royal Commission, 1986: 13).

⁸ The Commission estimated that in the 1981 election, it took 'an average of 186,000 votes to elect each Social Credit MP, whereas National won one seat on average for every 14,900 votes received and Labour 1 seat for every 16,300' (Royal Commission, 1986: 14).

consequence of this disproportionality, the simple plurality system exhibited a systemic tendency to consistently exaggerate the parliamentary majority of the successful party, to the extent that minor differences in the proportion of the vote captured between major parties frequently translated into a 'significantly larger difference in seats' (Royal Commission, 1986: 14). Notably, however, not only has no government been elected with the support of more than 50% of the population since 1951, in 1975 the National Party secured almost 65% of seats in the House having won less than 48% of the national vote, while in 1984 Labour won almost 60% of seats in Parliament with a little over 40% of the vote (Harris, in Holland, 1992).⁹ Moreover, it was not unusual under FPP for successful candidates to win a constituency contest with the support of less than 50% of those voting in a given electorate. In 1981, for instance, only 30% of MPs won more than half the votes cast in their electorates (McRobie, 1993).¹⁰

The Commission also concluded that simple plurality systems failed to guarantee the effective representation of minority and special interest groups (Criterion b). Evidence from twenty nations utilising five different voting systems was canvassed in the Report, indicating that those countries in which plurality voting systems were used had an especially poor record in electing to their respective legislatures women, ethnic and other

⁹ In fact, in all twenty elections held since (and including) 1935, on only four occasions has the successful party secured more than 50% of the valid national vote (Royal Commission, 1986).

¹⁰ Notwithstanding that it took place subsequent to the work of the Commission, an analysis of the 1993 general election provides graphic support for many of the criticisms of FPP that were made in the Report. For instance, not only did 64.9% of the voting population not support the party that subsequently formed the government (Vowles et al, 1995), 55% of the votes cast went to unsuccessful candidates, the highest proportion of wasted votes in at least fifty years (Election Reform Coalition, 1993). In addition, although it represented the highest non-two party vote since 1928 (Vowles and Aimer, 1994), the 31.2% of the population who supported parties other than National or Labour were rewarded with just four seats in Parliament, or just under 5% of the ninety nine seats contested (Vowles et al, 1995). Moreover, in only twenty three of the ninety nine constituency battles did the winning candidate secure a real majority of the vote, and in seven electorates, the successful MP won with less than 35% support (Election Reform Coalition, 1993). As Vowles and Aimer (1994: 1) have commented:

more than at any other previous election over the last half century, [in 1993] the first past the post electoral system rejected by a majority of voters ... produced a Parliament which reflected only in distorted form the numbers of votes actually cast.

minorities, and other traditionally disadvantaged groups.¹¹ The point made in the Report is that legislatures elected through plurality voting tend to be unrepresentative: in the case of New Zealand, the Commission concluded that 'in terms of age, occupation and ethnicity, ... Parliament is a poor reflection of the community from which it is drawn' (Royal Commission, 1986: 18). This need not necessarily be an issue when under-represented groups perceive that their aspirations are being met by elected representatives, but when excluded groups feel that their interests are not being met, questions of under-representation take on far greater significance (Royal Commission, 1986).

Lastly, the Commission concluded that while the simple plurality system consistently produced stable governments able to effectively implement their policies (Criterion g), its tendency to return single party governments compromised the effectiveness of Parliament (Criterion h) by greatly increasing the power of the executive relative to that of the legislature. Notwithstanding that the clear delineation between major parties facilitated the role of the official Opposition party, especially in terms of scrutinising the actions of the government, the Commission contended that the domination of Cabinet by a single party that was the norm under FPP lent itself to the abuse of executive power.

On the basis of the substantial body of evidence it canvassed, the Commission concluded that 'where plurality is acknowledged to have weaknesses these are severe indeed', and indicated that there were better alternatives to that system (1986: 28). Of these, the Report identified the mixed member proportional system as the most desirable in terms of achieving the criteria specified above.¹² The Commission's conclusions

¹¹ In Britain, for instance, figures from 1983 indicate that women comprised only 3.5% of all representatives. In Finland, on the other hand, where a party list system is used, the percentage of all representatives who are female stood at 31% in 1983 (Royal Commission 1986: 17).

¹² Lijphart (1987) has noted that the Royal Commission's preference for the German MMP model was an interesting one, inasmuch as countries with a British political heritage who have adopted methods of proportional representation have tended to opt for the single transferable vote method. He also notes that the Royal Commission's recommendations were different to the German model in four ways: (i) the Commission recommended a threshold for list seats of 4% of the national vote (subsequently amended to 5% by Section 191 of the *Electoral Act* 1993), whereas the German limit is 5%; (ii) national party lists were proposed rather than the regional lists used in Germany; (iii) the modified Sainte-Lague formula is proposed as the means of specifying the proportional allocation of seats rather than the Niemeyer method used in Germany; and

were predicated upon an assessment of the likely impact of at least four of the central characteristics of the MMP system (Lijphart, 1987). In the first instance, the ability under MMP to express a preference for a particular party explicitly acknowledges the contemporary reality that political parties are the sources of governments. Second, because parties secure a legislative presence that more or less directly reflects the proportion of the national vote they have captured, MMP ensures that each person's vote contributes equally to the final configuration of Parliament. Third, and significantly, given the increasingly diverse nature of contemporary society, MMP provides a greater likelihood that minority groups will achieve effective representation in the legislature; the party list can be utilised as a mechanism by parties to ensure the presence of minority group representatives as candidates, while the retention of the single member electorate ensures that the link between a political representative and a geographical locality is maintained. And finally, the likelihood that MMP will result in the demise of the single party majority Cabinet was seen by the Commission as a major means of constraining the power of the executive, and of significantly restoring to the legislature its ability to act effectively as a scrutiniser of the government.

The form of proportional representation (PR) advocated by the Commission was modelled on that utilised in the Federal Republic of Germany. Amongst the major features of the model proposed by the Commission were that the number of MPs would be increased to 120 (with half representing constituencies and the remainder drawn from party lists); that parties would need to be registered with the Electoral Commission in order to contest party list seats; that the four Maori seats provided for under the *Maori Representation Act 1967* would be abolished; and that parties would require at least 4% of the national vote in order to secure list seats (this threshold would be waived for those parties representing primarily Maori interests).

Essentially, the Commission's recommendations reflected a belief that the ability of MMP to translate expressed political preferences in a proportional manner marked it out as a fairer, more democratic and more effective means of organising parliamentary representation than the simple plurality

(iv), the original ordering of the two votes recommended by the Commission was the reverse of that used in the German Republic.

system (Saxby, 1994). The essence of the Report's recommendations, particularly of those relating to the reform of the voting system, was such that their adoption would represent a fundamental shift away from the confrontational politics characteristic of Westminster systems in the direction of a more consensual democratic model (Lijphart, 1987). As such, it has been contended that the Commission's intentions were not simply to reform the electoral system. Rather, they extended to a desire to recommend changes which, if adopted, would comprehensively redefine the nation's political culture. Lijphart (1987), for instance, has argued that the Commission was committed to the principles of PR to the extent that its recommendations were intended to fundamentally alter the nature of the democratic regime itself by effecting a shift away from the rules and institutions of the majoritarian Westminster model. Put another way, the introduction of MMP would necessarily alter the constitutional configuration characteristic of Westminster systems (see Lijphart's characterisation of the majoritarian model below); perhaps most significantly, it would weaken the predominantly two party system, making single party majority government the exception rather than the rule, and thereby reduce the power enjoyed by the political executive over the legislature (Lijphart, 1987). In this respect the thrust of the Royal Commission's recommendations was that the crisis of legitimacy in the institutions and processes of New Zealand's democratic system could be significantly redressed through a process of constitutional change codified in the first instance in electoral law reform. In other words, the introduction of MMP would act as the catalyst for a series of changes (primarily in relation to the legislative configurations anticipated under PR) which in aggregate would contribute to the recreation of a more responsible and responsive system of democratic government. As the Commission itself stated, its Report 'is about democracy. It is about the way New Zealanders give their consent to the exercise by Parliament and the Government of great public power' (Royal Commission, 1986: 5).

5 THE MOMENTUM FOR REFORM

5.1 pre - 1986

Pressure for a more proportional electoral system has been a feature of New Zealand's political landscape for some years, largely in response to criticisms of the simple plurality system arising out of the long sequence of skewed election results that it has delivered (Jackson, 1993; McRobie, 1994). A number of precise criticisms have already been alluded to above, but two additional examples deserve specific mention here. In the 'provocative pair of election results in 1978 and 1981' (Vowles and Aimer, 1994: 4), Labour secured a higher proportion of the national vote than did National (40.4% to 39.8%, and 39% to 38.8% respectively), and yet in both instances, National secured a majority of seats in the House and subsequently formed the government (Royal Commission, 1986). Secondly, the 1981 election provided a striking illustration of the systemic tendency of simple plurality systems to exclude minor parties from fair and effective representation in Parliament, thus delivering electoral outcomes significantly at odds with the growing support enjoyed by such parties in recent decades. In that election the Social Credit party secured 20.7% of the national vote, but only 2.2% of seats in the House (Royal Commission, 1986).¹³

These and a host of other examples of the manner in which FPP consistently failed to translate political preferences fairly, frequently resulting in Parliaments that misrepresented voting patterns, have long prompted calls for reform. That said, prior to the publication of the Royal Commission's recommendations, such criticisms as had been made of the distortionary effects of the simple plurality system had failed to achieve significant public traction. Expressions of dissatisfaction had traditionally been the preserve of a minority of those engaged with the political system, and proponents of electoral reform, particularly prominent amongst supporters of minor parties, had in the main failed to fire the imagination of the public at large (McRobie, 1994). Expressed differently, the widespread public disenchantment with things political that has been generated in

¹³ Support for third and minor parties reached its highest level since 1928 in the 1993 election, in which the combined vote captured by parties other than Labour and National reached 31.2% (McRobie, 1995). See also McRobie (1994: 103), for data on the relative performances of minor parties in general elections since 1954, and Levine and Roberts (1994: 151 - 153), on the changing patterns of party identification in recent times.

recent years was not in the first instance articulated as disaffection with the characteristics of the constitution, much less with the particular vagaries of the simple plurality system.¹⁴ Rather, the growing financial burden borne by the State that was in part a function of the *ad hoc* interventionist excesses of Muldoonism; the frequency with which the fourth Labour government pursued policies without a broad public mandate; and the continuation of that style of government by its National successor featured prominently amongst the factors which contributed to the growing chorus of calls for constitutional change. Clearly, the constitutional parameters within which political phenomena took place were set to a considerable extent by the simple plurality electoral system. Nonetheless, the political style adopted by contemporary governments, their demonstration of a proclivity for breaking election undertakings, and the substance and impact of many of their policies were the key issues of concern for many voters. Considered analyses of the shortcomings of New Zealand's electoral arrangements, and of the intrinsic links between these and the conduct of contemporary administrations, came rather later.

(The considerable extent of that discontent has been illuminated by research conducted by Vowles et al (1995), which reveals that the degree to which voters trust political parties to form governments that will be responsive to the electorate has in recent times reached an exceptionally low ebb. In 1993, for instance, only 14% of participants in that research trusted both the National and Labour parties; 42% felt Labour were untrustworthy (down from 55% who felt similarly in 1990), while fully 62% of respondents did not feel they could trust National (Vowles et al, 1995). The authors make the point that, inasmuch as political parties are the source of governments, such a degree of mistrust necessarily reflects a widespread sense that governments are 'cut off from citizens or largely beholden to the demands of small special-interest groups' (Vowles et al, 1995: 131). (Interestingly, while only 14% of MPs surveyed felt that MPs in general were out of touch with the rest of the country, 60% of voters felt that to be the case.)

¹⁴ Equally, however, the point has been made that public displeasure has frequently been expressed *through* the electoral system. For instance, Levine and Roberts (1994: 143) cite the work of McCraw (1981) in arguing that the result of the 1993 general election provided a striking demonstration of the type of election that has most frequently occurred in contemporary political history. Recent elections have been characterised by a net movement of votes away from both the Government and the major Opposition party, towards third and other minor parties.

Significantly, they also comment that 'a lack of trust can have many consequences, including undermining the legitimacy of the political system [and] spurring movements towards seeking political reform' (Vowles et al, 1995: 131)).

5.2 1986 - 1990

Accordingly, the extent to which there existed a widespread and articulate public disenchantment with the electoral system *per se* both prior to and for some time following the publication of the work of the Royal Commission is debatable. In the field work carried out for this research (see Appendix 1), an interview was conducted with a former member of the Electoral Referendum Panel, who observed that 'there was only a small number of people who were really enthusiastic about electoral law reform ... or [who] were really *au fait* with the issues' (McGee, interview, March 1996). In fact, a member of the Royal Commission itself has pointed out that with the exception of 'the few long-standing enthusiasts for reform', little public interest was initially shown in the Commission's recommendations (Mulgan, 1995: 93).¹⁵ Such public debates as did emerge concerning the significance or otherwise of the electoral system were very much a delayed reaction, and even these, it has been argued, did little 'to stimulate more than a passing interest in all but a small minority, [and were] driven by and largely directed at the more highly educated middle-class electors' (McRobie, 1993: 11).

That is not to say that there did not exist dissatisfaction with the political system in general. Sharp's description of the extent to which there had emerged an antipathy towards all things political by the mid-1980s captures, albeit in somewhat prosaic terms, the essence of the antagonism felt by many: 'Politics, always a slightly dirty word in New Zealand, became a filthy one. Politicians, never popular as a breed, became pariahs' (1994: 9). In fact, the disintegration of support for and trust in elected political representatives had been manifest for some time prior to 1986. Pressure for change had been made manifest in a variety of ways, including an increased tendency toward

¹⁵ Although as Harris (1992-93) has pointed out, it is important to acknowledge the efforts of the Electoral Reform Coalition (about whom more is said below), which was formed shortly after the Commission issued its Report, and which exerted considerable effort in ensuring that electoral law reform became and remained a live political issue.

partisan dealignment over the previous three decades, and a general upward trend in support for minor parties and markedly increased voter volatility (Vowles, 1995: 97 - 98).¹⁶ The considerable public dissatisfaction has been assessed by one commentator as a function of the majoritarian model that inhered prior to electoral law reform (McLeay, 1995). McLeay's argument is based upon the work of Lijphart, who has described the pre-MMP model in New Zealand as the 'purest example of the Westminster model of government' to be found amongst the world's democracies (Lijphart, 1987: 97).¹⁷ The matrix of characteristics that comprised that framework had bounded a system of government that in New Zealand had been dominated by two political parties since 1935, both of which while in government had frequently functioned in an 'unfettered, uncontrolled, and unrepresentative' fashion, and in such a manner as to significantly contribute towards the impetus behind electoral law reform (McLeay, 1995: 8).

Sir Kenneth Keith (interview, March 1996) has pointed out that in that context, the Royal Commission's report proved crucial to the growing impetus for reform. By the late 1980s and early 1990s its recommendations had become a focus for the anger and frustration felt by many with the perceived and actual shortcomings of the political system, and a significant momentum began to emerge for the reform of an electoral system that was increasingly publicly perceived to be unfair and inequitable (McRobie, 1995). That momentum was fuelled by the Labour government's behaviour during its second term in office, when it 'seemed hell-bent on a course of action irrespective of the wishes of the people, and as such seemed to be

¹⁶ Those trends are clearly reflected in the marked decline in the combined vote share of Labour and National in general elections over the last fifty years. Five decades ago it stood at 96.3%; in the 1950s their combined share dropped to 93.6%; in the 1960s to 89.1%; in the 1970s it fell further to 85.8%; in the 1980s further still to 82.9%; and in the two elections held to date in the current decade, the two major parties' combined share of the total vote has fallen to 76.1% (McRobie, 1995: 321).

¹⁷ Lijphart (1987) contends that the majoritarian model is constructed around two clusters of characteristics. The first comprises the simple plurality electoral system, a two-party system in which the major parties are distinguished on socio-economic issues, and a single party Cabinet which dominates the legislature. The second cluster consists of either a unicameral legislature or a bicameral legislature with a weak upper chamber, a unitary and centralised government, and an unwritten constitution dispersed across a variety of sources. (It is worth making the point here that while MMP is likely to fundamentally alter the make-up of the first cluster of characteristics, its advent does not affect the composition or functioning of the second.)

treating the people with something approaching contempt' (Harris, 1992-93: 54). The relative ease with which the government engaged in wide-ranging reform in the absence of equally wide-ranging public support graphically illustrated to many the absence of institutional checks on the exercise of executive power, and this growing awareness in turn caused increasing numbers of electors to cast about for means of limiting the unfettered power of governments. In this environment, the Commission's work on electoral law reform stood out as a series of reasoned, balanced and legitimate recommendations for change, and increasingly, the Report set the parameters of the debate by articulating a series of prescriptions around which was mobilised a considerable amount of energy and desire for change (Harris, 1992).

On the other hand, the recommendations of the Royal Commission were received rather less favourably by both the Labour government and the National opposition. At least in part, that reflected the fact that the scope and volume of detailed policy development (and implementation) that was being undertaken during Labour's first term in office had been such that few in Cabinet had possessed a comprehensive profile of the scale of the aggregate endeavour (Sir Kenneth Keith, interview, March 1996). As a consequence, it may well have been that Labour allowed an electoral Pandora's Box to be opened without having thought through to the fullest extent the potential ramifications of establishing the Royal Commission. By the time those diverse implications had become clear with the publication of the Report, the issue of electoral law reform was firmly on the agenda, and the government found itself unable to lock it away.

Much more straightforwardly, however, the reason for the lack of enthusiasm demonstrated by both major parties for the Commission's recommendations was simply that:

neither front bench liked them. On the Labour side, David Caygill was interested in proportional representation, but I don't know if there was any other senior Labour MP who was really interested in substantial reform. And National was completely opposed to anything. There just wasn't a political willingness to move. These were not ideas that were popular [and] it was a hard hitting report. We weren't writing for a popular response. We were set up to do a

job, and we did it to the best of our ability and according to our judgements about what we thought was appropriate, rather than what might wash politically (Keith, interview, March 1996).

Accordingly, and notwithstanding that the Royal Commission's Report eventually provided a framework around which crystallised a series of public criticisms of the political system in general (and the actions of governments since 1984 in particular), it took some time for electoral law reform to make it on to the public and political agenda. That it did so at all is remarkable, particularly given that control over constitutional issues lies firmly in the hands of the government, neither of the last two of which supported electoral law reform (Rydon, 1987; Harris, 1991).¹⁸ Ironically, an apparent blunder committed by David Lange in the last days of the 1987 election campaign, rather than deliberate design, was largely responsible for elevating electoral law reform from the terrain of the 'flat earthers' (Marquand, 1992) to the altogether more legitimate (and threatening) domain of public debate. During the final televised leaders' debate before the election, the then Leader of the Opposition, Jim Bolger, criticised the government's actions in setting aside the Royal Commission's Report. Labour's Prime Minister, David Lange, responded by giving an unequivocal undertaking that if re-elected, the government would stage a referendum on electoral law reform (Mulgan, 1995; Jackson, 1993). Labour was duly returned, albeit with a reduced proportion of the national vote, but subsequently failed to proceed with the referendum.¹⁹ It appears that the undertaking given by the Prime Minister did not reflect Cabinet or caucus

¹⁸ See McRobie (1994, especially pps. 114 - 117) for a discussion on the position of the major parties *vis a vis* the issue of electoral law reform. See, too, McRobie (1995, especially pps. 315 - 319), on attempts by both major parties since 1945 to structure the electoral system according to their respective perceived interests.

¹⁹ What it did do was refer the matter to the Electoral Law select committee for further consideration in September 1987 (Jackson, 1993). The committee's report, tabled in the House in 1988, dismissed the Royal Commission's recommendations, indicating instead a preference for a non-proportional supplementary member system (SM). (It also recommended staging a referendum between the SM and existing systems, which was not acted on). This after the Royal Commission had 'spent 18 months and \$1.3 million studying the matter intensely, received 804 submissions, and visited a number of countries where the proposed alternative systems were in use and produced an impressive 540-page report' (Jackson, 1993: 18).

The behaviour of the National members on that committee was equally revealing. Sir Kenneth Keith has pointed out that 'they voted against everything, except for the proposition that there should be a nice, new Electoral Act' (interview, March 1996).

policy, and was mistakenly offered as a result of Lange mis-reading his briefing notes (Palmer, 1992). However, the very public nature of Lange's commitment was reinforced when the Deputy Prime Minister and Minister of Justice, Geoffrey Palmer, supported the position taken by the Prime Minister on television the following day. In the event, however, and despite the attentions of a series of select and caucus committees and 'numerous inconclusive debates in caucus', the Royal Commission's Report was never adopted by Labour as government policy, and the promised referendum did not eventuate (Palmer, 1992: 178).²⁰ (Following Lange's resignation in 1989 and his elevation to the premiership, Palmer argued that there existed insufficient public support for electoral law reform to warrant staging a referendum. Research subsequently undertaken by the Electoral Reform Coalition (cited in Vowles, 1995) indicated in fact that 45% of voters supported reform, with 45% also supporting the retention of the existing system.)

The government's failure to honour this commitment, notwithstanding that it was not official party policy, contributed to the growing sense of public disillusionment with both the government and politicians more generally, such that there existed considerable scepticism about the extent to which people could trust their governments (Harris, 1992-93).²¹ Labour's miscalculation also enabled National to (re)claim the mantle of the party of constitutional reform that it had sporadically given practical effect to since

²⁰ The Labour government did, however, stage a referendum in conjunction with the 1990 election. At that election voters were given the choice of indicating whether or not they wished the term of Parliament to be extended from three to four years. This was another of the recommendations suggested by the Royal Commission on the Electoral System, and it has been suggested (Jackson, 1993) that the referendum was staged by the government in an attempt to distract attention from the non-inclusion of the altogether more significant issue of electoral law reform. Perhaps not surprisingly, given the extent of public scepticism about the Labour government in particular and politicians in general, voters rejected any change to the length of the parliamentary term. Turnout at the election was 84.4% of registered voters, of which 69.3% supported the retention of the three year term (McRobie, 1995). In addition, it should also be pointed out that there did exist in caucus support for the work of the Royal Commission. Labour's Deputy Speaker and Chairman of Committees, John Terris, endeavoured (unsuccessfully) to have the issue placed before the House through a private Member's bill (Jackson, 1993).

²¹ The trend was confirmed through a series of polls conducted around issues of trust and confidence in politicians and governments. One such poll, a National Business Review/*Insight Respect List* published in the early 1990s, ranked politicians nineteenth out of twenty one occupations. It found that while politicians were ranked above car salespeople and insurance representatives, they were trusted less than were trade union officials, real estate agents and tow truck drivers (McRobie, 1994).

the abolition of New Zealand's second parliamentary chamber in 1950. As was the case with all of the other parties contesting the election, National's 1990 manifesto contained its own undertaking to stage a binding referendum concerning the electoral system before the end of 1992 (Harris, 1992-93).²² The commitment was at least in part a gambit designed to embarrass the incumbent Prime Minister, Geoffrey Palmer, who as Minister of Justice had established the Royal Commission (Keith, interview, March 1996; McRobie, 1994).²³ A referendum also offered National (and the other parties, within which there also existed significant differences of opinion on the merits or otherwise of electoral reform), the opportunity of avoiding taking an explicit stance on the issue (Harris, 1992-93). Of more political significance, however, was National's assessment that the electoral benefits that would accrue were it to promise a referendum on the issue of electoral reform would substantially outweigh any potential costs that might be incurred in the event of the party's victory at the polls and the subsequent staging of the referendum. Support for PR grew markedly amongst voters of all political persuasions between the 1987 and 1990 elections²⁴, and National clearly felt that it would harness considerable electoral support by promoting itself as the 'party of constitutional integrity' (Mulgan, 1995: 93). Equally, however, it appeared to believe that in the event of a subsequent referendum, support for electoral reform would wither away and be insufficiently widespread to warrant significant change. Events were to prove the party's strategists wrong.

²² By the end of its second term in office, the Labour government had adopted as party policy the undertaking given by the Prime Minister in 1987. Labour's manifesto for the 1990 election included a specific commitment to staging a referendum in the event of a third election victory (New Zealand Labour Party, 1990). However, its continuing equivocations over the issue were reflected in the fact that had the referendum been held, it would only have been an indicative, rather than a binding one.

²³ However, Sir Kenneth Keith has also opined that National's commitment may also have reflected a genuine interest in issues of constitutional significance on the part of the party's leader, Jim Bolger. Sir Kenneth cites in support of this observation Mr. Bolger's recent personal interest in issues to do with republicanism, the honours system, and the status of the Judicial Committee of the Privy Council as New Zealand final appellate tribunal. Sir Kenneth also points out that the re-establishment of a second chamber was raised as a possibility by Mr. Bolger during his tenure as Deputy Leader of the National Party (interview, March 1996). The latter eventually found expression in the *Senate Bill* 1993, which, although subsequently abandoned, was originally one of the three bills which constituted the *Electoral Referendum Bill* 1993 (see below).

²⁴ Even amongst National supporters, support for proportional representation grew from just over 30% in 1987 to almost 50% by 1990 (Harris, 1992-93).

5.3 1990 - 1993

In the event, the fourth National government's first term in office coincided with a groundswell of support for changes to the electoral system.²⁵ Had the government acted in a fashion that was publicly perceived as consistent with its stated intention to create a 'decent society', it may well have siphoned off the momentum that continued to grow in favour of electoral reform. However, the considerable continuity between the government's approach and that of its predecessor, arguably because National found itself largely constrained by the institutional and policy settings established by Labour (Castles et al, 1996), ensured that this did not occur. Instead, National's continuation of the previous administration's 'course of courageous dishonesty' simply served to stoke the fires of public disillusionment and anger with politicians (Mulgan, 1995: 93). National demonstrated an ability to renege on stated commitments and to engage in non-mandated activity on a par with the previous government, and as a result, increasing numbers of people turned to electoral reform as perhaps the only potentially effective means of changing the seemingly habitual behaviour of elected governments (Bennet, 1994). And while the focus of the Labour government's reforming zeal had been on domains such as the economy, local government and the public service, National introduced a series of initiatives through its 19 December 1990 Economic Statement and the July 1991 Budget that had an enormous impact in areas such as public health, housing, education and welfare, and employment. Significantly, as had been the case under Labour, a number of these measures were either in direct contravention of previously given undertakings, or had not been foreshadowed by National's election manifesto.²⁶ Notwithstanding the government's protestations that at least some of these initiatives were a consequence of unforeseen circumstances, levels of public confidence in the integrity of politicians continued to fall to the extent that by 1992, Heylen's

²⁵ The fact that support for the introduction of PR climbed to 65% (with 18% supporting the status quo) immediately after the election was at least in part a reflection of the highly disproportionate result of the election, in which National secured 69% of the seats with only 48% of the national vote (Vowles and Aimer, 1993; cited in Vowles, 1995).

²⁶ For a comprehensive analysis of the Labour government's policy initiatives, see Boston and Holland (1987), and Holland and Boston (1990). Boston and Dalziel (1992) have a similarly comprehensive series of analyses of the measures announced in 1990 and 1991 by the National government. For an overview of the changing role of the state relative to the economy, health, welfare, education and industrial relations over the last decade, see Sharp (1994).

Full Trust and Confidence Polls indicated that trust and confidence in MPs had fallen from 33% in 1975 to 4% in 1992 (Jackson, 1993: 17).

5.3.1 The indicative referendum

In that context, and particularly given the increasingly persistent and insistent calls for electoral reform (McRobie, 1994), the government found itself unable to renege upon its commitment to hold a referendum on the electoral system. What it did do, however, in an attempt to reduce the momentum that was clearly building behind the issue, was relitigate its 1990 election undertaking. Rather than staging a single binding referendum as promised, National instead chose to conduct an indicative referendum in the first instance, which would subsequently be followed by a binding referendum only if carried by a majority of voters (McRobie, 1994). Accordingly, the government passed the *Electoral Referendum Act* 1991, which specified the process for conducting the initial indicative referendum. Under the legislation the electorate would be given the opportunity to indicate a wish either to change the electoral system or to retain the *status quo*. Irrespective of their preference on that issue, the referendum would also offer voters the chance to indicate which of a range of four alternative electoral systems they would prefer if the simple plurality system was to be changed.²⁷ Voters would be able to indicate their preferences in each of the two parts, or to vote on only one of the issues.

In advance of the 1992 referendum, the government formed an independent committee, the responsibility of which was to orchestrate the public education campaign which preceded the referendum in a non-partisan manner. The key objective of the Electoral Reform Panel, chaired by the then Chief Ombudsman Sir John Robertson, was to ensure that the voting public was familiar with the concept and purposes of the referendum, and the merits and demerits of the respective alternatives, such that voters would be in a position to cast an informed vote in

²⁷ See Jackson (1993: 19 - 23) for an interesting discussion concerning the extent to which the process followed by National injected, deliberately or otherwise, an unhelpful degree of confusion into the public debate over the question of electoral law reform. Jackson (1993: 19) contends that:

it is difficult to avoid the conclusion that from the time that the Royal Commission's proposal had been made in 1986, the whole process had been permeated by political chicanery of the worst kind.

September 1992 (McRobie, 1993). The Panel's work was significantly constrained by the fact that Parliament failed to provide details about how each of the reform options would function in practice; in particular, the effectiveness of the Panel's information drive was hampered by the lack of clarity concerning the future of the four Maori seats and the exact number of MPs under each option (Harris, 1992-93). Evidence suggests that the educational campaign enjoyed mixed success. While the level of public awareness of the fact and purpose of the referendum rose from 22% to 86% between April and September 1992 (McRobie, 1993), the turnout of just over 55% of registered voters does not compare favourably with other referendums not held in conjunction with general elections (McRobie, 1993).²⁸

In the event, the non-binding referendum held on 19 September 1992 was remarkable for the fact that it was the first time in any Westminster parliamentary democracy that a government had offered the voting public the chance not only to change the electoral system, but in addition, the opportunity to indicate which of a range of systems they would most like to see implemented in the event of change (Jackson, 1993).²⁹ The phenomenon was all the more noteworthy given that neither of the two major parties wanted to see substantive changes made to the electoral system. Major modifications would in all likelihood signal an end to the fruits of single party government that had been exclusively enjoyed by the

²⁸ Those held in 1949 (which included the issues of compulsory military training, off-course betting facilities for horse racing and liquor licensing laws) had turnouts of 56.3% and 65.5%, while in 1967, the referendum on the length of the parliamentary term attracted a turnout of 69.7% (Jackson, 1993; McRobie, 1993). Nonetheless, Levine and Roberts (1993: 57) point out that not only was the turnout in the 1992 referendum higher than has been the case for some presidential elections in the United States, the proportion of those who voted for change (84.7%) 'far exceeds the margin of victory secured by any party in any New Zealand election, and is the most lopsided result ever recorded for a nationwide referendum in New Zealand's history.'

²⁹ McGee (1994) points out that referenda have been a characteristic of public policy making in New Zealand for at least the last century. The issue most frequently addressed, and one which was put before the people with regularity at general elections between 1893 and 1987, was that of liquor licensing. See also the introductory and first chapters of McRobie's edited text (1993) for a brief discussion on the nature and previous use of referenda in the New Zealand context. In chapter 1, Jackson points out that what distinguished the 1992 referendum was the fact that for the first time in New Zealand a referendum was used not to avoid a politically sensitive issue, but to address one directly. See also McRobie (1994) and Wilson (1987) for brief comment on the use between 1881 and 1987 of referenda in conjunction with general elections.

National - Labour duopoly since 1935³⁰, and as such there were few, if any, incentives for either party to support fundamental constitutional change on the scale represented by the referendum (McRobie, 1994).³¹ In the event, the equivocations demonstrated by the major parties were clearly not shared by a majority of those who voted in the referendum (and in all probability they played a not insignificant part in convincing some voters to support reform): 84.7% of those who cast a valid vote in Part A supported a change to the electoral system, while in Part B, 70.5% of valid votes cast identified the mixed member proportional system as their preferred option (Levine and Roberts, 1993).³² The extent of public support for change, and of change to MMP, was unanticipated even by the most ardent proponents of electoral law reform: in no electorate on both the General and Maori rolls did the vote in support of change fall below 70% (Harris, 1992-93).³³ The full extent of public support for electoral law reform was perhaps most aptly captured in the then Leader of the Opposition's prosaic observation that 'the people didn't speak on Sunday, they screamed' (Evening Post, 21.8.92; cited by Levine and Roberts, 1993: 57).

³⁰ Of the 1,451 electoral contests that have occurred at general elections between 1943 and 1993, only eleven have been won by candidates representing parties other than Labour or National: Social Credit won six, the Alliance and New Zealand First have won two each, and New Labour have won one (McRobie, 1995). Moreover, 'two of the four third party winners in 1993 had previously won their seats as members of one or other of the major parties' (McRobie, 1995: 321).

³¹ There were, of course, individual MPs who supported electoral law reform. They included a significant number of the Labour caucus, such as Steve Maharey (Palmerston North), Judith Tizard (Panmure) and Annette King (Miramar), and a number of National members, notably Nick Smith (Tasman) and Michael Laws (Hawkes Bay, who also sat on the National Management Committee of the Electoral Reform Coalition) (Election Reform Coalition, 1993)). In fact, by the time the binding referendum was held in late 1993, seventy of the ninety nine Labour candidates contesting electorate battles either publicly or privately supported MMP, leading one prominent MMP supporter to note that 'the referendum was won in the Labour party' (Saxby, 1994: 97).

³² Turnout for the referendum was slightly in excess of 55% of registered voters (Levine and Roberts, 1993). Interestingly, McRobie (1994) has calculated that there were 96,000 fewer valid votes cast in Part B *vis a vis* Part A. He also provides an analysis of the results of both the 1992 and 1993 referenda in the context of geographic, political and demographic indices.

³³ A series of interesting voting patterns emerged out of the referendum. For instance, the vote for change, whilst highest in the two Alliance electorates, was higher in the twenty nine Labour constituencies than in those held by National (86.8% to 83.7% respectively). Support for MMP was higher in the poorest urban electorates than it was in the richest electorates, but was highest of all in the four Maori constituencies (Levine and Roberts, 1993).

As has been suggested (see, for instance, Levine and Roberts, 1993), it may well have been the case that some electors used the referendum to register a vote *against* the behaviour of politicians in general (and the National government in particular) rather than specifically *for* electoral law reform. Arguably, however, the link between the simple plurality system and the culture of governance that it contributed to (and in particular those aspects of that culture that were a function of the latitude granted to executives to legislate with considerable impunity), had become all too apparent to significant numbers of those who voted in the referendum. And as has been pointed out by a former Parliamentary Officer who was uniquely positioned to assess the public mood with regard to expectations of government (Robertson, 1994), informing the results of the both referenda on electoral law reform was a deep seated public desire to see changes made to the *manner* in which governments make decisions and conduct themselves, rather than to the political preferences of specific governments.³⁴ In any event, whatever the motivations of individual voters, given that a considerable proportion of the voting population depend to some extent upon income support and other State funded and/or provided services, the casting of a vote based upon 'tactical considerations concerning personal and partisan advantage [rather than] disinterested reflections about efficiency and equity in electoral systems' would be eminently rational and no less legitimate for its focus on personal considerations (Levine and Roberts, 1992b).³⁵ Moreover, as Jackson (1993), has pointed out, using a vote to register a protest is entirely consistent with the bases on which many electors traditionally cast their votes under FPP, and the legitimacy of those political preferences has seldom if ever been challenged.

Irrespective of the motivations of individual voters, the results of the indicative referendum firmly placed the National government on a

³⁴ The extent of that sentiment was suggested by research published immediately after the referendum (Heylen Research Centre, 1992; cited in Vowles, 1995), which indicated that 73% of *all* voters, not simply those who voted in the referendum, supported MMP, while only 14% supported the retention of FPP.

³⁵ In fact, data provided by Levine and Roberts (1993) indicates that voters' evaluations of the performance of a government play a crucial role in their evaluation of the merits or otherwise of an electoral system. As those assessments become less favourable to the government, support for a change to the electoral system rises. In 1992, of those who considered the National government's performance to be 'very good', 37.7% supported the retention of FPP, while only 6.7% of those who felt the government was performing 'very poorly' wished to retain FPP (Levine and Roberts, 1993: 65).

trajectory towards electoral law reform from which it could not deviate. The vote for change registered in the indicative referendum required that the government introduce the *Electoral Referendum Bill* 1993, which specified the process through which a final and binding referendum would be conducted in conjunction with the general election to be held in November 1993.³⁶ Under the terms of the legislation, Parliament passed responsibility for deciding upon constitutional change to the voting public, and as such, a majority decision in favour of reform would be considered binding upon the government. The Bill initially comprised three separate bills (McDowell and Webb, 1995):

- the *Electoral Referendum Bill* 1993 stipulated the process through which the binding referendum was to be conducted;
- the *Electoral Bill* 1993 provided for a complete revision of the existing electoral law (contained within the *Electoral Act* 1956) in the event of a vote for change, and incorporated the form of MMP which would be implemented accordingly³⁷;
- the *Senate Bill* 1993 was to come into effect should (a) FPP be retained, and (b) a majority of voters support the creation of a Senate. There were considerable expressions of opposition concerning the extent to which the staging of this 'referendum within a referendum' fudged

³⁶ This legislative sequence of events was required to satisfy the constitutional requirement specified in Section 189 of the *Electoral Act* 1956 that a reserved provision can only be amended or repealed either with the support of a majority of 75% of all members of Parliament, or by a majority of the valid votes cast at a poll of all voters (McGee, 1994). The nature of the electoral system was one of the entrenched provisions set down in Section 189 of that legislation (subsequently replaced by the *Electoral Act* 1993).

³⁷ See McGee (1994: 446) for a precise elaboration of the procedural sequence of events through which the *Electoral Act* 1993 took effect. The legislation took thirty hours and three days of sitting under urgency to move through the House, and its passage was marked by a number of intriguing events. Most fascinating of all was the attempt by Peter Shirtcliffe's Campaign for Better Government to have the constitutional law of the nation rewritten. The Campaign lobbied for a legislative requirement that a majority of all *registered* voters be secured before amendments could be made to the reserved provision relating to the electoral system. In this it was supported by then Finance Minister Ruth Richardson, who described the *Electoral Act* 1956, which at the time governed the relevant procedures, as a 'defective constitutional instrument' (Dominion, 5.8.93: 2). Sir Geoffrey Palmer (Dominion, 4.8.93: 8), describing the Campaign's proposal as a 'sneaky, slimy act', highlighted the constitutional impropriety it represented, particularly given that voting is not compulsory in New Zealand, and that rolls include the names of people who have left the country, or are dead.

the primary issue of electoral law reform, and in the event, the electoral law select committee which considered the legislation recommended (successfully) that the senate option be abandoned.

5.3.2 Informing the public

Over the period of time during which the two referenda were staged, and particularly during the months immediately preceding the final and binding referendum, public awareness of the emergence of electoral law reform as a political issue, if not appreciation of the precise constitutional significance of the debate, was facilitated by the activities of a range of contributors. In addition to the official conduits of information (such as the previously mentioned Panel), a number of other sectional interests were involved in processes of public debate and information dissemination over that period. For instance, opposition to electoral law reform was forthcoming from the Business Roundtable (who commissioned and widely disseminated a defence of the existing system), the Employers Federation, and a number of Chambers of Commerce. On the other hand, organisations that publicly supported a move to MMP included Grey Power, Maori Congress, and the New Zealand Council for Trade Unions (Donald, 1993). And while neither National nor Labour advocated an official position on the issue, stances were taken publicly by MPs, most of whom supported the *status quo*. The leaders of both of the main parties publicly expressed their preference for FPP, and the bi-partisan 'Campaign for First-Past-the-Post', which was created by National's Simon Upton and Labour's Helen Clark, was in fact the first organisation founded in defence of FPP (Harris, 1992-93; Vowles, 1995).

The operations of two groups in particular contributed to the quantum of information from which the public drew in making their choices at the two referenda. The Electoral Reform Coalition (which had been formed shortly after the publication of the Royal Commission's Report in 1986, and which had played a major part in maintaining the public profile of electoral law reform) established the highest profile of those organised lobbies which actively supported changes to the electoral system. In the context of an extremely vigorous debate, more than any other group the Coalition proved instrumental in raising the public profile of electoral law reform in general, and the merits of MMP in particular (McRobie, 1993). The Coalition drew

political and logistical support from a variety of quarters, including sections of the print media, most of the minor parties, and the New Zealand Council of Trade Unions, with the latter providing both office space and equipment, and also assisting with the financing of a newspaper advertising campaign in advance of the 1993 referendum (Vowles, 1995). Functioning in the absence of any concerted corporate backing, by some estimates the Coalition was outspent by the anti-MMP lobby by a ratio of 5:1 (Saxby, 1994)³⁸. Despite this, the results of both the 1992 and 1993 referenda suggest a vindication of both the substance of the group's message and the process through which it was conveyed.

Concerted support for the retention of the simple plurality system was much longer in emerging. When it finally did eventuate in the advent of the indicative referendum, it was most vigorously promulgated by the leading anti-MMP lobby, the Campaign for Better Government. Headed by the chairperson of Telecom and prominent member of the Business Roundtable, Peter Shirtcliffe, the Campaign was established in April 1993, and supported the existing system on the grounds that the decisive, strong government it had traditionally delivered was essential to the economic stability and prosperity of the country (Hubbard, 1993).³⁹ There is anecdotal evidence to suggest that it enjoyed considerable success in capturing the agenda of the second and binding referendum, if not in determining the final outcome (Catt, 1994).⁴⁰ The Campaign's tactical approach concentrated not on arguing the merits of FPP, but on denigrating forms of PR systems operating overseas and endeavouring to instil in voters a fear of the

³⁸ The extent of the financial discrepancy between the two lobbies is illustrated by Saxby's (1994) observation that while the Coalition spent in the vicinity of \$250,000 in the year preceding the binding referendum in 1993, \$500,000 was spent on television advertising in the final week of that campaign alone by the anti-MMP lobby.

³⁹ That analysis was not supported by research undertaken by Treasury, which concluded that there was no long run association between electoral processes and aggregate economic outcomes (Scott, interview, March 1996).

⁴⁰ For instance, as a political scientist Catt comments that, particularly in the final weeks of the campaign preceding the binding referendum, the vast majority of questions that she was asked at public meetings reflected the concerns about MMP that were being put forward by the Campaign (such as the perceived instability of coalition governments, the unwieldy size of electorates etc.) (Catt, 1994). See Vowles and Aimer (1994, especially pps. 130 - 134), for a general discussion on the relative success of the Campaign for Better Government *vis a vis* the Electoral Reform Coalition in dominating the agenda leading up to the 1993 referendum.

consequences should they support electoral law reform (Clark, 1993).⁴¹ In particular, the Campaign targeted those identified through its own research as relatively ignorant of the issues germane to electoral law reform, in an attempt to convince them of the need to vote against electoral law reform in the forthcoming binding referendum. In so doing, it focused on a range of populist concerns in a manner intended to generate opposition to MMP. The recommended increase in the numbers of MPs, the purported instability of minority and coalition governments, and the closed party lists were promoted as reasons for resisting change. The group enjoyed the support of a number of employer and business groups, including the Business Roundtable and various Chambers of Commerce, and drew on a substantial resource base the actual level of which, while never confirmed, was accepted to be at the very least in the vicinity of \$500,000 (Hubbard, 1993: 26). In the final analysis, however, that level of support proved insufficient to convince the required majority of voters of the veracity of the Campaign's position; in fact, many of the arguments used by the group, in conjunction with the lavishness of its campaign, appeared to confirm for many the need for change (Mulgan, 1995).⁴²

6 CONCLUSION - FINAL AND BINDING

The Clerk of the House of Representatives has made the point that behind public support for electoral law reform lay fundamental considerations of equity which suggested that:

⁴¹ The thrust of the public campaign reflected research commissioned by the Campaign indicating that as there was little depth of support for FPP, it would be more productive to focus on denigrating MMP (Clark, 1993). Interestingly, however, the first nation-wide advertisement was the subject of a complaint by the Electoral Reform Coalition to the Advertising Standards Complaints Board. The advertisement, designed by Saatchi and Saatchi, sought to convince voters that a vote for MMP would introduce to New Zealand the sort of turbulent political system characteristic of Italy. The Board upheld the Coalition's complaint on the grounds that the advertisement contained technical inaccuracies, and it was subsequently withdrawn (Clark, 1993).

⁴² A comment made by Hilary Bennett (the Women's Spokesperson for the Campaign) subsequent to the 1993 referendum suggests that the group was aware of the extent to which its position did not enjoy widespread public support. Reflecting on the breadth and depth of the personal hostility and resistance to FPP that she had encountered leading up to the final referendum, Bennett commented that 'the longer I spent on the road the more I knew that I was face-to-face with the mood of this nation!' (Bennett, 1994: 98).

all sections of political opinion in the country should have representation in the House. The first-past-the-post system palpably didn't deliver that [representation]: it went for a clear cut result, a working majority in the parliament that could simply steamroll its way through (McGee, interview, March 1996).

The extent to which considerations of that nature did feature in voters' decision making processes was reflected in the result of the final act in a 'long and at times tortuous public debate about the future form of the country's electoral system' (McRobie, 1994: 102). The final and binding referendum on electoral law reform took place on 6 November 1993: 53.9% of those who voted in the referendum (which was associated with the general election) supported a move to MMP (Vowles and Aimer, 1994).⁴³ Notwithstanding (and perhaps because of) the considerable material and political resources that had been marshalled in defence of the *status quo*, the national electorate voted to fundamentally alter the manner in which it selects its political representatives.

That the reforms were carried doubtless came as a considerable surprise to many, including most incumbent MPs who had opposed them. For some years prior to the final referendum there was considerable scepticism amongst sections of the political elite that the electorate would in the event be so adventurous as to grasp the nettle of electoral reform, and a similarly paternalistic attitude informed much of the strategy adopted by the Campaign for Better Government. However, the result of the final and binding referendum suggests that, protestations to the contrary notwithstanding, the majority of those who supported MMP did so out of a conviction that changes to the electoral system would result in a qualitative improvement in the performance of their elected representatives, both in government and opposition. As John Martin has put it, support for electoral law reform was forthcoming not only because:

⁴³ Turnout at the general election was 82.8% of those enrolled, slightly higher than was the case in 1990, but still low by historical standards (Vowles and Aimer, 1994). Interestingly, 0.2% of those who cast a vote in the general election did not do so in the referendum (Vowles and Aimer, 1994).

people didn't like the substance of what was done during the time of the reforms, but they didn't like the style either: they didn't want the smack of firm government (interview, March 1996).

Arguably, the electorate had tired of the 'blitzkrieg' approach to government, to the extent that informing the vote for MMP was a strong desire for the construction of a political environment that was demonstrably more inclusive and permissive of participation than had become the case under FPP.

The major irony of the entire electoral reform process (and one which is explored in greater detail in Chapter 8) was that the very people who had most emphatically employed the prerogatives of strong executive power under FPP were those that were required to sponsor a political process that culminated in the removal of the key institutional bulwark of that power. Perhaps that irony was not lost on at least some of those who supported the move to MMP, and who, to paraphrase the comments made by the then Leader of the Opposition on the night of the indicative referendum in 1992, screamed again on 6 November 1993. The reverberations of that scream, however, promise to have an impact on the political environment that will be felt for some considerable time to come.

CHAPTER FOUR: THE THEORETICAL BASES OF STATE SECTOR REFORM

1 INTRODUCTION

At the conclusion of the previous chapter it was noted that a desire for a more responsive political system lay at the heart of the vote for electoral law reform that was registered in late 1993. In key respects, an assessment of the extent to which that outcome is likely to be realised cannot take place in isolation of an appreciation of the scope of another major process of reform. Chronologically at least, the reform of the public sector paralleled the changes made to the electoral system.

Much has been written concerning the nature and impact of the reforms experienced in the New Zealand public sector since the mid - 1980s (Boston and Holland, 1987; Boston et al, 1991; Whitcombe, 1992; Sharp, 1994; Kelsey, 1993 and 1995; Castles, Gerritson and Vowles, 1996). Similarly, there are diverse accounts of the theoretical bases of those reforms (Scott and Gorringer, 1989; Roper and Rudd, 1993; Boston, 1995; Boston et al, 1996a). The discussion in this chapter is less concerned with the former (which is the focus of Chapter 5), and rather more with the latter. Clearly, an appreciation of the institutional profile of the new public sector is required before any assessment can be made of the extent to which there might exist congruence between that apparatus and the various imperatives attendant upon the process of electoral law reform. Before that can be achieved, however, it is important to develop a sense of both the precise nature of the intellectual traditions that shaped the process of state sector reform, and of the wider political and economic context within which the reform process was situated.

In the main, therefore, my purpose here is to provide an elaboration of the central theoretical precepts of three bodies of knowledge widely held to be amongst the most significant to the reform process: public choice theory, principal-agent theory, and the new managerialism. More specifically, it is to set out the broad features of these three theoretical strands, and subsequently to identify variations within each tradition. The dual tasks of illuminating specific instances in which those principles have been given

practical effect, and of offering an assessment of the reforms belongs to Chapters 5 and 6.

2 THEORETICAL UNDERPINNINGS

Self (1993) has situated the New Zealand reforms, and the strategic manner in which they have been implemented, in the context of an ideological paradigm that has become dominant over the last thirty five years in the majority of Western democracies. That paradigm has emerged out of the coalescing of mainstream public choice and market theories. While it has no universally agreed-upon appellation, the phrase 'government by the market' has been coined to reflect the fundamental assertion that the market system, as opposed to conventional structures of democratic governance, represents the most appropriate means of meeting peoples' needs and aspirations (Self, 1993).¹ Attendant upon the new orthodoxy are prescriptions advocating that:

governments should in general do less; ... they should reduce or relinquish their previous responsibilities for maintaining full employment and a comprehensive system of state welfare; ... they should privatise public services or their delivery wherever practicable; and ... *they should reform their own operations in accordance with market concepts of competition and efficiency* (Self, 1993: ix; emphasis added).

With specific reference to public sector changes in New Zealand, Boston et al (1996a: 2) have suggested that such prescriptions have been reflected in the desires of the reformers to 'improve the effectiveness and efficiency of the public sector, enhance the responsiveness of the public agencies to their clients and customers, reduce public expenditure, and improve managerial accountability.' Moreover, they have contended that, of the various features representative of the reforms, perhaps the most compelling has been the

¹ Self (1993) points out that the pre-eminence of this paradigm depends heavily upon the synthesis of both threads. That is, notwithstanding the ascendancy of market theory over the formerly dominant Keynesian economic model, the convergence of market liberalism with public choice criticisms of the perceived limitations of political systems was both central and necessary to the mounting of a concerted assault on orthodox thinking about politics and government.

considerable extent to which they have been characterised by intellectual rigour and coherence. Far from emerging in a spontaneous and *ad hoc* fashion as the result of a series of uncoordinated ministerial decisions, change within the state sector has largely been predicated upon the conceptual blueprint contained in the post-election briefing papers prepared by Treasury in 1984 (*Economic Management*) and 1987 (*Government Management*), and has comprised 'part of a carefully crafted, integrated, and mutually reinforcing reform agenda' (Boston et al, 1996a: 3).² Importantly, this agenda was itself informed by a series of conceptual bases, concerning which there exists a considerable body of literature. And notwithstanding diverse assessments of the efficacy and desirability of the reforms, central to most commentaries is an acknowledgment that their intellectual origins lie in three political-economic critiques that have gained considerable currency, both in New Zealand and elsewhere, in recent years.³

2.1 Public Choice

Of these various traditions, Boston et al (1996a) have singled out the public choice approach as perhaps the most influential of the theoretical traditions that have provided the conceptual tools and prescriptions informing the process of public sector reform.⁴ Notwithstanding the earlier work of Anthony Downs, the origins of public choice have been traced by one commentator to a meeting held in Chicago in 1963, attended by a group of like-minded scholars with a common interest in the application of economic reasoning to the study of non-market decision-making, out of

² Alternatively, it has been argued that, at least in the case of the fourth Labour government's first term in office, with the exception of key ministers, there was little knowledge of, much less coherent appreciation of, many of the proposals that gave effect to the wider process of structural readjustment (see, for instance, Wilson, 1989). In addition, Sharp (1994: 5) has argued that although the reforms were situated in 'a theory-rich context', they were 'coloured by clusters of ideas [that were] neither simple, coherent in themselves nor compatible with each other.'

See chapter 2 of Boston et al (1996a) for the seminal delineation and critique of these theories and their application in the New Zealand context. See also Scott and Bushnell (1988), Scott and Gorringer (1989), and Scott et al (1990) as examples of the theoretical critiques which contributed to the reform process.

Boston (1991) notes that public choice theory has variously been called social choice theory, rational choice theory, the economics of politics, and public administration theory in recent times. He adds that while the appellation may change, the considerable impact that this approach has had upon both the discipline and practice of public policy has remained constant.

which was subsequently launched a journal originally titled *Papers in Non-Market Decision-Making* (and subsequently renamed *Public Choice*) (Sproule-Jones, 1988: 34). Provocatively labelled by one of those scholars as the 'science of political failure' (Buchanan, 1988; cited in Lane, 1993: 154), the essential concerns of the critique have to do with the problems and shortcomings of the democratic process in representative polities, in particular as they relate to processes of public sector decision-making and policy implementation (Lane, 1993; Self, 1993).⁵ In its original formulation the critique is largely applied to issues concerning decision-making within the political executive, and in particular it is concerned with the extent to which the self-interested actions of elected members of government can result in sub-optimal macro-economic outcomes.

Subsequent developments gave rise to a second and equally significant bloc of public choice theorists concerned in the first instance with reestablishing 'the primacy of representative government over bureaucracy' (Aucoin, 1990: 115). The focus of this arm of the critique is on the institutional redesign of the administrative arm of government so as to remove control over processes of governance from professional public servants and relocate it in the hands of elected political representatives.⁶ In terms of the traditional dichotomy between policy and administration set out in Chapter 1, it has been the contention of this variant of the public choice approach, typified by the work of Niskanen, that all too frequently administrators have been guilty of assuming responsibility for and control over policy processes that are rightly the domain of elected politicians.⁷

⁵ For seminal contributions to the public choice literature see Downs (1957 and 1967); Olsen (1982); Buchanan (1986); and Buchanan and Tullock (1962).

⁶ Aucoin (1990: 117) makes the point that the issues addressed by the contemporary public choice approach resonate with the debates concerning the reform of parliamentary government that took place in the United Kingdom during the nineteenth century. Those conflicts were essentially to do with the assertion of control by elected politicians over 'the apparatus of the State, the public purse and the offices of executive government.' Ironically, the advent of the modern administrative state has resurrected a series of questions to do with control over the instruments of government that are situated at the heart of the public choice critique.

⁷ As is the case with most theoretical traditions, there exists within the broad public choice school a range of positions and emphases. With the exception of those principles relating to politics as exchange and constitutional economics, the assumptions of the Virginia school are those that are canvassed in discussions here concerning the application of public choice to the political (and non-bureaucratic) domain. Similarly, a distinction is drawn between the Virginia school and the approach to public choice

Public choice is the application of economic method to the analysis of the behaviour of voters, politicians and bureaucrats (Borins, 1988: 13).⁸ For the purposes of this work, in the New Zealand context the significance of the public choice approach lies in the fact that it has served not only as the dominant theoretical critique of the public sector, but as the single most influential body of knowledge informing substantive changes to processes and methods of economic and political management within the state sector and the wider political system more generally. As previously inferred, the metaphor informing the approach is that of the perfectly competitive free market. Accordingly, the political sphere is conceived as a market place which mediates the demand and supply of public goods (Self, 1993). The political market place is purportedly characterised by the functioning of the twin imperatives of efficiency and competition in the production of optimal outcomes, both in terms of the organisation of administrative structures and in the distribution of goods and services; and by the fact that the actions of the various protagonists are premised upon the maximisation of their respective individual utilities. In this grand market:

voters can be likened to consumers; political parties become entrepreneurs who offer competing packages of services and taxes in exchange for votes; political propaganda equates with commercial advertising; government agencies are public firms dependent upon receiving or drumming up adequate political support to cover their costs; and interest groups are co-operative associations of consumers or producers of public goods (Self, 1993: 3).

The central philosophical foundations of the critique can be gleaned from the following extract, in which Mueller defines the public choice approach as:

typified by Niskanen. The distinctions between the two are explored in greater detail below and in Chapter 5.

⁸ Borins (1988) provides a provocative and fascinating analysis of the considerable extent to which the British television show 'Yes Minister' (and by implication its sequel 'Yes Prime Minister') popularised the principles and prescriptions of public choice. In the article, Borins also suggests that the fact Buchanan was the sole recipient of the Nobel Prize represented something of a miscarriage of justice. In Borins' view, the adjudicators erred in overlooking the seminal contributions made to the public choice literature by Anthony Downs' works *An Economic Theory of Democracy* (1957) and *Inside Bureaucracy* (1967).

the economic study of non-market decision-making, or simply the application of economics to political science. The subject matter of public choice is the same as that of political science [but the] methodology [is] that of economics, however. The basic behavioural postulate, as for economics, is that man (sic) is an egoistic, rational utility maximiser (1989; cited in Self, 1993: 2).

Explicit in this definition, and therefore central to the public choice approach, are two essential assumptions. The first is that the fundamental unit of social scientific analysis is the individual; that is, economic analyses of the structures and processes of both representative government and the public sector are properly and legitimately conducted only in terms of the motivations and actions of individual actors (Hall, 1986). The essence of what is known as methodological individualism is succinctly captured in Buchanan's contention that 'the basic units are choosing units, acting, behaving persons rather than organic units such as parties, provinces, or nations' (cited in Lane, 1993: 155). In addition, methodological individualism asserts that the properties and characteristics of aggregated constructs (such as legislatures, government departments, political parties etc.) are essentially reducible to the properties, propensities and inclinations of their individual constituent units (Hayek, in Lane, 1993). That is, the essential postulate of the public choice approach is that irrespective of institutional location, individual choice is the basis of all organisational and collective action; to the extent that any attempt is made to articulate a common good or public interest, that effort will simply comprise the aggregation of all individual preferences.

The postulates of methodological individualism mesh with the second assumption reflected in Mueller's definition, which is that self-interest motivates the activities of all political players (including politicians, members of political parties and interest groups, and voters). Central to this contention is the belief that individual human actors are rational utility maximisers, and as such will tend to indulge in political and economic behaviour that is self-serving (Downs, 1957).⁹ That is, the choices and

⁹ Elsewhere, however, Downs (1957: 27) notes that:

in reality, men (sic) are not always selfish, even in politics. For example, politicians in the real world sometimes act as they think best for society as a whole even when they know that their actions will lose votes. In every field, no

actions of individuals are predicated upon 'stable preferences and a rational consideration of alternatives and their consequences where the alternative yielding the highest level of expected utility is chosen' (Lane, 1993: 177). The combination of these two assumptions (methodological individualism and rational utility maximisation) in, and their application to, the motivations of political actors is fundamental to the public choice critique. Essentially, explanations concerning the structures of the political sphere, the actions of those within that sphere, and subsequent distributional and organisational outcomes are reduced solely to considerations of individual self-interest. Notions of altruism, the wider public good and service to the community have little, if any, part in such analyses. Put otherwise, the public choice thesis is that *all* public activity can be explained solely in terms of the clearly defined economic self-interests of individuals (Self, 1990; Lane, 1993).

The assumptions of the public choice critique are applied to the public domain in the New Zealand context in a number of ways. Firstly, it is assumed that politicians are primarily motivated by the desire to secure and maintain political power and the associated utilities derived from holding public office (such as status, power, influence etc.). The classical statement belongs to Downs, who asserts that:

politicians in our model never seek office as a means of carrying out their particular policies; their only goal is to reap the rewards of holding office *per se*. They treat politics purely as a means to the attainment of their private ends, which they can reach only by being elected (1957: 28).

In effect, this requires that politicians maximise voting support. That is, 'the principal actors are political entrepreneurs, in or out of office, seeking to maximise political support' (Hall, 1986: 10). They will endeavour to do so through promising fiscal largesse in various forms (increased benefit rates, extended provision of social services, etc.), with consequential increases in the levels of both public expenditure and taxation. Moreover, public choice advocates (particularly those of the Virginia school persuasion) suggest that, when in government, politicians will actively seek to manipulate the government's position as monopoly supplier of public goods and services to

account of human behaviour is complete without mention of such altruism; its possessors are among the heroes men (sic) rightly admire.

influence the preferences of voters: in other words, to maximise their votes (Hartley and Tisdall, 1981). The notion of the 'political business cycle' has been articulated as an explanation for the calculated implementation of expansionary policies by vote-maximising politicians before an election, success in which is necessarily followed by the introduction of the recessionary policies required to deflate the economy. That is, given that there is generally a lag in the impact of expansionary monetary and fiscal policies, and assuming that most voters possess short-term political memories, governments can stimulate aggregate demand immediately prior to an election safe in the knowledge that the resultant inflationary consequences can be attended to in the immediate post-election period (Eichbaum, 1993).¹⁰ Inherent in this analysis is the contention that the manipulation over time of macro-economic policy levers by self-serving politicians compromises aggregate economic performance. In this and other cases, therefore, the public choice contention is that politicians' behaviour, and the shape of subsequent policy outcomes, is overwhelmingly determined by considerations of self-interest. In such an assessment there is little place for suggestions that political representatives are primarily interested, if at all, in the common good and in serving the public (Boston et al, 1996a).

The second application of public choice, which reflects the work of Niskanen (1971; 1973; 1994), focuses on a critique of the motivations informing the actions of public servants. Niskanen has defined bureaux as organisations in which both of the following characteristics apply:

- the owners and employees of the organisation do not appropriate as personal income any part of the difference between the organisation's revenues and costs; and
- some portion of the recurring revenues of the organisation derive from other than the sale of output at a per-unit rate (1994: 15).

¹⁰ For the seminal statement on political business cycles see Nordhaus (1975), and see Boston and Holland (1987: 5) for the application of this notion in the New Zealand context. The point can be made that political business cycles need not necessarily be expansionary; the preferences of voters and the partisan complexion of political parties may dictate otherwise on occasion. In the context of this research, see Chapter 6 for a detailed critique of this and other applications of the public choice approach.

The essence of Niskanen's argument lies in his assertion that 'current models of the bureaucracy are most defective in their failure to recognise that the behaviour of bureaucrats and bureaux is primarily determined by the incentives and constraints specific to the bureaucracy' (1973: 4). In this context, the public choice argument contends that, in much the same fashion as owners of capital in the private sector are motivated to maximise profits, so the employees and managers of public bureaux are similarly motivated to maximise the size of the total resource available to their department. That they are able to do so with a considerable measure of success, is, Niskanen argues, a function of the systemic advantages bureaucrats enjoy by virtue of the structural nature of the State bureaucracy. In particular, the absence of competition that is a corollary of the fact that public bureaux traditionally enjoy a monopoly on the supply of public goods and services to government is fundamental to the ability of senior public servants to maximise their departmental budget.

Far from concurring with the notion (accepted in liberal pluralist quarters) that in the main bureaucrats are guided by notions of public service, in conjunction with established conventions (such as political neutrality) and the need for peer approval, this variant of the public choice critique instead reduces the motivations of public servants to self-interested considerations regarding 'pay, status and personal convenience or ambition' (Self, 1993: 33). In Niskanen's terms, 'the beginning of wisdom is the recognition that bureaucrats are people who are ... not entirely motivated by the general welfare or the interests of the state' (1973: 16).¹¹ Based on the assumption that behaviour is always and everywhere motivated by self interest, the motivation for budget maximisation lies in the positive relationship that exists between a range of variables (such as salary, administrative power, patronage and departmental output), and the size of a given department's budget (Niskanen, 1973). Simply put, increases in a department's budget translate into an increase in the utility enjoyed by individual departmental employees. Moreover, bureaucrats possess significant discretionary opportunities to exploit political goals to their advantage that emerge out of the information asymmetries they enjoy (such asymmetries themselves

¹¹ While he accepts that some bureaucrats seek to act in accordance with what they perceive to be the 'public interest', Niskanen argues that the difficulties involved in any one individual acquiring knowledge of all individual preferences militates against success in this endeavour. Accordingly, bureaucrats take rational decisions to pursue lower level, more achievable goals.

reflecting the structural advantages in terms of monopoly control referred to above). As a result of this alleged proclivity to 'substitute their own interest for their supposed function' (Self, 1993: 33), bureaucrats are inclined to distort information and modify political goals to suit their own ambitions. And as such, they will attempt to extract from government the largest possible budget commensurate with the total cost of providing an agreed output (by way of comparison, whereas a firm offers *units* of output for a specified price, bureaux receive a total budget in return for the provision of a *total* output). The critique contends that success in this endeavour is facilitated by the fact that typically the political executive does not have recourse to alternative sources of supply; as monopoly providers of public goods and services the economic value of which cannot easily be quantified (and who enjoy a bilateral relationship with their political sponsors), government departments are able to appeal to the electoral popularity of proposed programmes. In addition, that they possess an asymmetrical information advantage over their sponsors means that they are well placed to exaggerate the demand for their services and to understate the costs of producing the same (Hallett et al, 1993).

While the Niskanen approach to the issues of bureaucracy is that which receives most attention in this chapter, it is important to note in passing the existence of an additional critique of bureaux, one which also falls under the public choice rubric but which is nonetheless qualitatively different. The Ostromian approach to public choice, while also focusing on the perceived and actual shortcomings of bureaux, comprises a set of assumptions and a related series of prescriptions which differ in significant ways to those promulgated by Niskanen.¹² The principal concern of this tradition is the extent to which the hierarchical forms traditionally adopted by bureaux are capable of responding to the changing demands and preferences of the individuals who comprise the clientele of those bureaux. That is, while the Ostromian approach accepts the essential tenets of methodological individualism, it does not direct subsequent analyses to the rationally self-maximising behaviour of bureaucrats. Rather it proceeds to apply those principles to an assessment of the capacity of different bureaucratic forms to register and respond to individual client preferences (Harmon and Mayer, 1986). That assessment suggests that the hierarchical forms typical of

¹² See Ostrom, V. and Ostrom, E. (1971 and 1977); and Ostrom, V. (1973).

bureaux tend not to function in the best interests of clients, largely because 'in the face of bureaucracy's monopoly on technical expertise and knowledge, political authorities become impotent "dilettantes" who are controlled by, rather than themselves controlling, the monolithic instrument of social control' (Harmon and Mayer, 1986: 254). Accordingly:

the very large bureaucracy will (1) become increasingly indiscriminating in its response to diverse demands, (2) impose increasingly high social costs upon those who are presumed to be the beneficiaries, (3) fail to proportion supply and demand, (4) allow public goods to erode by failing to take actions to prevent one user from impairing other users, (5) become increasingly error prone and uncontrollable to the point where public actions deviate radically from public rhetoric about public purposes and objectives, and (6) eventually lead to a circumstance where remedial actions exacerbate rather than ameliorate problems (Ostrom, in Harmon and Mayer, 1986: 258).

Not surprisingly, given its grounding in a critique of the institutional logic characteristic of bureaucratic hierarchical form, the prescriptions for reform that are attendant upon the Ostromian approach favour multi-organisational arrangements over integrated bureaucratic structures. Significantly, the normative assumption informing the Niskanen approach that there ought to be a separation of the political from the administrative is not duplicated by the Ostroms: precisely because administrative rules and regimes are of significance to the users of public goods and services, 'public administration lies within the domain of politics' (Denhardt, 1984: 145).

In its third application to the public domain, public choice theory has been used to redefine what had previously been conceived as the legitimate actions of interest groups into the rent-seeking behaviour of vested interests. Conventionally, the engagement of interest groups with processes of governance has been accepted as a function of the fundamental democratic principle that citizens have the right to organise and participate in the political processes that influence them.¹³ While on occasion the extremity of their claims has been debated, the overall legitimacy of their

¹³ See, for instance, Smith (1990), and Mulgan (1993).

advocacy for particular sectional interests has not been questioned (Self, 1993). However, the public choice approach redefines and subsequently condemns the actions of interest groups as rent-seeking behaviour that is both an unjustified expense on tax payers and a distortionary influence on the efficient workings of the market system (Self, 1993). That is, well-organised interest groups, especially those that represent producer interests, will appeal to politicians (and, for support in these endeavours, to bureaucrats) for programmes and policies which, while of benefit to them, impose costs that are disproportionately borne by the wider society (Borins, 1988). Consistent with the fundamental assumptions of rational egoism, advocates of public choice thus maintain that the platforms promulgated by interest groups are predicated purely upon myopic self-interest; as a consequence of this assessment, it becomes a political virtue (and an economic necessity) to deny both the substance and legitimacy of the claims that are forthcoming from them.¹⁴

Prominent in much of the public choice theory, therefore, is the contention that 'governments have a strong bias towards continuous expansion and wasteful expenditure' (Self, 1990: 18). Put slightly differently, the argument is frequently made that interest groups, public servants and elected politicians have a mutual interest in colluding to increase levels of public expenditure beyond what is efficient, and in many instances, what is fiscally responsible. Borins expresses the public choice critique of the results of such collusion thus:

Combine [interest group] rent-seeking with bureaucratic budget maximisation, and we have a situation where interest groups, bureaucrats, and politicians all collude to expand government activity, creating secure income for interest groups, large programs for the bureaucrats to run, and support [votes and donations] for the politicians (1988: 15).

¹⁴ Such sentiments inform the observations made by a former Minister of Finance on the reasons behind the fourth Labour government's implementation of reforms in quantum leaps. Explaining the rationale behind Labour's devaluation of the dollar in 1984 and its subsequent budget (which amongst other things phased out subsidies to a range of primary producers, and phased in price rises for a number of Government-supplied goods and services to cost recovery levels), Douglas contended that such comprehensive and extensive changes were announced to militate against the tendency for incremental reform to enable interest groups 'the time to mobilise and drag you down' (Douglas, 1989: 14).

In the first instance, public choice explanations for such behaviour are sought in the electoral appeal of politicians given to largesse to voters who, as rational utility maximisers themselves, are attracted to promises of increased public expenditure. Equally, the brevity of the electoral cycle and the need to sustain a positive public profile act as incentives for politicians (at least when in government) to achieve demonstrable results within a relatively short timeframe. Such proclivities render them particularly susceptible to 'capture' by a coalition of rent-seeking sectoral interest groups and bureaucrats (Eichbaum, 1992). Simultaneously, increases in public expenditure contribute positively to both the size of departmental budgets and that of departments themselves; the imperatives of budget maximisation, in conjunction with the 'multiplication of subordinates' and the tendency within departments to expand the work undertaken to fit the time available, are held responsible by public choice advocates for the growth of government (Self, 1993).

Moreover, while such advocates accept that such self-interested activity is appropriate in and necessary to the success of the private sector (assuming perfectly competitive markets and the absence of monopoly providers), they argue that it produces results that are socially disadvantageous in the public sector (Boston et al, 1996a), and rather less efficient than those that would have been obtained through the operations of the free market. In the first instance, it is likely to lead to the making of extravagant and expensive promises by politicians; it is also likely to increase the scope for particular groups with vested interests to indulge in self-serving (or rent-seeking) behaviour (Boston et al, 1996a). In addition, adherents to the public choice approach contend that the utility-maximising behaviour by both politicians and bureaucrats necessarily results in the production of goods and services by government departments at levels that are in excess of those that are socially optimal.¹⁵ That is, because senior bureaucrats enjoy an advantage *vis a vis* their political masters (inasmuch as they control the information relating to the costs involved in producing a specified output), given favourable economic circumstances they are likely to be able to extract a

¹⁵ Some public choice accounts do not contend that bureaux are inherently disposed to waste resources. Rather, they argue that 'bureaucrats [simply] produce more, leaving fewer resources available for producing other goods, than would be the case under perfect competition' (McLean, 1987: 89). That is, 'for given demand and cost conditions, they supply a quantity of benefits larger than would maximise the net benefit of the service' (Niskanen, 1973: 31).

substantial surplus during budget negotiations (Self, 1993). That surplus subsequently funds departmental output at levels at which the marginal costs achieved in production are substantially higher than the marginal value that accrues to the government, a situation in which inefficient use is being made of public monies and resources (Niskanen, 1971; cited in Lane, 1993). Moreover, assessments regarding the extent to which voting capital might accrue to a government as a result of additional public expenditure act as a significant incentive for ministers to accede to the demands of both bureaucrats *and* interest groups. In tandem, public choice theorists argue, such trends will not only have negative consequences for the efficiency of the distribution of scarce government resources (Niskanen, 1973), they will also contribute to the creation of a burgeoning State with the diverse organisational and economic inefficiencies that implies (Boston et al, 1996a).

2.2 Agency theory

The influence of the new institutional economics upon the process of public sector reform, both nationally and internationally, has also been pronounced.¹⁶ Various referred to as the new economic theory of the state, or neo-institutional economics, the approach is predicated upon the belief that the State's institutional matrix can be rationally chosen on the basis of decisions taken about the preferred form of structural arrangements for any given society (Lane, 1993). In particular, it focuses on the role of the State in articulating the bases of the contractual arrangements that underpin the functions of its constituent institutions, and has given rise to a series of related conceptual critiques, prominent amongst which are those relating to the implications of information costs, transaction costs, and property rights (Lane, 1993).

In particular, the branch of this tradition known as agency theory has assumed a strategic importance to processes of reform. Agency theory has emerged out of both the public choice school and the application of the neo-classical economic paradigm to a series of non-traditional areas, such as the interactions between the institutions and interests that characterise the public sector (Stiglitz, 1997; cited in Lane, 1993). Notwithstanding its genesis as a critique of the dynamics of commercial and organisational structures

¹⁶ See, for instance, Perrow (1986); Dunshire and Hood (1989); Scott and Gorringer (1989); Scott et al (1990); Boston et al (1991); Lane (1993); Boston (1995); and Boston et al (1996a).

and activity in the private sector, in the New Zealand context agency theory has featured prominently in the reconfiguration of relationships within and between public sector organisations, and between politicians and senior public servants (Boston, 1995). That is, it has served not only as a theoretical critique, but as a body of knowledge concerning the contractual management of economic and political relationships which has explicitly guided the process and outcomes of reform.

The central thesis of agency theory is that all economic, social and political interactions are essentially a series of contractual relationships within which one party (the principal) enters into an exchange with a second party (the agent), who performs specified functions on behalf of the former in return for a mutually agreed upon reward (Weimer and Vining, 1992).¹⁷ Agency relationships are in general a function of the efficiencies that can be gained through the specialisation of knowledge and through the division of labour; that is, a principal may lack the knowledge and expertise required for particular purposes, both of which are accordingly sought on a contractual basis through an appropriate agent (Boston et al, 1996a). In other words, the principal receives utility gains by contracting for the provision of assistance from an appropriate agent. The most efficient agency relationships are those in which the needs and preferences of the principal are met by the agent; i.e., in which the actions of the agent are such as to secure the maximum welfare of the principal. Put differently, the perfect agency relationship is that in which the outcomes for the principal are identical to those which would have resulted had the principal been able to act from the informed perspective of the agent (Ashton, 1992; Buurman, 1992).

The application of the principal-agent model in political contexts is most frequently justified as a response to the transaction costs, purportedly characteristic of all democratic States, which arise out of the problems associated with collective action (Lane, 1993). That is, in aggregating individual political preferences, information costs are incurred (for instance, in determining the preferences of each individual), as are motivation costs (those that are a function of trying to co-ordinate the activities of two or more participants to a collective action) (Lane, 1993).

¹⁷ For a discussion of the specific types of contract that have been utilised in the New Zealand public sector since the mid-1980s (spot, classical and relational), see John Martin's chapter 'Contracting and Accountability' in Boston (1995).

Furthermore it is argued that principal-agent relationships are fundamental to State institutions, and in particular to the processes of public policy making that are bounded by the parameters of those institutions (Weimer and Vining, 1992; Stiglitz, 1987; cited in Lane, 1993). And, as is the case with the public choice approach, the application of agency theory to politics is fundamentally informed by the philosophical assumption that individuals seek to maximise the utility they derive from the diverse economic and political activities they engage in. There is an attendant presumption that political actors will act in a self-interested manner to obtain the maximum amount of reward or benefit commensurate with the expenditure of the least amount of effort (Perrow, 1986).

In general, two principal-agent axes are identified through the application of the model to the political system. In the first instance, there is the relationship between voters and their chosen politicians, the basis of which comprises the election, or political contract (Lane, 1993).¹⁸ Secondly, as the policy process entails the implementation of policies, an axis exists between ministers and senior public servants. Voters choose politicians on the basis of certain expectations in terms of programme delivery, and subsequently, ministers will in turn have certain requirements of bureaucrats as regards the determination and execution of policy decisions. In each instance, the former have particular requirements or wishes the fulfilment of which is contractually sought through the performance of a range of tasks and activities by the latter. It is submitted by some proponents of the theory that the principal-agent configurations that subsequently emerge are frequently marked by 'ambiguity, opportunistic behaviour, moral hazard and adverse selection' (Lane, 1993: 186). That is, principal-agent relationships within the boundaries of the State (particularly those between politicians and bureaucrats) are allegedly characterised by conflicting and irreconcilable objectives; discretionary behaviour (especially on the part of agents); a relative absence of effective means of monitoring and quantifying the behaviour of agents; and the possession of incomplete and/or inaccurate knowledge (by principals). The rational pursuit of self-interest on the part of both parties is thus likely at some point to generate tension between the agent and principal. The likelihood that this will transpire is increased by

¹⁸ Lane does not precisely identify the nature of the election/political contract, but the implication is that it is to be found in the policy statements comprising a party's pre-election manifesto.

certain systemic characteristics of principal-agent relationships. In general an agent will possess an information and knowledge advantage over their principal: the activities of agents very frequently cannot be observed by principals (moral hazard); and there are often difficulties in assessing the manner and extent to which the actions of an agent are translated into the outcomes or outputs desired by the principal (Boston et al, 1996a).

The difficulty with conflict between agents and principals is that it inevitably generates certain agency costs, the reduction of which, primarily through attempts to contractually minimise the opportunistic actions of parties to such arrangements, is one of the primary concerns of agency theorists. Such costs emerge out of the difficulties inherent in ensuring that a principal's requirements are met, and an agent is fairly compensated, in situations in which (i) the interests of the latter do not concur with those of the former, and (ii) when a principal possesses incomplete control over the behaviour of an agent, and the latter has incomplete knowledge of the intentions of the former (Trebilcock, 1995). Agency costs include such expenses as those incurred in the specification and negotiation of a contract, in its subsequent monitoring and relitigation in the event of its terms being breached by one or other party, and the losses that accrue as a result of the fact that agents are in general not able to act as perfect proxies for their principals (Boston et al, 1996a). The central endeavour of agency theory concerns the reduction of the costs that arise from the difficulties experienced by one party to a contract in monitoring the actions of another, especially given that the relationship is in all likelihood characterised by 'fuzziness arising from limited observability, [and] asymmetrical information' (Lane, 1993: 187). Accordingly, much of the literature concerns means through which the potential for discretionary behaviour enjoyed by parties to a contract can be monitored and prevented, and in particular, with the various ways in which an agent can be held accountable for its actions by the principal(s) on whose behalf it is acting (see Perrow, 1986).¹⁹ A great deal

¹⁹ It has been pointed out (see Perrow (1986), and Boston et al (1991)) that while much of the literature deals with the problems faced by principals in regulating the self-interested actions of agents, little attention has been given to the reverse proposition. That is, '[agency theory] almost exclusively emphasises shirking by subordinates [agents] as the only form of egoistic, self-interested behaviour that must be guarded against. The possibility that the ... [principal] might lie ... or simply shirk her responsibilities is ignored or swept aside' (Perrow, 1986: 227). Moreover, it is the case that the principles of agency theory have not always been consistently applied. Davis and Gardner (1995: 140) point out that, most conspicuously, politicians have managed to escape the 'cascading stream of contracts from Parliament down to the most humble public servant and private

of energy is thus invested in articulating the optimal form of 'negotiating, specifying and monitoring contracts so as to minimise the likelihood of violations resulting from opportunism of the part of the agent (e.g. due to shirking, deception, cheating, and collusion)' (Boston et al, 1996a: 20).²⁰ A contract might therefore include the precise specification of:

- the tasks expected of the agent and the outputs to which these will contribute,
- a series of incentives designed to motivate the agent to produce such outputs adequately and within the contracted time frame, and
- the sanctions that might be levied in the event of a failure on the part of one party or another to adhere to the terms of the contract.

The interface between the public choice school and agency theory, and the potential application of both to the public sector, is clear. If one accepts the public choice critique of some of the problems allegedly inherent in the political system, one accepts also that activity within the public sector is characterised by the tendency of participants to predicate their behaviour upon their perceived self-interest to the subsequent detriment of others. Given the prevalence of relationships within the public sector that arguably adhere to the principal-agent model, this assessment would suggest that there exists considerable potential for rent-seeking behaviour at a variety of levels which militates against the attainment of specified political and administrative goals, and which results in economically sub-optimal outcomes. In such circumstances, an appropriate regulatory regime is required to minimise the incidence of such behaviour. The application of the principles and practices of agency theory provides one such means of

contractor'. Perhaps more contentiously, Metcalfe and Richards (1990: ix), in the context of a discussion on public sector management, contend that 'existing forms of constitutional myth and ritual should be exposed to the same kind of scrutiny and evaluation as more workaday areas of government.'

²⁰ While the model is most frequently applied at a micro-level (e.g. to considerations of the relationship between ministers and bureaucrats), Lane (1993) warns against assuming the benevolent intentions of the State. He suggests that it is possible that the principal-agent relationship between civil society and the State might be reversed, such that the population is required to serve the interests of the State rather than *vice versa*. Given this possibility, Lane advocates the creation of institutional means of reducing the range of opportunistic behaviours available to those situated in the State. The extensive use of referenda is cited as an example (see p 186), in which the majority decision expressed on a given issue would be implemented by those occupying positions of authority in the State. Lane, however, acknowledges that the costs involved in implementing this would be astronomical.

specifying, monitoring and evaluating the activities of actors in the public sector so as to minimise the incidence of personal utility maximisation.

2.3 Managerialism

The prescriptions attendant upon the second influential corpus of ideas that have informed processes of reform are frequently located with the tradition of the 'new public management' (NPM).²¹ The fundamental thrust of NPM is that there exists a generic series of techniques and practices called 'management' that can be equally applied to organisations in the private and public sector. In other words, it is contended that irrespective of the institutional location of a given organisation, the working processes characteristic of that agency are amenable to the implementation of managerialist principles and practices that have been developed in the private sector.²² Its signal contribution to the organisational reconfiguration of the New Zealand public sector has been the extent to which it has informed attempts to redesign agencies in such a fashion as to 'enhance the capacities of managers to take action, to clarify missions and objectives, and to be responsive to their clients/customers on the one hand and to their personnel on the other' (Aucoin, 1990: 122).²³

Notwithstanding subsequent refinements and frequent reformulations, the lineage of managerialism, at least as it has been applied in the public sector, can be traced back to a work that remains seminal to the managerialist

²¹ Other appellations that are commonly applied include 'managerialism', and 'the new managerialism'. In this context the terms 'managerialism' and 'new public management' are used interchangeably.

²² That assumption is a contested one. Some contend that the blinkered application of management concepts and techniques from the private sphere to government is not appropriate. See, for instance, Metcalfe and Richards (1990) for a discussion on the extent to which the unique political and institutional context provided by the State calls for the development of management concepts and practices that are unique to that context. See Chapter 6 below for an extended critique of the theoretical foundations of public sector reform.

²³ The assumption is frequently made that the influence of managerialism in New Zealand dates from the mid 1980s. However, see Martin (1990: 123 - 124) for a discussion on the extent to which it had exercised some appeal well before that time.

tradition.²⁴ In his publication *Principles and methods of scientific management*, Taylor sought to demonstrate that:

the fundamental principles of *scientific* management are applicable to *all* kinds of human activities, from our simplest individual acts to the work of our great corporations, which call for the most elaborate co-operation (1911; cited in Pollitt, 1993: 14; emphasis added).

From this conceptualisation can be distilled two assertions regarding the role and scope of management which have been especially critical to the application of managerialism in the context of New Zealand's public sector reforms. The first is that management is an inherently scientific activity with objective, neutral and universally applicable rules and principles; the second is the claim that management principles can be applied to all human endeavours (Pollitt, 1993). In tandem, these fundamental assumptions have provided a rationale and justification for (i) the transplanting of private sector management techniques into the public sector (in an effort to achieve what Aucoin (1990) has labelled the 'debureaucratisation' of organisational systems), and (ii) attempts, based upon the assumption that the public service is by definition vulnerable to political interference, to render the operation of government agencies free of partisan political considerations. Management has, in this sense, been accorded a fundamental role in assessing the shortcomings of government and prescribing subsequent remedies (Metcalf and Richards, 1990).

At a general and non-specific level, Pollitt (1993: 2 - 3) has identified the following beliefs as informing the fundamental endeavour of management. Informed by a conceptualisation of 'management' as the organisation of resources to achieve defined objectives in the optimal manner, such analyses are predicated upon the belief that:

- social progress lies in increases in economically defined productivity;
- such increases are achieved through the application of increasingly sophisticated information and organisational technologies;
- the application of these technologies presumes a workforce schooled in the productivity ideal;

²⁴ Elsewhere, Aucoin (1990) points to the influence of other seminal texts on management in the development of the NPM, notably those by Bernard (1938) and the works of Mary Parker Follett (cited in Harmon and Mayer, 1986).

- management is a distinct organisational function that is central to planning, implementing and measuring improvements in productivity;
- to perform their role managers must be granted 'the right to manage'.

Keeling (1972) has drawn a comparison between 'management' and 'administration' that in many respects lies at the heart of the application of managerialism in the New Zealand context. Keeling contended that whereas administration is essentially concerned with reviewing the application of the law in an area of public life, and the taking of decisions relating to specific cases within that jurisdiction, management has fundamentally to do the search for the optimal use of resources in pursuit of a series of specific objectives. From that definition flows a series of concrete prescriptions for the ordering, conduct and consequences of the diverse relationships within public sector agencies, and for the use of human and other resources within those organisations towards specified targets. These imperatives, and the general conceptual bases of managerialism articulated by Pollitt above are reflected in what Boston et al (1996a: 26) have identified as the key features of the managerialist approach in the New Zealand context. Amongst these are included:

- the application of private sector management techniques in public sector agencies, based on the assertion that there do not exist significant differences between the two, and an associated emphasis on generic management skills;
- an emphasis, in terms of accountability, not on inputs but on outputs;
- the devolution of management control and the associated development of improved reporting, monitoring and accountability regimes;
- an emphasis on the contestable provision of services, and the subsequent contracting out of publicly funded services to private/voluntary providers;
- a preference for monetary rather than non-monetary performance incentives; and
- a stress on cost-cutting, increased efficiency, and cutback management.

In key respects the values that comprise the normative context within which the specific prescriptions of the new managerialism are situated

resonate with those of both public choice and agency theory.²⁵ This convergence in large part accounts for the extent to which the former has been used to give practical effect to the critique of government offered by the latter. At the heart of managerialism exists a normative assumption that the ideal state of affairs is one in which 'objectives are clear, where staff are highly motivated to achieve them, where close attention is given to monetary costs, where bureaucracy and red tape are eliminated' (Pollitt, 1993: 7). Fundamental to this bundle of beliefs are two further assumptions; (i) that agencies of the State tend to function in a fashion that is inefficient, non-economical and ineffective, and (ii) that such sub-optimal performance can be improved through the implementation of management technologies taken from the (inherently more efficient, economical and effective) private sector. Moreover, it is assumed that the benefits attendant upon the use of private sector management techniques cannot be secured through 'politics' (Pollitt, 1993). While 'politics', conceived as the pursuit and exercise of public office, is characterised by subjectivity and rent-seeking behaviour, and is therefore much more likely to result in systemic and productive inefficiencies²⁶, the reverse is assumed to be true of the private sector, in which the objective (and legitimate) pursuit of self-interest is conducive to the creation of management systems that enhance allocative and productive efficiency. In short, the specific models articulated by new managerialists and subsequently applied to public sector agencies in the quest for smooth and efficient organisational functioning are themselves predicated upon a series of assumptions concerning the appropriate role and configuration of the State which share marked similarities with those situated in both public choice and agency theory. Simply put, the implementation of ostensibly objective and non-partisan management technologies honed in the private sector is advocated as the best means of removing 'politics' from State agencies, and hence of securing efficiency and productivity gains.

²⁵ Nonetheless, it is arguably the case that it is possible to embrace the new managerialism without necessarily adopting the prescriptions of the public choice approach *in toto*. See, for instance, the debate on this issue canvassed later in this chapter, and the arguments put forward by Aucoin (1990), who treats public choice theory and managerialism as two distinct paradigms.

²⁶ For instance, both Hartley and Tisdall (1981) and Scott et al (1990) contend that the performance of government bureaucracies, both at a departmental and personnel level, has in the past been frequently compromised by the absence of clearly articulated measures of output. Several operational inefficiencies accordingly accrue, one of which is that by fudging the measurement of effective departmental production, bureaucrats are able to justify demands for continuous increases in their budgets.

3 LEVELS OF ANALYSIS

3.1 Theoretical distinctions

The majority of available analyses of state sector reform identify the traditions outlined above as the major theoretical influences on that process. Frequently, however, those analyses do not detail the differing emphases that are evident *within* each of these broad traditions as represented by their constituent strands. In the New Zealand context, and as was inferred in above, this is especially the case with the public choice approach, in relation to which infrequent attention is paid to the differences between the Virginia school, Ostromian and Niskanen variants.²⁷ Nor do they tend to address at any length distinctions between the different *ends* to which these traditions have been put by the architects and practitioners of the reforms. As a consequence, implicit in many such accounts are the twin assumptions that (i) the public choice, agency and managerialist critiques are internally homogenous traditions and (ii) that the diverse prescriptions offered by those approaches have been uniformly applied across the same range of problems, and within the same institutional and organisational bands or levels.²⁸

The acceptance of either assumption precludes to a certain extent a robust assessment of the intentions and outcomes of the reform process. At this juncture, therefore, an attempt is made to draw several distinctions between and within the public choice and managerialist approaches.²⁹ This

²⁷ See chapter 2 of Self (1985) for an exception. Self's discussion provides a triple classification of public choice theories.

²⁸ Hood's contention that the various strands of thought that comprise the NPM include *both* the managerialist and public choice traditions provides a case in point (1990b; cited in Boston et al, 1996a: 35). He points to the tension that such a conflation necessarily causes between the 'centralised control and top-down' implementation recommended by managerialism, and the 'emphasis on devolution and de-centralisation' favoured by public choice. That the tension emerges in fact reflects (i) Hood's readiness to subsume both traditions under the rubric of NPM, and (ii) his failure to recognise the distinctions that apply within the public choice tradition. As a consequence, he blurs the significant differences that exist between managerialism and public choice, and mistakes theoretical critique (the public choice disdain for political control over macro-economic policy, which leads to a preference for the statutory devolution of that authority to other sites) for practical prescription (the preference for managerial oversight and responsibility that emerges from the managerialist desire for optimal resource use).

²⁹ For several reasons, this endeavour does not extend to agency theory. In the first instance, as a distinct strand within the new institutional economics, it is not characterised by the

endeavour is central both to an appreciation of the nature of the diverse legislative vehicles of state sector reform, and to the construction (in Chapter 5) of a sharp and accurate profile of the institutional configuration that has subsequently emerged.

In particular, it is important that a substantive delineation be achieved between the application of public choice theory to politicians *vis a vis* bureaucrats. As Borins (1988) has pointed out, the original writings on public choice concentrated solely on politicians; it was not until a decade after the publication of the seminal *An Economic Theory of Democracy* by Anthony Downs in 1957 that the critique was systematically applied to the bureaucracy (again by Downs, this time in his 1967 work *Inside Bureaucracy*). However, there is a not uncommon tendency to conflate the two and to portray the public choice approach as a relatively unified tradition. In fact, for our purposes there are at least two strands within the broad church of public choice which in key respects differ, both in terms of their analysis of perceived deficiencies, and with regard to subsequent prescriptions for action. And as will become evident in Chapters 5 and 6, highlighting the points of departure (and similarity) between the Niskanen and Virginia school approaches is central to efforts to illuminate the substantive changes in organisational and procedural form that have been contingent upon the dual processes of electoral law and public sector reform.

3.1.1 Public choice

Setting to one side the Ostromian variant of public choice briefly alluded to above, the primary concerns of the two public choice approaches referred to here lie primarily with bureaucratic and political excess.³⁰ Placed in the

degree of internal diversity that is evident within, for example, public choice theory. Moreover, to the extent that it 'does not have a clear problem to which it offers a solution' (Perrow, 1986: 224), the use made of the principal-agent model in the state sector reform process was primarily heuristic. That is, it contributed a particular *understanding* of the relationships that inhere with the political sphere, rather than concrete *prescriptions* for the codification of structural change. Both the managerialist, and in particular the public choice critiques proposed significant reinventions of the structures that inhere in both politics and public management; agency theory had rather more to do with the specification of the contractual bases for conduct that took place within those structures.

³⁰ That is not to suggest that the Ostromian approach is not germane to issues of bureaucratic reform. However, to the extent that this thesis focuses primarily on the institutional

context of the 'key issue in the development of the public service, [which] has been the tension between conflicting pressures for political control over the unelected bureaucracy and the desire for a non-political public service' (Boston et al, 1996a: 53), the classical formulation offered by Niskanen has in the main focused on issues to do with (perceived and actual) bureaucratic excess. Put another way, it has had to do with 'the need to re-establish the primacy of representative government over bureaucracy' (Aucoin, 1990: 115).³¹ The analysis is fundamentally based on the proposition that, assuming monopoly supply and the absence of competition, bureaucrats enjoy opportunities to indulge in rent-seeking behaviour as a result of the favourable information asymmetries they enjoy *vis a vis* their political masters. The influence of this critique has been reflected in the attempts to put in place statutory and institutional buffers to opportunities of this nature that have featured prominently in the reform process. Amongst the central intentions of legislative initiatives such as the *State Sector Act* 1988 and the *Public Finance Act* 1989, for instance, has been an increase in the specificity with which departmental objectives are articulated, such that opportunities for discretionary behaviour on the part of public servants, at least in policy terms, are reduced (the adjunct of which has been an increase in managerial discretion as a necessary precondition for performance assessment). And notwithstanding the assertion that the traditional dichotomy between politics and administration is largely a myth (see Campbell and Peters, 1988), it is clearly the case that the contention that bureaucrats have a tendency to assume policy making responsibilities has crucially informed the Niskanen approach to public choice. In this respect, statutory intervention informed by this variant of public choice shares in common with the new managerialism a focus on the implementation of change at a service-wide level. Such change, which has jointly reflected the premises of agency theory, has been sought primarily through the recasting of relationships between public servants (as agents) and elected political representatives (as principals) so as to result in greater procedural transparency and more effective accountability mechanisms.

organisation of relationships between politicians and officials, it is of less significance than the Virginia school and Niskanen variants.

³¹ Which can be contrasted with the approach taken by Woodrow Wilson in his writings on the politics/administration dichotomy (referred to in Chapter 1 above), which were premised upon a desire to grant 'greater latitude to *administrative officials* to exercise their own independent powers and discretion' (Campbell and Peters, 1988: 80).

On the other hand, the Virginia school applies the principles of the public choice critique to the motivations of elected political representatives. That is, Buchanan, Tullock and others are critical of the extent to which the allegedly self-interested intentions (and subsequent behaviours) of politicians result in economic inefficiencies through the inappropriate use of the levers of macro-economic policy. Accordingly, supporters of this strain of public choice are supportive of constitutional and institutional reform that has the intention of limiting or confining political discretionary activity. In terms of the conduct of macro-economic policy, the approach has been characterised as the primacy of rules over discretion (Sproule-Jones, 1988). Measures proposed for bringing about such an end include the construction of fiscal constitutions, the legislative specification of macro-economic targets, and the statutory requirement that governments commit themselves to 'sound' fiscal and monetary policies. In the New Zealand context several of the policy prescriptions of this approach have found statutory expression in legislation such as the *Reserve Bank Act* 1989 and the *Fiscal Responsibility Act* 1994. Both of these represent statutory attempts to circumscribe the domain within which politicians exercise effective control over macro-economic monetary and fiscal policy respectively, and as such reflect the public choice tenet that the behaviour of self-interested politicians tends ultimately to produce sub-optimal outcomes in terms of macro-economic performance.

3.1.2 Managerialism

At the heart of the managerialist enterprise lies the attempt to 're-establish the primacy of managerial principles over bureaucracy' (Aucoin, 1990: 115). That this mission has fundamentally informed the substance and direction of the recent public service reforms in a strategic fashion is indisputable. To a considerable extent the prescriptions attendant upon the new managerialism have sought to recreate the internal organisational environments of public sector bureaux through the introduction of systems and mechanisms geared towards the increased specification of departmental objectives, individual managerial and occupational responsibility, greater procedural efficiency, and so on. That is, the focus of the reforms from a managerialist perspective has been on the 'debureaucratisation' of bureaux through the implementation of practices and techniques drawn from the private sector; and although it has offered the techniques with which such

issues have subsequently been addressed, in the first instance the critique has not been explicitly predicated upon a desire to seek a net reduction in perceived bureaucratic and/or political excesses (as per the Niskanen and Virginia school approaches to public choice respectively). Put slightly differently, the search for greater managerial efficiency and effectiveness can occur independent of considerations of the preferred configuration of ministerial and bureaucratic roles, responsibilities and relationships.

It is theoretically possible, therefore, to pursue the ends to which the managerialist critique has been applied without necessarily subscribing to the broader public choice critique (notwithstanding that many of the public choice prescriptions have been given practical effect through the implementation of managerialist techniques). It has been demonstrated that the NPM does not derive from the same intellectual stable as do theories of public choice. It does not proceed from the public choice assumptions of rational egoism and methodological individualism; its criticisms of the operation of bureaux are couched in terms of organisational and personnel inefficiency rather than utility maximisation; and its prescriptions go to issues of intra-organisational efficiency, effectiveness and accountability rather than those concerning bureaucratic or political capture. In this respect, the reforms introduced within the state sector that have been predicated upon the analyses offered by the new managerialism have in the main had implications at the organisational/service-wide, rather than the wider institutional level (see Chapter 5 below).

3.2 Institutional design

Aucoin (1990) has made the point that the fundamental prescriptions attendant upon the public choice and managerialist traditions reflect in certain respects quite different appreciations of the nature of public sector management. That is, notwithstanding a degree of prescriptive congruence, there exist areas in which the managerialist and public choice approaches diverge significantly (and further, that differences of emphasis exist within the public choice approach) over questions relating to public management. The theoretical nature of those distinctions has been canvassed immediately above; in what remains of this chapter, discussions focus on the significance of Aucoin's proposition for issues of institutional and organisational design within the public service.

Clearly, there is a degree of convergence between the two traditions; both, for instance, constitute at a general level critiques of bureaucracy, and both are therefore primarily concerned with the creation of institutional configurations at variance with those utilised in the public sector before the mid-1980s. Such similarities notwithstanding, however, there exist important differences that require further elaboration. In the first instance, the managerialist approach is essentially concerned with the efficiency and accountability of practices, processes and relationships that inhere *within* a government agency, and only secondarily with those that function *between* politicians and administrators. Thus, the primary focus of the tradition is on increasing administrative accountability and on maximising the productive capacities of bureaux through the specification of objectives, improvements in managerial performance, and the subsequent securing of efficiency gains. It is rather less concerned with debates over the proper locus of control over policy processes *per se*. That issue is predominantly the preserve of the public choice approach, whose major concerns have more to do with the extent to which the activities of politicians and senior public servants compromise macro-economic activity and political principles of representative government respectively. Advocates of the public choice tradition place less emphasis on considerations of internal organisational efficiency in the first instance, and rather more on those that have to do with enhancing both political and bureaucratic accountability.³²

Put another way, significant differences exist at the level at which the respective analyses seek to explain events and processes within the public sector (and beyond). At the risk of over-simplification, at a macro level, public choice critiques offer particular prescriptions for the preferred institutional design of the executive and administrative branches of representative democracies; at a micro level, managerialism is primarily to do with how the state agencies that comprise a significant component of that apparatus might most efficiently function.³³ That the reforms in this

² Having made that point, it would clearly be inappropriate to draw too stark a distinction between the two. There is an interface between the prescriptions of public choice and managerialism, which is found at the point where the practices and principles of the latter are used within the critical context of the former; the specification of productive objectives against which a manager's performance is evaluated provides a case in point.

³ It should be acknowledged that the public choice critique has also informed changes at a micro level. For instance, the separation of policy provision from service delivery functions reflects at one level a desire to limit the extent of bureaucratic capture and over-

country have been directed at the resolution of issues concerning the latter in conjunction with a particular conception of the former does not necessarily indicate that the two should be treated synonymously: managerial reform might well have taken place in the absence of (or in the context of a very different) fundamental reevaluation of the politics/administration interface.³⁴

The significance of Aucoin's distinction for the purposes of this work lies in the fact that any conflation of or presumption of congruence between the two paradigms for heuristic purposes can significantly misrepresent the distinctions and contradictions that exist between them. That may or may not be an issue of considerable moment; in fact Aucoin argues that in practice most contemporary reforming administrations tend to couple the public choice and managerialist approaches, and subsequently to blur the theoretical and practical distinctions that exist between them. That notwithstanding, in the context of this discussion any such conflation would militate against the illumination of key issues concerning policy making processes in the new institutional environment to which both electoral law and public sector reform have significantly contributed. In particular, such conflation would considerably cloud attempts to ascertain the extent to which there exists congruence (or a lack thereof) between the organisational structures that have emerged out of the institutional reform of the systems of representative government and public administration respectively. Clearly, in terms of Aucoin's analysis, electoral law reform represents a systemic shift which is of considerable magnitude, and one which will have a series of far-reaching implications for the institutions, practices and outcomes of representative government. Similarly, the new model of public management that has emerged out of the process of state

supply. The increasing tendency of governments to seek contestable advice from outside of the public service is a second example of the fashion in which public choice has had an impact at a service-wide level.

³⁴ This has been the course adopted in Australia, where changes to systems of human resource and financial management have not been associated with changes to the machinery of government of the sort experienced in New Zealand. In particular, Australian Labor did not pursue the decoupling of policy advisory and implementation functions with the vigour of its New Zealand counterpart; and whereas the latter sought to significantly reduce the number of central State departments, the former undertook a major programme of departmental amalgamation. See Boston and Uhr (1996) for a comparative evaluation of these and other processes relating to public sector reform in both countries.

sector reform also represents a significant organisational shift, with attendant implications for the configuration of the machinery of government, and for the roles of and relationships between officials and politicians.

4 CONCLUSION

It is the case that the process of reform has resulted in the creation of a public service characterised to a far greater extent than was previously so by processes that are transparent, and relationships in which a measure of accountability is contractually locked in. Normative considerations to one side, in this respect it is clear that the prescriptions of public choice have featured prominently in attempts to reduce the scope for bureaucratic discretion. However, the advent of proportional representation has raised questions concerning the extent to which, at least at a public service-wide level, that new institutional paradigm is necessarily appropriate to the emerging political environment.

Similarly, in recent years not only has there been some attenuation of political responsibility for the day to day management of monetary policy, there now exists a far greater degree of transparency in the conduct of fiscal policy than applied previously. Again, however, the question must be put: to what extent is the institutional configuration that bounds these new arrangements 'fit for purpose' under MMP? There was clearly an expectation attendant upon the process of electoral law reform which, while not about the process of public sector reform *per se*, reflected a public desire for a greater measure of responsiveness on the part of the policy process. Accordingly, a preliminary argument can be made that the assumptions concerning politicians' motivations and proclivities which fundamentally informed reforms at a macro level are at odds with at least some of the expectations that informed public support for electoral law reform.

Given these apparent tensions between conceptual influence, institutional outcome and public expectation, the central question for my purposes, and that which provides the focus of the remaining chapters of this thesis is: to what extent does the 'new' public service enjoy congruence with the expectations attendant upon the advent of MMP? Expressed another way,

the issue is one of the degree to which the contemporary public sector is well placed to respond to the exigencies of administration in an MMP environment. To attain a clear sense of the extent to which this may or may not be the case, and to provide a point of departure for the discussions that follow, it is important that the three extant distinctions referred to throughout this chapter be firmly restated. That is, the respective influences of the Virginia school and Niskanen public choice approaches on (i) macro-institutional political and (ii) public service-wide reform must be acknowledged. In addition, the importance of the managerialist critique to processes of service-wide reform needs also to be explicitly reaffirmed. Having in this chapter acknowledged and fleshed out those conceptual bases, it is appropriate that the discussion now turn to a more detailed consideration of the process through which was bridged theoretical influence and institutional design.

CHAPTER FIVE: THE PROCESS AND CODIFICATION OF STATE SECTOR REFORM

1 INTRODUCTION

Referring to the theoretical underpinnings and effective outcomes of state sector reform, John Martin has mused that 'there can be few better examples anywhere of such a close correlation between a body of theory and governmental organisation' (1990: 135). Having canvassed in the preceding chapter the essential postulates of three of those contributing theoretical traditions, the key purpose of this chapter is to elaborate on the nexus between theory and act (or Act), between principle and practice, in the process of state sector reform.

It is my intention here to provide an assessment of the manner in which the state sector reforms have been statutorily codified and institutionally 'bedded down'. In the main, that endeavour consists of a canvassing of the diverse statutory and attendant organisational changes that comprised the reforms. To that end, the latter sections of the chapter consist of a discussion of the relationship between theoretical influence, statutory codification and institutional redesign in the public sector. In addition, however, the task also requires some acknowledgment of the fact that the public service reforms did not occur in isolation of equally significant changes introduced in other areas of economic management. Accordingly, in order that the changes made in the state sector be properly situated, the chapter opens with a brief discussion of the wider processes of structural readjustment experienced in New Zealand since the mid-1980s. It is not my purpose here to provide an exhaustive account of that process¹, rather it is to sketch in broad terms the political context within which the redesigning of the core public sector has occurred.

¹ That work has been undertaken elsewhere. See particularly Boston and Holland (1987); Jesson (1989); Holland and Boston (1990); Boston et al (1991); Kelsey (1993 and 1995); Sharp (1994); and Boston et al (1996a).

2 CONTEXTUALISING THE REFORMS

In 1967 Anthony Downs prophesied that:

If the bureaucracy were really excessive in size, some political party would advocate drastic reductions affecting a whole spectrum of minority-serving bureaus. This party would receive the vote of every citizen who believed he (sic) was paying more to support wasteful bureaus than he (sic) was receiving from those minority-serving bureaus that benefited him (sic) directly. If such citizens were in the majority, the bureau-wrecking party would be elected, and would presumably slash the size of the bureaucracy as a whole (cited in Borins, 1988: 16).

Whether or not the fourth Labour government possessed a legitimate mandate to embark upon its reformist course has long been a matter of considerable debate. That notwithstanding, Down's prophesy certainly resonated with events that transpired within and around the public sector in New Zealand during the decade commencing 1984. In many respects the changes instigated by Labour were very much to do with securing a reduction in the size and scope of the state sector.² Equally, however, they were concerned with issues of organisational redesign, and in this sense the changes constituted much more than a simple down-sizing of the bureaucracy. Labour's process of reconfiguration resulted in the making of fundamental and perhaps irrevocable changes to the institutional, organisational and cultural context which comprises the operational environment of the public sector.

2.1 Phase 1: pre 1984

The election of the fourth Labour government in July 1984 brought the curtain down on a style of government that had prevailed for at least fifty years. Events that have subsequently transpired have in aggregate

² Boston et al (1996a) have demonstrated the extent to which the reforms since 1984 have been successful in this respect. The number of staff employed in core government departments (as specified in the First Schedule to the *State Sector Act 1988*) fell from 88,000 in 1984 to fewer than 35,000 in 1994. Secondly, of the worth of the total outputs purchased by government in the 1994 - 1995 financial year, less than 40% was purchased from departments.

represented a significant break with the past: to the extent that 'they [amounted] to more than mere tinkering with existing policy settings' (Boston and Holland, 1987: 2), they can justifiably be described as a paradigm shift. That this is the case can be gauged by reviewing briefly certain of the key elements of the political economy that existed upon Labour's election to government. Boston and Holland (1987) identify as perhaps the main feature of that order the assumption that the State had an active role to play in the management of economic affairs. That assumption received practical manifestation in diverse fashions, including the maintenance of a fixed exchange rate and the pursuit of demand management macro-economic strategies; extensive intervention in the economy by the State in the form of income redistribution and the direct provision of goods and services; and, on occasion, the levelling of mandatory controls on prices, wages and interest rates. This degree of regulation was typified by the 'heavily regulated capitalism' characteristic of the Muldoon governments, the primary aim of which was to ensure that:

economic change was planned and gradual, that the economy was shielded as much as possible from the negative consequences of destabilising events abroad, that the costs of economic adjustment were evenly spread throughout the community, and that full employment was maintained - even at the price of substantial foreign borrowing (Boston and Holland, 1987: 3).

Within that broad political economic context, the institutions and relationships which comprised the public sector reflected the traditional conception of its proper role as a professional, politically neutral administration dedicated to serving the government of the day to the best of its ability. Martin (1990: 123) has identified three fundamental characteristics of the system that operated for the better part of 80 years subsequent to the passage of the *Public Service Act* 1912:

it was *apolitical* (in the sense that hiring and firing was on merit and independent of political intervention); by and large, that system protected the *anonymity* of individual officials; and employment was predicated on a forty year *career* in a unified service.

Amongst the more significant features of that apparatus were the facts that Cabinet exercised considerable control over the strategic directions taken in departmental management; that permanent heads enjoying tenure were appointed to run departments; that individual departments performed the diverse functions of policy advice, legislative implementation and service delivery; and that bureaux were funded on an input basis with little if any attention paid to the outputs (and subsequent outcomes) of productive processes (Scott et al, 1990).

In addition, the public sector industrial relations and personnel regime differed substantially to that which applied in the private sector. Both appointments and promotions within all departments were made on merit by a central body (the State Services Commission); to secure a position in the public service above basic grade an outside applicant had to demonstrate 'clearly more merit' than an internal applicant; and the *State Services Conditions of Employment Act 1977* stipulated that occupational classes in the state sector enjoyed relativity with their private sector counterparts (Walsh, in Boston et al, 1991).

Within the boundaries circumscribed by those characteristics, it was anticipated that public officials would provide free and frank policy advice to their ministers from a position of professional disinterest. Moreover, public servants were expected to administer their departments and execute their personal responsibilities in accordance with the rules, regulations and procedures specified by the control agencies - the State Services Commission and Treasury (Martin, in Holland and Boston, 1990).

2.2 Phase 2: 1984 - 1987

Three factors were in large part responsible for setting in motion the sequence of events which was to result in the reconfiguration of the State in New Zealand: the fiscal crisis that faced the incoming government in 1984; the existence of a body of theoretical ideas overlain with a series of specific institutional prescriptions in the form of Treasury's post election briefing papers³; and most significantly, the election of a reformist government

³ *Economic Management* represented the first occasion on which Treasury's assessment of a range of policy issues was released in comprehensive form (Treasury, 1984: iii). Part One comprised Treasury's analysis and forecasts concerning the domestic and international economic situation. Part Two specifically addressed economic management issues facing

'unencumbered by the baggage of previous ministerial office', and which had spent almost a decade in Opposition preparing for power (Martin, 1994: 45). Following the July general election, the coalescing of these phenomena generated a process of statutory and institutional redesign that shifted the previous paradigm a considerable distance from its pre-1984 location. In large part, that process has reflected the observation that 'the post war consensus about the role of government [had] broken open [and] basic ideas about how public goods and services should be produced [were] open to challenge' (OECD, 1990: 1). Significantly, those challenges to traditional conceptions regarding the appropriate role of the State had implications extending far beyond the boundaries of the public service. And in common with the experiences of countries such as Australia, the United Kingdom and the United States of America, they were to result in considerable structural readjustment which was itself largely a response to the dual imperatives provided by fiscal pressures emanating from the international economy, and the increases in public expenditure that are contingent upon continuous demands for the provision of government services (Aucoin, 1990; Scott et al, 1990).

More precisely, in 1984 the incoming Labour administration inherited a political and economic situation that provided it with the pretext and partial justification for embarking on a radical programme of reform.⁴ Amongst other things, that situation comprised a fiscal (and subsequently a constitutional) crisis that resulted in the devaluing of the dollar (and which was cited as justification for the programme of structural change subsequently embarked on); a balance of payments deficit; declining terms of trade; increasing levels of public expenditure and fiscal debt; and an economy with an historical record of less than significant growth (Boston and Holland, 1987; Scott et al, 1990). Labour's response to that situation was to engage in an extraordinarily thorough and comprehensive overhaul of

the incoming government; attention was directed at, amongst other areas, monetary, fiscal and exchange rate policies; expenditure planning and control; labour, employment and social policy (Treasury, 1984).

⁴ In addition, Labour's reforms were a function of the convergence of other factors. Although it is beyond the scope of this chapter, a full explanation of the phenomenon would entail consideration of the dominance within Cabinet of reform-minded ministers, and the convergence of the prescriptions for change possessed by such ministers (particularly Roger Douglas, Richard Prebble and David Caygill) with those of senior officials in central government agencies (most notably Treasury). See Goldfinch and Roper (1993) for an analysis of the role of Treasury in policy making processes post the second world war.

the foundations of the national political economy, based on a reduction in the extent of State involvement in the economy, and a conviction that the mix of market and non-market activities ought to be shifted in a 'more market' direction (Boston and Holland, 1987).

Not all of the changes envisaged by the government were implemented during its first term in office. To a considerable extent, Labour's primary focus between 1984 and 1987 was on de-constructing the web of regulatory practices, institutions and processes that surrounded national financial and product markets. The intention of this programme of economic liberalisation and institutional reform was to create a more dynamic, open and competitive economy. The justification was that such a process would create the necessary preconditions for increased growth, employment, and a net increase in social welfare (Boston and Holland, 1987). To that end, amongst other initiatives the government abandoned formal incomes policies; deregulated both the finance sector and internal product markets; progressively removed tariffs and import controls; floated the dollar; substantially overhauled the tax system; and terminated agricultural subsidies (Douglas, 1989).

In addition to the economic reforms that were instigated, the process of redrawing the 'map of the Public Service' (Martin, 1990: 127) also commenced during Labour's first term in office. Notwithstanding that *Economic Management* had provided a searching critique of the structure and functioning of both trading activities and departments, state sector reform during Labour's first term in office was largely confined to the corporatisation of the former (Boston et al, 1996a). Accordingly, much activity centred on the most appropriate institutional design of the government's trading activities, and many of the most significant changes introduced were those that were eventually codified in the *State Owned Enterprises Act* 1986. Presaged in part by comments made in 1980 by David Lange (then Deputy Leader of the Opposition) to the former Civil Service Institute which indicated that a Labour administration would provide 'the most radical shake out of the whole system since the demise of provincial government', those changes were in the main predicated upon the core principles of corporatisation and commercialisation (Gregory, 1987: 111). And as was the case with respect to other areas of the State in which change was implemented, Treasury's 1984 post-election briefing paper provided the

blueprint for the government's plans for the corporatisation of departments (Kelsey, 1995). On the basis of the conceptual analysis contained in *Economic Management*, and notwithstanding tensions between Treasury and the State Services Commission over the appropriate model for corporatisation⁵, the government committed itself early on to the recreation of State owned trading enterprises as commercially functioning and oriented entities (Gregory, 1987). The Economic Statement of 12 December 1985 identified the five principles upon which the reforms of state sector trading departments would be predicated (Douglas, 1985; cited in Gregory, 1987). Those principles called for:

- the organisational separation of non-commercial from commercial functions;
- the running of State trading organisations as successful business enterprises;
- managers in those entities to be held responsible to government for resource use and pricing decisions;
- the removal of competitive advantages from State trading enterprises; and
- the gradual reconstitution of those enterprises under the guidance of a board of directors drawn from the private sector.

Fundamental to this foundation was the intention that political control be separated from economic and managerial control; the five principles reflect a conviction that both accountability and efficiency would be improved if the management function of government departments was kept apart from the political responsibility of ministers (Martin, 1990). Put differently, the analysis subscribed to by influential members of the Cabinet (and by Treasury) was characterised by the beliefs that (i) the decoupling of the political from the economic represented the best means of reducing incentives for bureaucratic empire-building and political largesse; and (ii) that by exposing government departments to the rigours of the free market the interests of internal allocative efficiency would be best met.

Whereas it was arguably the case that the imperatives of corporatisation were visited in the main upon the State's trading activities during this

⁵ Treasury favoured the form adopted by the limited liability company; the State Services Commission expressed a preference for a model in which ministers had greater involvement in the planning and monitoring procedures of their departments.

period, virtually all departmental activities were required to increasingly commercialise their operations. The major impetus behind this trend was the desire to decrease economic inefficiencies demonstrated by departments (such as those resulting from multi-layered management hierarchies, and the failure to align the costs of inputs with productive output volumes). Increased economic performance, it was argued, would at one and the same time reduce public expenditure and increase the value of each tax dollar spent on public sector activities. Accordingly, departments were given strong incentives to raise their own revenues by recovering the cost of their activities from service users; they were no longer compelled to use public sector suppliers of inputs for their productive processes; and greater scope was provided for them to offer their goods and services to purchasers within the private sector (Gregory, 1987).

2.3 Phase 3: 1987 onwards

Although the process was inaugurated during its first term in office, Labour's second election victory in 1987 ushered in an even more intense period of public sector reform and rationalisation. And as was the case in 1984, the post-election briefing papers published by Treasury in 1987, *Government Management*, proved crucial to the substance and directions subsequently taken in that process. The extent of that influence is reflected in comments made in the context of the field work for this research by the then Secretary to the Treasury, Graham Scott, who noted that:

we took the language and the ideas of modern management practice into government probably faster than any other country in the world. We started talking about management in a totally different way, *and we had the power to implement it* (interview, March 1996; emphasis added).

Whereas Treasury's offering in 1984 had provided the analysis and prescriptions which had informed the processes of micro and macro economic reform, *Government Management* was, as its title would suggest, largely concerned with the efficacy of organisational structures, and financial, management and other practices within the state sector. However, in addition to the more overtly policy oriented chapters, Volume 1 of the papers also included an explicit theoretical enunciation of the domain

within which State activity might legitimately and appropriately take place.⁶ Significantly, the theoretical analysis articulated within the document, concerning both institutional design and the role of the State, was to fundamentally inform the processes of changes subsequently embarked on by the government during its second term in office.⁷

To the extent that it provided the conceptual framework that shaped the continuing process of state sector reform during Labour's second term in office, it is important that at this point brief comment be made on the essence of *Government Management* (a more detailed evaluation occurs below). In the document, Treasury took as one of its fundamental points of departure the assumption that:

it is only sensible to organise economic and social activities in the form of a government department, state owned enterprise ... or whatever, if the particular form of organisation chosen enables these activities to be provided more cheaply, more effectively, or more equitably, in aggregate, than would provision through the market (Treasury, 1987: 3).

This explicit preference for market forms of institutional design (which extended to their replication within the public sector) was complemented by Treasury's conclusion that State involvement in the economy had reached unacceptably high levels. More specifically, Treasury argued that the incidence of 'government failure' (in the form of interest group and bureaucratic capture, lack of clarity regarding departmental objectives, etc.) had become such as to require a fundamental reassessment of the nature and extent of this involvement. Informing *Government Management* (and reflecting the major conceptual influences discussed in Chapter 4) was the argument that instances of government failure were fundamentally reflections of defective institutional design. For instance, public expenditure increases were regarded as functions of the institutionalised 'nature of the

⁶ Volume 11 of *Government Management*, which goes to issues relating to education, sits largely outside of the scope of this work.

⁷ While the first and second chapters of the post-election briefing papers were given over to consideration of the role and limits of government and the public sector respectively, *Government Management* also provided an assessment of issues relating to social policy, economic management, and the implications of the Treaty of Waitangi. It also included an overview of the current economic situation.

incentives facing public sector managers and those that seek government assistance' (Treasury, 1987: 5 - 6). Similarly, Treasury contended that the institutional combination of policy advice and operational functions led to producer capture, in which a government agency took greater account of the interests of service providers than of a perceived common good (Treasury, 1987: 5 - 6). Accordingly, perhaps the key theme of Treasury's analytical framework was that there existed an urgent need for institutional redesign, based on the assessment that the existing mix of institutional arrangements was largely responsible for sub-optimal economic performance.

Not surprisingly, the central prescriptions which subsequently flowed from this analysis represent classic expositions of agency and public choice theories. Moreover, many of the policy options presented in *Government Management* also reflected the tenets of the new managerialism. The extent to which this was the case can be distilled from a brief assessment of the content of two excerpts from the document. The first related to Treasury's description of the model of institutional design most likely to facilitate effective and efficient government intervention:

Greater clarity of objectives is the key principle which must underlie any reform if management is to be improved: structural reforms are an important step in achieving this. One such reform would be the separation, in different agencies, of responsibility for the provision of policy advice, regulatory and funding activities, and operational activity. Such a separation would enable the objectives of managers to be specified a great deal more clearly than occurs at present and would enable the performance of agencies to be more readily assessed (Treasury, 1987: 76).

Most of the central tenets of the public choice, agency and managerial critiques of the traditional institutional design of government are reflected in this excerpt.⁸ Clearly, there is an emphasis on increasing the efficiency

⁸ It is important to make the point that it was not the primary purpose of *Government Management* to address means of reducing the scope for external (or interest group) capture of the public service; Treasury's primary concern was with the incidence of internal capture of policy processes. Nor did Treasury address at any length issues concerning the motivations of politicians. To that extent, the variant of public choice reflected in the analysis is that associated with the Niskanen approach to public choice, rather than that which characterises the Virginia School.

and effectiveness of managers (and facilitating the evaluation of managerial performances) through the separation of diverse departmental functions and the subsequent specification of objectives. Those prescriptions for a clearer articulation of the management role imply that the appropriate conceptual model to be applied in the monitoring and evaluation of a manager's performance is that in which they are conceived as an agent responsible for meeting the requirements of a principal. In addition, advocacy of the separation of policy functions from those relating to operations reflects the public choice imperative that a firm demarcation be made between policy, which is properly the domain of elected representatives, and administration, the reserve and responsibility of officials. Support for that particular institutional demarcation also reflected Treasury's conviction that implementation agencies (suppliers) ought not be in the business of making purchasing (policy) decisions.

The second excerpt identified the primary intentions of the reforms thus:

The reforms proposed seek to reduce the problem of internal capture, and to improve incentives, and information flows within Government (Treasury, 1987: 45).

At least two additional principles that are fundamental to the diverse theoretical foundations of the state sector reforms are reflected in this brief comment. The first concerns notions of bureaucratic capture. As previously discussed, at the heart of the Niskanen approach to public choice is the assessment that certain institutional advantages enjoyed by bureaucrats enable them to capture significant processes of governance (notably those relating to appropriation). The elimination of this form of capture was clearly one of Treasury's priorities. And given the assertion that bureaucratic utility-maximisation is frequently based on information asymmetries that favour public servants, one of the chief means of achieving that end was through altering the quality, flow and availability of information. Secondly, the statement of intent reflects the assumptions of rational egoism. That is, the intention to improve incentives as a means of maximising performance reflects the assumption that as rational utility-maximising agents, bureaucrats respond positively to inducements.

However, the importance of the document extended well beyond the fact that it represented a coherent and elegant exposition of the theories of public choice, agency and managerialism. The overwhelming significance of *Government Management* was that it functioned as a bridge connecting theoretical prescription with practical implementation (the nature of which is explored in detail below). In 1987 Treasury clearly felt that the institutional structure of the public service not only did not demonstrate the 'capacity to face the realities of the 1980s', but that it was actively hampering the adjustment process that was taking place in the remainder of the economy (Treasury, 1987: 49). Its analysis of what was required in order to alter this state of affairs was such as to provide the necessary link between the writings of Niskanen, Buchanan and others, and the reformist tendencies and aspirations within the Labour government. In this respect, Treasury's offering was the cornerstone of the reforms that were implemented in the core public service during the government's second term in office: in a very real sense, *Government Management* provided the interface between theoretical prescription and institutional design.

2.4 An interim conclusion

Kelsey (1995) outlines the parameters of the process of structural adjustment by identifying five domains in which significant change has taken place in the decade since 1984. In her assessment, those key locations comprise:

- market/trade liberalisation;
- monetary policy and
- fiscal policy;
- labour market deregulation, and
- the redrawing of the boundaries of the State.

That changes of considerable scope and magnitude have been effected in those areas over a relatively short timeframe has reflected the convergence of a series of factors: the fiscal crisis of 1984, the willingness of reformist government to use to maximum effect the power constitutionally afforded them, and the empathy with a particular conceptual and ideological mix that was shared by members of the political executive and influential officials in the key central agencies. In large part too, it has also been a function of the strategic approach adopted by successive governments committed to change. In particular, the actions of political executives have

been characterised by the introduction of aggregate packages of reforms instituted with the minimum of delay (Boston, 1993). Described by Marsh (1993) as a strategy through which change is brought about via the delivery of a series of policy 'kinghits', the essence of this approach is succinctly captured in the assessment made by a former Minister of Finance that in terms of the implementation of change, 'speed is essential: it is impossible to go too fast.' (Douglas, 1989: 17).⁹

Although the public service has comprised an important site of structural and operational change, it is clearly the case that the imperatives informing the state sector reforms have also significantly impacted on other domains of the national political economy. The aggregate outcome of the implementation of equally far-reaching reforms in those other areas has been a substantial redrawing of the economic and political borders of the State (Helm, 1986). In this respect, and by comparison with the countries referred to above, the experiences in New Zealand have been unparalleled in scope and substance to the extent that it now boasts one of the most deregulated economies of all Organisation for Economic Cooperation and Development member nations (Castles et al, 1996). Moreover, those experiences have attracted considerable attention, and in some instances no little acclaim, from other jurisdictions engaged in the implementation of similar changes.

3 INFLUENCE AND OUTCOME

One of those who featured prominently in the designing and implementation of the reforms has indicated that the process was considerably informed by '... a deep dissatisfaction with what poor quality most [public service] advice really was, and how badly captured most

⁹ Elsewhere, Easton (cited in Kelsey, 1995: 33) has referred to the use of the 'blitzkrieg' approach, which is characterised by a series of cases in which 'the lightning strike involved a policy goal radically different from the existing configuration, to be attained in a short period, following a surprise announcement and a very rapid implementation.' Interestingly, in a book that has been described as the '*Mein Kampf* of Thatcherism' (Madsen Pirie's *Micropolitics*; cited in Self, 1990: 118), the reverse strategy is advocated. For Pirie, the proper tactical approach is not to mount a frontal attack (which is doomed to fail given the accumulation of vested interests), rather it is to conduct a series of piecemeal changes that offer transitional (but reduced) benefits to groups who are disadvantaged by the process.

government departments were by special interest groups' (Scott, interview, March 1996).¹⁰ In the event the theoretical principles and prescriptions that significantly informed the reforms received codification through a series of legislative initiatives and institutional reorganisations enacted between the mid 1980s and mid 1990s. At the broadest level, therefore, the profile of the institutional paradigm that has emerged out of the redesigning of the public sector can be sketched through an analysis of the principles and provisions of a number of key statutory planks. Those that are of particular relevance to this task are the *State Owned Enterprises Act 1986*, the *State Sector Act 1988*, the *Public Finance Act 1989*, the *Reserve Bank Act 1989*, and the *Fiscal Responsibility Act 1994*.

In and of itself, however, a simple description of the provisions of each Act would not sufficiently illuminate the relationship between theoretical underpinning and institutional outcome. As has been pointed out, legislative implementation was only one of the means through which the reforms were given practical effect; in addition, much of the work was conducted via a comprehensive reorganisation of government boards, commissions and councils (Boston et al, 1996a: 57 - 58). Moreover, as was inferred in the discussion at the conclusion of Chapter 4, each legislative initiative embodied a mix of principles and prescriptions drawn from different parts of the theoretical corpus that provided the conceptual bases of the reforms. Accordingly, in the ensuing discussion an attempt is made to situate the key features of the reform process within a particular theoretical context, and where appropriate, within a particular stream of a generic theoretical tradition. Expressed another way, the purpose of this discussion is to illuminate the interface between theoretical prescription and institutional outcome in a more or less explicit fashion. Clearly, there may not exist perfect congruence between theoretical genesis and practical experience, and as such there are instances where a specific legislative provision or institutional reconfiguration is linked to more than one conceptual tradition. Similarly, no attempt is made to canvass the conceptual foundations of each and every statutory provision; rather, specific examples are drawn on as appropriate to illuminate the links between theory, legislative enactment and effective result. In addition, I would make the point at the outset that the bulk of the evaluation is given

¹⁰ The purpose, scope and nature of the field work undertaken as part of this research is outlined fully in Appendix 1.

over to the reforms of the core public sector that were presaged in *Government Management*. While, as appropriate, reference is made to changes that occurred during the fourth Labour government's first term in office, and in particular to those codified in the *State Owned Enterprises Act* 1986, in the main, the analysis reflects the central role in the reform process assumed by Treasury's post-election briefing papers of 1987.

3.1 Government Management and the need for institutional redesign

The influence of *Government Management* in the reform process has already been briefly alluded to, but as a point of departure it is worth reiterating that the central theme of Treasury's analysis was the contention that government failure was sufficiently endemic to warrant the undertaking of an exhaustive review of the nature and extent of government intervention in the economy. The point was frequently made in the analysis that government failure was itself a manifestation of institutional failure: attempts to improve upon government's performance *ipso facto* required institutional reform.¹¹ Specifically, it was asserted that institutional reform was essential to improvements in the efficient and effective operation of the administrative arm of government (Treasury, 1987: 2, 7, 45, 49). And in particular, the need to have institutional arrangements revised in such a fashion as to 'allow conflicts of interest to be settled in line with legitimate collective goals rather than in ways which favour legislators or public servants or some sub-group of voters' was fundamental to the assessment for institutional redesign that informed *Government Management* (Treasury, 1987: 52).

Treasury officials were clearly of the opinion in 1987 that the existing institutional structure of the public service not only did not demonstrate the 'capacity to face the realities of the 1980s', but that it was actively hampering the adjustment process that was taking place in the remainder of the economy (Treasury, 1987: 49). The fundamental issue addressed in the analysis concerned the form of institutional design that would most effectively expedite processes of governance and yield better outcomes; in

¹¹ The alternatives such reform might have taken were best revealed through what Treasury labelled a 'comparative systems analysis' of the manner in which government organises itself. The principles that ought to inform such a review process were identified as: the clarification of objectives; transparency; avoidance of capture; incentives; information; accountability; and contestability (Treasury, 1987: 48).

aggregate, the diverse recommendations contained in *Government Management* amounted to a blueprint of just such a design. From Treasury's perspective, the value and utility of a new matrix of institutional arrangements could be revealed through an assessment of its ability to reduce the extent to which agencies of the core public service remained vulnerable to either (internal) bureaucratic excess and/or (external) interest group and provider capture. Accordingly, the construction of 'efficient and effective' institutions required consideration of the specification of clear departmental objectives, the scope of the authority enjoyed by managers, the articulation of means of assessing managerial performance, and of the need for greater sanctions for unsatisfactory performance. Most importantly, however, institutional change required that incentives be redesigned so as to 'ensure that the objectives of managers and other employees are aligned with the institution's objectives' (Treasury, 1987: 3).

3.2 The influence of Managerialism

Reflecting the title of the post-election briefing papers, running through Treasury's assessment of the proper course of institutional review was the importance of issues relating to management. It was acknowledged that sub-optimal performance in the public sector had tended to be less a function of incompetency on the part of individuals, and rather more a function of outdated and inappropriate management systems (characterised by unclear roles, conflicting objectives, inadequate incentive structures and so on) which had encouraged inefficiencies and inequities. The subsequent recommendations concerning management reform reflected the central tenet of the managerialist approach that management is a generic science that does not respect sectoral boundaries. That is, Treasury's prescriptions for the overhaul of management systems utilised in the core public service were based on the assertion that the same management processes and conditions apply within commercial and non-commercial areas of activity (Treasury, 1987: 76).¹²

¹² Much of the substance of the reforms proposed by Treasury reflected the learning undertaken by senior officials in different management contexts, both in New Zealand and overseas. For example, in detailing his own experiences, Graham Scott notes that:

Although I could say all that management stuff is ultimately grounded in transaction-cost analysis, a lot of the impulse, and a lot of the benchmarks and ideas and practices, were coming in from practical private sector people who thought about these things without that theoretical perspective. [In America] IBM have this good citizen programme, and they arranged for me to go to New

Accordingly, the proposals contained in *Government Management* had in the main to do with making changes to systems, practices and procedures within the agencies that comprised the core public service. Certainly mention is made of the importance of restraining potential political excess through constitutional reform (discussed in further detail below), but with the exception of those proposals extending to the relationship between ministers and departmental heads, Treasury's analysis largely reflected the prescriptions of those variants of the public choice, managerial and agency critiques that are primarily to do with issues of organisational structure and design (rather than political excess).

3.2.1 Management systems in the public service

In this respect, both analysis and prescription had implications for the reinvention of management systems and practices at a public service-wide level. Reflecting what it had identified as the most significant shortcomings of the *ancien regime*, the three major purposes of the management reforms proposed by Treasury were to reduce the problem of internal capture; to improve incentives for managers and other employees; and to improve information flows as a means of holding individuals accountable for their actions through performance evaluation (Treasury, 1987: 45). In particular, the analysis focused on the extent to which the existence of conflicting objectives tended to result in managerial confusion, which in turn led to the making of trade-offs between those various objectives. Such confusion reflected the fact that traditionally state sector managers (or administrators) '[tended] to be responsible for policy advice concerning their sectoral responsibilities, for the implementation of policy decisions, and for ongoing operations within that framework' (Treasury, 1987: 75). For Treasury, the import of the confusion created by the existence of multiple objectives lay in the potential it represented for producer capture. The danger posed by the institutional linking of functions relating to both policy advice and implementation within one organisation was presented thus:

York and interview people around various aspects of the management of IBM. And the local company here [in New Zealand] opened up its management systems to the Treasury to look at; and we adopted some of their personnel management ideas. There was a huge technology transfer [from the private] to the public sector (interview, March 1996).

It is hard to escape the conclusion that advice on [government intervention] from an agency which is involved in public provision is likely to be biased in favour of that existing provision. More generally it would appear that an agency whose existence is inextricably linked to the continuation of existing policy is likely to be biased in favour of existing policy (Treasury, 1987: 75).

In addition to compromising the *quality* of policy advice received by government, Treasury contended that producer capture also contributed to the supply of an insufficient *quantity* of advice. A lack of contestability regarding the supply of advice (from sources either internal or exogenous to a government agency) reduced the net stock of information from which the political executive might draw in making decisions concerning the nature, extent and form of government intervention, and thus potentially compromised the efficiency and effectiveness of the government's activities. For Treasury, therefore, the potential for internal capture represented by the institutional combination of functions suggested 'the need to avoid a particular agency having exclusive domain over a particular policy area' (Treasury, 1987: 76).¹³

The institutional fusion of diverse functions and the subsequent lack of clarity concerning departmental objectives was also considered problematic in terms of the manner in which staff performance was evaluated. Treasury identified three major characteristics of the existing system that in combination militated against the accurate assessment of managerial performance:

- the existence of conflicting objectives;
- input controls which constrained managers' abilities to control resources;
- the provision of inadequate information concerning departmental outputs and the efficient use of resources (Treasury, 1987: 86).

The problems that were subsequently posed in terms of assessing an individual manager's performance were expressed thus:

¹³ There is, however, some argument concerning the extent to which Treasury intended that analysis to be applied to its own domain.

in the absence of adequate information how can one assess the level of performance? In the absence of clear objectives how can that performance be assessed as having met, or not met, its target? And in the absence of sufficient authority to affect outcomes, how can managers be held responsible for those outcomes? (Treasury, 1987: 88).

Treasury's preferred solution to the diverse management difficulties posed by such systemic confusion required the separation of policy advisory functions from those associated with regulatory, operations and other roles, and the introduction of a greater measure of contestability concerning the supply of policy advice. Such a course, it was suggested, would have considerable beneficial implications for managerial performances in the core public sector. In the first instance, the removal of multiple objectives would allow for a more precise specification of departmental objectives. This in turn would enable the articulation of benchmarks against which a manager's performance could be assessed, and facilitate the construction of a system of sanctions and incentives. In conjunction with the implementation of appropriate human resource and financial management systems (see below), it would also free up information flows of the sort required to assess the individual and aggregate performance of a department.

3.2.2 State sector human resource management practices

The point was made in *Government Management*, however, that reforms of the kind specified above would be of little value in the absence of the devolution to managers of powers and authority commensurate with the responsibilities and level of performance expected of them. To this extent, Treasury's position enjoyed congruence with the sentiments contained in the managerialist maxim: 'let the managers manage'.

To manage well, and therefore to maximise both their own performances and a department's operations, Treasury concluded that it was essential that managers have devolved to them the authority to exercise appropriate discretion in the conduct of their responsibilities. The argument was put forward that if managers were to retain only limited control over the areas for which they were primarily responsible, they could not logically be held

entirely responsible for subsequent outcomes. In such a situation it would become difficult to hold them properly accountable for their own and their department's performance against specified outcomes (Treasury, 1987: 71). Treasury proposed a number of recommendations for ways in which such devolution might be brought about, most notably, through the revisiting of the role of the State Services Commission as the public service's central employing authority, and the vesting of those responsibilities in the hands of departmental heads who would be largely free from the imposition of central controls over wage setting and personnel policies.

Clearly, achieving this reconceptualisation of the role of the public sector manager also required clarification of the appropriate role (if any) of the minister in the management of departments in their portfolios. Consistent with the imperative that management remain the responsibility (and prerogative) of managers, Treasury advocated the institutional decoupling of ministers from any role in the day to day management of government departments. Ministerial intervention, it was suggested, represented an unwarranted (and potentially inefficient) intrusion in the domain of the manager, and as such served only to distort departmental performance and to confuse processes of performance evaluation. Specifically, given the partisan nature of their diverse motivations, such intervention introduced into management considerations a series of priorities that was frequently inconsistent with best commercial practice.

Informing Treasury's assessment of public sector labour market practices and the recommendations it subsequently proposed was the presumption that regulation in the state sector should be no more prescriptive than that which operated in the private sector (Treasury, 1987: 68). Treasury's desire to decouple ministers from processes of management and to resituate certain personnel and other management responsibilities was thus premised upon a preference to allow labour practices to develop independently of centralised control. Ideally, 'the right overall regulatory structure should allow appropriate internal institutional arrangements to emerge, without the necessity for rigid specification of those structures in legislation' (Treasury, 1987: 70).

3.2.3 Analysis and prescription

The degree of congruence between these proposals and the principles of the new managerialism is clear. Informing Treasury's prescription for reducing 'government failure' was a fundamental lack of confidence in the ability of traditional state agencies to demonstrate allocative and productive efficiency, and a corollary belief in the efficiency, effectiveness and generic applicability of private sector management practices and systems. In Treasury's assessment, such techniques had already been applied with considerable success to State trading activities, suggesting that there were few reasons why the same sorts of efficient and effective outcomes should not be achieved in other parts of the state sector. More specifically, the mix of recommendations reflected the normative assumption that the desired state of affairs was one in which there existed clarity of objectives, where staff were highly motivated (and provided with the necessary incentives) to achieve those objectives, where attention was paid to monetary costs, and where bureaucratic barriers to performance were eliminated to the greatest extent possible (Pollitt, 1993).

The nexus between theoretical genesis and prescription was equally clear with regard to the recommendations concerning state labour practices. In particular, the advocacy of devolved management control, and the associated development of improved reporting, monitoring and accountability regimes, was consistent with the imperative that managers be judged on the merits of their own performances. Treasury's proposals embodied an essential conception of management as a proactive activity directed at the constant search for the optimal use of scarce human and other resources; against which was implicitly juxtaposed a profile of the public sector administrator as a passive interpreter and applier of regulations and rules.

Similarly, the drawing of a clear distinction between the respective responsibilities of politicians and managers, while also reflecting certain public choice precepts (which are discussed further below), was also consistent with the principle that management should rightly remain the domain of managers. Moreover, it reflected the managerialist assumption that the benefits that accrue through the use of private sector management techniques cannot be secured through, and are indeed frequently

compromised by, political intervention in management (Pollitt, 1993). Such intervention is in the main likely to result in systemic and productive inefficiencies, the sub-optimal effects of which can be reversed through the application of private sector management systems that deliver allocative and productive efficiency.

3.2.4 Codification

To a considerable extent, the institutional changes identified by Treasury as necessary to the improved performance of public sector management received statutory expression in the *State Sector Act* 1988. Passed amidst some considerable acrimony (Walsh, 1991), the point has been made that the legislation was in many respects a lineal successor to the State owned enterprises legislation enacted two years previously. Whereas the *State Owned Enterprises Act* 1986 provided for the corporatisation of the State's trading activities, the 1988 legislation sought the implementation of many of those same aims within the core public service (Martin, in Holland and Boston, 1990).

Two key features of the *State Sector Act* 1988 reflect the desire to improve managerial and economic performance at the service-wide level that lay at the heart of the legislation (Martin, 1990). Firstly, the Act redefined the constitutional relationship between responsible ministers and permanent heads of government departments, and clarified the respective responsibilities of each regarding departmental performance. Under the legislation, a department's Chief Executive Officer (CE) assumes responsibility for delivering the mix of departmental outputs purchased by the stakeholding minister, the nature and quantity of which are specified in a purchase agreement entered into between the two. This legislative decoupling of roles, which was one of the pivotal recommendations made in *Government Management*, had the primary effect of removing ministers from direct intervention in the routine management of departments. As a consequence, the role of the CE as the pre-eminent organisational manager was clearly defined; this in turn facilitated the specification of the responsibilities of CEs, the subsequent devolution of appropriate authority, and the construction of systems of incentives and of performance evaluation.

Secondly, the legislation gave practical effect to the recommendations for aligning public sector labour market regulations with those of the private sector that were an important feature of *Government Management* (Scott et al, 1990; Walsh, 1991; Whitcombe, 1992; Joseph, 1993). Under the Act, the efficient delivery of departmental outputs is the contractual responsibility of the CE; consistent with Treasury's recommendation that appropriate authority be vested in the hands of those responsible for departmental performance, responsibility for the day to day management of the department, including the hiring and firing of staff, lies in the hands of the CE. Control over the conduct of personnel management, the centralisation of which was identified in *Government Management* as one of the major impediments to effective departmental performance, was thus decentralised. Accordingly, responsibility for the creation of an appropriate internal regulatory regime in the absence of external regulation now rests with the CE. In turn, regular assessment of that person's performance against the criteria specified in their employment contract is carried out by the State Services Commission on behalf of the relevant minister, providing one of the primary incentives for sound and effective management (Probine, 1990; Scott et al, 1990).

Martin (1990) has suggested that the central provisions of the Act go to considerations of accountability, responsiveness and efficiency within the public service. To the extent that each of these is primarily a function of a given management regime, the provisions of the legislation reveal a great deal about the nature of the institutional changes to public management that followed its enactment. Relationships of *accountability* between ministers and departments (and between departments and central control agencies) have been clarified. Departmental *responsiveness* to ministers has purportedly been increased through the involvement of the latter in the appointments of CEs, the specification of purchase and performance agreements, and through the evaluation of CEs' performances by the State Services Commission. Finally, improvements in *efficiency* have arguably accrued from the emphasis on accountability and the regular reviewing of the performance of CEs, and as a result of the devolution to CEs of management responsibilities.

3.2.5 Funding practices

Any assessment of the nature of recent reforms to systems of public management would be incomplete without some discussion of the changes made in recent years to funding practices in the public sector. While the *State Sector Act* 1988 had initiated the process of reinventing the core public service, mutually reinforcing measures were also required which would enable managerial performance to be specified (and therefore reviewed) more specifically (Pallot, 1991). Those means were sought through a comprehensive revaluation of the manner in which public funds were managed. Again, *Government Management* provided legislators with a template; central to Treasury's assessment of the extent of 'government failure' was the contention that the existing funding process (the parameters of which were set in the *Public Finance Act* 1977) encouraged management behaviour in public sector agencies that was less than optimal (Treasury, 1987: 80 - 82). In particular, the emphasis on the annual cash cost of funding administration 'encouraged departments to compete for increases in their one year cash allocations', such that it was in a department's interests to 'underestimate the cost of programmes and overstate the benefits; ... disregard the cost of funds raised either through taxation or borrowing; [and to] ... monitor inputs not outputs' (Treasury, 1987: 82). In short, in Treasury's assessment, the funding process encouraged (or at least did not actively discourage) allocative and productive inefficiencies, prevented the generation of accurate information concerning the costs of production, and provided no incentives for improved managerial performance and optimal resource use. Rather, departmental heads had every motivation for seeking to acquire as substantial an annual budget as possible, and to ensure that it was entirely spent by the end of the financial year; failure to do so would likely result in a decreased budget the following year (State Services Commission, 1996b).

Treasury proposed six reforms to the system that it argued would positively influence the behaviour of public sector managers, and therefore increase the efficiency and effectiveness with which public monies were managed. It advocated:

- a clearer specification of intended outputs;
- a substantial relaxation of input controls;
- the attribution of the full cost of activities to departments;

- the development of accrual-based budgeting and accounting systems;
- improved reporting to government and Parliament by providing additional information; and
- the provision of incentives and penalties for under and over achievement of budget targets (Treasury, 1987: 94).

Those suggestions reflect in a very precise fashion the central concerns of the Niskanen critique of bureaucratic excess (see below). As has also been pointed out, they also extend to the prescriptions attendant upon the managerial tradition (Pallot, 1991). Again, what was distinctive about the reform process was that it represented a 'deliberate attempt to develop firm theoretical underpinnings to the solution of practical problems and to incorporate these concepts in legislation' (Pallot, 1991: 189). The legislative vehicle in this instance was the *Public Finance Act 1989*, which sought to provide a framework for the more efficient and accountable use of public revenues by establishing financial management processes that linked appropriation of public monies to quantifiable and demonstrable standards of departmental performance (Scott et al, 1990; Pallot, 1991). At the heart of that endeavour was the requirement that departments implement systems of financial accountability based upon accrual accounting of inputs (ie, an accounting of and budgeting for all resource movements within a department, not solely those involving cash flows), and develop specific measurements of departmental output (Scott and Gorringer, 1989). In terms of the appropriation process, this was intended to generate more, and more accurate, information concerning the productive activities of core agencies. Not only were the changes intended to facilitate decisions taken by the political executive concerning the form, direction and extent of government intervention, they were also designed to improve managerial performance, clarify the accountability of CEs to ministers (and ministers to Parliament), and to facilitate Parliament's scrutiny of the use made by governments of public monies (State Services Commission, 1996b).

Again, the resonances with the new managerialism are clear, inasmuch as the preferred solution for the concerns articulated by Treasury was through the replacement of existing practices and systems with those utilised in the private sector. This replication extended to the legislative specification of the role of the government as both sole stakeholder and major purchaser of departmental goods and services. Modelled on the institutional

arrangements representative of the private firm (with the exception of transferable or contestable ownership), this template was designed to improve the quality and quantity of information available about departmental performance, and thus to provide for managers to perform in line with the requirements of the government.

In addition, the legislation was crucially informed by the drawing of a conceptual distinction between inputs (the resources used in the production of outputs), outputs (the goods and services produced by departments) and outcomes (conceived as the consequences for or impact on the community of the activities of government). The purpose of the distinction is to enable governments to make decisions, based on policy advice, about which combination of outputs will most facilitate the attainment of specified outcomes (Pallot, 1991). Under the Act, the specification of outcomes is the responsibility of ministers, while responsibility for the production of departmental outputs rests with CEs. Consistent with the decoupling of the roles of CE and responsible minister embodied in the *State Sector Act* 1988, this enables a CE to be held accountable for his or her performance and that of their department. In key respects, therefore, the legislation builds upon the managerial autonomy vested in departmental CEs under the 1988 legislation (Martin, 1990). That is, CEs are held responsible for choices made and decisions taken regarding the appropriate mix of inputs commensurate with the most efficient production of departmental outputs. The connection with the new theories of managerialism is apparent; not only are managers (as opposed to politicians) held to account for choices made about the particular configurations in which public resources are used in productive processes, but the recasting of departmental goods and services as outputs that are secured by an external purchaser suggests a conception of productive processes within public agencies that is synonymous with that which applies to the private firm.

3.3 The influence of Agency theory

3.3.1 Analysis

Much of Treasury's assessment in *Government Management* was conducted in terms which reflected a concern with the extent to which existing institutional arrangements created agency costs that impacted

negatively upon aggregate economic and administrative performance in the core public sector. The argument was advanced that inefficiencies were being sustained by the operation of several systemic factors which prevented a clear assessment of the respective rights, duties and responsibilities of managers and politicians. These institutionalised inefficiencies created costs, both in terms of allocative and productive efficiency; they also contributed to substantial difficulties in holding public sector employees accountable for their performances.

The systemic factor that more than any other resulted in agency costs was the execution of multiple functions by single agencies within the core public sector. In this respect the performance of policy advisory, regulatory and service delivery functions within one department contributed to the difficulties experienced by government in monitoring and assessing the activities of officials, particularly as they related to the efficient conduct of the organisation. Such problems were exacerbated by the non-availability of information concerning individual performance and quantum departmental output against which performances might be assessed and staff held accountable. In aggregate, this state of affairs contributed to the costs associated with what agency theorists term 'moral hazard', in the sense that in the absence of clear performance indicators and effective monitoring regimes, precise assessments of the behaviour of agents (and the extent to which this may or may not be commensurate with the desires of a principal) were rendered problematic (Boston et al, 1991).

Secondly, in Treasury's assessment the lack of contestability that characterised the provision of policy advice to government created additional agency costs. It was argued that dependence for advice upon core public sector agencies left government vulnerable to capture by those whose recommendations would of necessity be commensurate with their own self interest. Moreover, provider capture by definition prevented ministers from assessing the extent to which a course of action proposed by a core agency represented in any absolute sense that which would most efficiently and effectively secure the government's objectives. Alternative (and by implication less parochial) sources of advice might well suggest forms of intervention that would represent a more effective and/or more efficient means of achieving the government's intentions, albeit ones that called for a departure from the *status quo* (Treasury, 1987: 75).

As importantly, (and with reference to the operations of the newly constituted state owned enterprises), Treasury noted that while the separation of ownership from control had reduced the scope for political intervention, it had also contributed to difficulties in ensuring that directors acted in the interests of owners (Treasury, 1987: 109). Lack of congruence between an agent's actions and the outcomes desired by that agent's principal represents the classic agency problem; with regard to the state's trading enterprises, the difficulty stemmed from the fact that the ownership remained non-contestable. As a result, Treasury noted that in the absence of normal sharemarket monitoring difficulties were being experienced by shareholding ministers in ensuring that agency performance was aligned with the government's interests as owners. Certainly, on the basis of this assessment Treasury did not resile from its commitment to the separation of the roles of managers and politicians in the core public service; that reform was fundamental to its prescriptions for clarifying relationships of accountability between the two. However, it was inferred that, assuming the retention of non-transferable ownership, similar issues would be experienced in core public sector organisations in the event of the legislative decoupling of the two roles. Expressed another way, the absence of the threat of takeover would mean there would be little incentive for directors to comply with the government's stated interests; moreover, this absence of the ultimate sanction would lead to a tendency on the part of managers to engage in goal-displacing behaviour, with sub-optimal efficiency and effectiveness outcomes (Treasury, 1987: 109).

3.3.2 Prescription and codification

Accordingly, the recommendations for reducing agency costs distilled from Treasury's analysis sought institutional change based upon:

- the clarification of departmental objectives through the separation of policy advice, operational and other functions;
- the separation of ownership from control through the decoupling of the respective roles of portfolio ministers and departmental administrators; and
- the introduction of contestable ownership.

The first of those recommendations has been given practical effect through the processes of rationalisation via which the diverse functions of core state

sector agencies have been separated. In some instances this has taken the form of the creation of a policy Ministry functioning independently of a number of separate delivery organisations each with specific functions (as with Education); in others, while policy advisory and delivery functions have been retained within the same agency, an effective separation has been achieved through the creation of discrete business units (as has been the case with Social Welfare) (Boston and Uhr, 1996). In both cases, the organisational separation of functions has been predicated on a desire to minimise the risk of internal capture, and to render more transparent the sequence of agency relationships that cascades vertically from a minister to his or her CE, and from that person down through the body of staff for which they are responsible.

In an earlier chapter the point was made that in essence, agency theory offered a conception of all economic, social and political interactions as a series of contractual relationships; accordingly, its major concerns lie with the manner in which contracts between parties are best constructed so as to minimise potential agency costs. This understanding underpins the explicit conceptualisation in the *State Sector Act* 1988 of the relationship between politician and bureaucrat: hence the central importance accorded the contractual bases on which that relationship is articulated, conducted and reviewed. The nature of the agreements entered into is such as to provide codification of the expectations of a portfolio minister regarding the conduct of a CE; that is, they specify the nature of the performance expected of the agent, and the rewards, incentives and sanctions that apply with respect to the relationship. In a similar fashion, the construction of a series of subsequent contractual relationships between staff within a specific department, commencing with those between a CE and their Senior Executive Staff, represents a formalised system which facilitates the monitoring and evaluation of staff performances.

The process of specifying the rights and duties of bureaucrats and politicians, and of setting the relationship on a contractual footing was extended by the *Public Finance Act* 1989. In particular, the statutory linking under the Act of the output - outcome distinction with the separation of the roles of officials and responsible ministers (provided for in the 1988 legislation) represented an effort to clarify to the greatest extent possible the basis on which the former can be held accountable to the latter. As briefly inferred above,

consistent with this is the legislative casting of the minister as both owner of the departmental business and major purchaser of its goods and services (Martin, 1990). In the first capacity, the minister, as sole stakeholder, has a clear interest in the 'profitability' of his/her department, and therefore in the performance of the CE; the separation of the roles of purchaser and provider of departmental outputs reinforces that distinction, and is central to attempts to hold CEs accountable for the efficient functioning of their organisations.

In the final instance, however, in terms of Treasury's 1987 analysis, statutory codification of the sort provided for by the *State Sector* and *Public Finance Acts* will not deliver optimal managerial performance. Ideally, in order that an appropriate incentive structure exist for managers to act in perfect accordance with the commercial and other requirements of owners, ownership of core agencies should be rendered contestable. In *Government Management* Treasury made a strong case made for privatisation through two means:

- the removal of government-imposed barriers to entry into markets; and
- the introduction of contestable and transferable ownership (Treasury, 1987: 112).

Clearly, in the case of the State's trading activities, both of these criteria have been met; both immediately prior and certainly subsequent to the passage of the *State Owned Enterprises Act* 1986 a number of former trading activities have been sold into the private sector (Boston and Uhr, 1996). However, in the case of most core non-commercial activities, ownership has remained largely non-transferable. That notwithstanding, the separation of policy advice and implementation functions has certainly increased the opportunities available for competition (from sources either internal or external to the public sector) within markets which have traditionally been the sole preserve of the core public sector. That has been especially the case with regard to the contestable provision of goods and services; for example, the recently restructured public health system provides for competition between both public and private health service providers for public revenues (Ashton, 1992). In addition, according to McLeay (1995) there has also been an increase in the extent to which ministers have sought policy advice from sources external to the public sector. Ostensibly, the purposes of

so doing are to provide a greater degree of contestability to the decision making process (in essence, to challenge the analyses offered by public servants), and to supplement the expertise available within the core public service (McLeay, 1995).¹⁴

3.4 The influence of Public choice - Bureaucratic excess

3.4.1 Analysis and prescription

The point has been made that 'public choice theory has found its most ardent disciples not in its American heartland, but in the remote, small islands of New Zealand' (Self, 1993: 173). Arguably, first amongst equals have been those Treasury officials who crafted the 1984 and 1987 post election briefing papers. In particular, the analysis informing *Government Management* reflected many of the central concerns of the Niskanen approach to public choice; that is, those that go primarily to concerns with bureaucratic excess and inefficiency. Specifically, Treasury expressed concern about the extent to which the existing systemic framework through which government managed rendered the policy process vulnerable to both external and internal capture. Concerning the first, the argument was made that in the context of any given policy issue, the distribution of the benefits and/or costs of the various options tends to be asymmetric: while the former are generally concentrated in one group, the later are frequently distributed across the population as a whole. Therefore, incentives are created for lobbyists to seek government support for their own preferences, which leads in turn to the implementation of policies that are not in the collective interests of society. Given this analysis, Treasury argued a case for the construction of institutional arrangements which allowed for the resolution of debates over resource allocation that was in keeping with legitimate collective goals, rather than one in which well-organised and resourced sub-groups of voters enjoyed systemic advantages (Treasury, 1987: 52).

¹⁴ McLeay (1995: 144) reports a conversation with a Cabinet member who indicated that the reason why he sought contestable advice was because: 'It's that process of capture, it's allowing them [the public servants] to filter the information you get, that gets you in trouble with the outside world.'

Treasury's major concern in *Government Management*, however, was primarily with the consequences of internal capture. The classic public choice analysis it offered contended that largely as a function of the bi-lateral monopoly relationship that inhered between the public service and government, officials enjoyed information advantages over elected politicians. Not only did these asymmetries place the core public service in an advantageous position *vis a vis* potential competitors for the provision of public goods and services, they also 'create[d] the potential for opportunism or subgoal pursuit by the bureaucracy including shirking, budget maximisation and generally inefficient policies for society as a whole' (Treasury, 1987: 44). The situation was exacerbated by the operation of a number of other systemic factors. The combination of policy advice and implementation functions within single agencies, for instance, lay behind the considerable lack of clarity that existed in terms of departments' operating objectives. Furthermore, the problematic nature of available information concerning departmental performance was further compromised by shortcomings in the public funding processes, and in particular by the focus on inputs into productive processes rather than the evaluation of the efficiency and effectiveness with which those inputs were used in the production of outputs.

In the broadest sense, Treasury suggested, the current mix of institutional arrangements was such as to contribute to sub-optimal departmental and aggregate public sector performance. Inefficient and ineffective management practices and a system of management incentives that lent itself to 'job promotion rather than client satisfaction' (Treasury, 1987: 8) were amongst the worst features of that systemic configuration; budget maximisation (and subsequent public expenditure increases) and bureaucratic and interest group capture amongst its worst outcomes. Most significantly, however, the convergence of the various problematic factors identified above secured for the bureaucracy an inappropriate degree of discretion in matters of policy, compromised the objectivity of advice supplied by agencies of the core, and militated against the securing of contestable advice from alternative suppliers.

As was the case with its recommendations concerning the reform of state sector labour practices and funding processes, Treasury emphasised institutional redesign as the most appropriate means of engaging with the

problems of bureaucratic excess. And as outlined in section 3.2.1 above, the aims of the model it proposed were the reduction of the problems of internal capture, and a qualitative improvement in both information flows within government and to the system of management incentives (Treasury, 1987: 45).

Again, the clarification of departmental objectives lay at the heart of the preferred model. For Treasury, the separation in different agencies of responsibility for the provision of policy advice, regulatory, funding and operational activities represented the best means of achieving this end. That said, Treasury did acknowledge the importance of fostering institutional and personal links between staff responsible for policy advice and those engaged in operations, and warned against a complete and rigid separation of functions. Accordingly, it suggested a modified form that allowed for the institutional knowledge of operations held by staff to be fed into policy advice processes; the associated introduction of contestability to the policy process would, it was contended, act as an effective antidote to bureaucratic capture.

The fundamental importance of the clarification of objectives to the reassertion of the primacy of representative government over bureaucracy lay in the fact that it would facilitate the articulation of precise and measurable departmental outputs against which the performance of agencies, and therefore of individual officials, could be measured. In addition, it would improve managerial efficiency by enabling managers to be given specific responsibilities, by removing incentives for managers to demonstrate a need for more resources and to indulge in sub-optimal activity (such as budget maximisation), and by requiring them instead to manage those that they had more effectively. However, the major advantage of institutional reform of the kind proposed, at least from Treasury's stance, was the reduction in producer capture it would signal by affording government greater information concerning and control over the standard of policy advice, and by establishing clearer means of evaluating efficiency in production operations. The provision of clearer and more accurate information concerning departmental performance, the precise specification of what was required of officials, and the more rigorous means of performance assessment that would become available would, Treasury

contended, all contribute to ensuring that the potential for bureaucratic excess was kept to an absolute minimum.

3.4.2 Codification

The statutory provisions for the decoupling of management and political roles that was central to Treasury's endeavours to constrain the bureaucracy were contained in the *State Sector Act* 1988. The legislation prescribes a policy environment in which it is the role of elected politicians to specify strategic policy directions and objectives, and the responsibility of public sector managers, through the exercise of their considerable operational discretion, to achieve these (Walsh, 1991). Expressed rather differently, it formalises a resolution of the politics/administration dichotomy that enjoys considerable congruence with Niskanen's conception of the appropriate balance of power between the two. Thus, the provisions of the Act are such as to permit very little discretion in strategic policy making on the part of senior public servants; there is an explicit conception that the business of policy making in a representative democracy is properly that of elected political representatives. Similarly, an appropriately circumscribed managerial 'space' has been created for bureaucrats within which political intervention is proscribed; commensurate with this managers possess authority appropriate to the conduct of their responsibilities, the execution of which they are held personally accountable for. In addition, a system of incentives designed to motivate managers to perform to the best of their ability has been constructed. The cornerstone of that framework has been the introduction under the Act of short term individual employment contracts negotiated between a CE and the State Services Commission. The import of that agreement lies in the transparency it is designed to introduce into the relationship between official and politician; by specifying the responsibilities, sanctions and rewards attendant upon performance, the contract is intended to function as an effective means of restraining potential bureaucratic excess.

Associated with the implementation of the new state sector legislation has been the organisational separation of policy advice from operations. That process has been fundamentally informed by the concern that 'those who provide a service are presumed to be biased in favour of a continuation of that service when other policy options may be more appropriate' (Martin,

1990: 129). Again, it has clear resonances with the Niskanen critique of the budget-maximising bureaucrat. The prescription for rationalisation that proceeds from acceptance of that assessment is similarly clear, and calls for the institutional separation of policy from operations, and, where possible, for the provision of contestable policy advice. In the advent of such separation, the Niskanen assessment suggests, opportunities for inappropriate discretionary behaviour on the part of officials are necessarily reduced; the specification of departmental objectives, the subsequent articulation of individual responsibilities for the incremental attainment of those objectives, and the production of accurate information concerning the productivity of individuals in the performance of those tasks will all militate strongly against bureaucratic inefficiencies.

The third component of the programme to reconfigure the relationship between the administrative and political arm of the executive came in the form of the changes to public funding processes that comprised the *Public Finance Act* 1989. Scott et al (1990) identify as one of the principal aims of the legislation the attempt to introduce transparency into appropriation and expenditure processes such that the financial activities of departments are more closely tied to desired government objectives. Through the clearer specification of intended outputs, and an associated relaxation of input controls, it was intended that inefficient bureaucratic practices such as budget maximising, year-end spending sprees and a short-term focus in financial planning would be eliminated (Scott and Gorringer, 1989).

The primary effect of the legislation was thus to embed the distinction drawn in the preceding legislation between the roles of politicians and administrators. It achieved this by separating responsibility for setting strategic policy objectives from that for departmental activity. Responsibility for identifying policy outcomes, and the best mix of departmental outputs commensurate with these, was placed firmly in the hands of elected and responsible politicians; the effect of which was to situate with CEs sole responsibility for the efficient production of the diverse outputs purchased by government (Pallot, 1991).

Put another way, responsibility for departmental performance cannot be now evaded through goal-displacing behaviour; in terms of the Niskanen critique, the ends to which bureaucratic endeavour are directed are rendered

transparent and importantly, assessable. Goal-displacing behaviour by officials is further discouraged by the convergence of a series of other factors. In the first instance, a system of incentives functions to ensure that the activities of the bureaucracy reflect the wishes of the political executive. The fact that a CE's employment is contractually dependent upon the performance of that person (and their organisation) is in itself a strong incentive to perform; incentives are also provided by provision for penalties and bonuses to be levied in the event of under or over achievement of budget targets. In addition, the development of budgeting and accounting systems that reveal the full resource costs of all managerial decisions (and which therefore permit the making of more rigorous assessments of departmental performance), and changes to the requirements for reporting to government and to Parliament function to ensure that there is an alignment between the actions of officials and the outcomes sought by politicians.

3.5 The influence of Public choice - Political excess

Treasury's concern in *Government Management* was not primarily with reforms that went to 'basic checks and balances, or the ultimate controls on external capture, [and] the incentives on elected representatives' (Treasury, 1987: 45). Such issues have, however, exercised the minds of the sponsors of other changes that have taken place in the New Zealand polity, changes which in aggregate have drastically reduced the amount of short term discretionary economic control enjoyed by the political executive. A brief assessment of the nature and impact of such reforms is warranted here, if only because of the contribution such an exercise makes to an assessment of the broader context within which the process of state sector redesign has taken place. In this respect, both the *Reserve Bank Act 1989* and the *Fiscal Responsibility Act 1994* merit specific mention; while they are in certain respects tangential to the public service-wide changes that were the major feature of the reforms, both are clearly of significance to the contextual policy settings within which the state sector functions. That is, they are amongst the key bastions comprising the macro-economic framework circumscribing the wider policy environment within which the public sector is situated. In addition, the provisions of both pieces of legislation owe an allegiance to the theoretical traditions, in particular to public choice, that so influenced the form and direction taken by core state sector reform.

In both instances, however, the analyses implicit in the legislation and the provisions subsequently enacted reflect the critique of political excess exemplified by the Virginia school of public choice, rather than the concern with bureaucratic inefficiencies which is the domain of the Niskanen approach.

3.5.1 Monetary policy - analysis, prescription and codification

As previously noted, in *Government Management* Treasury did not overly concern itself with the extent to which sub-optimal macro-economic outcomes might accrue as a result of utility-maximising behaviour on the part of politicians. Brief acknowledgment was made of the significance of constitutional arrangements to public sector management (Treasury, 1987: 45), but those concerns were raised in the context of a discussion of the extant and optimal links between the political institutions which mediate preferences for public services, and the organisations responsible for the delivery of those services.

Nonetheless, by the time the Labour government had been returned for its second term in office, an impetus had emerged for a re-evaluation of the institutional arrangements and legislative framework which governed the conduct of monetary policy. The re-evaluation was prompted by concerns on the part of the reformists within Cabinet that colleagues were in danger of resiling from the process embarked upon during the government's first term in office (Kelsey, 1995). Subsequent debates revolved around two axes. The first went to an assessment of the appropriate long term objectives to which monetary policy should be applied. The new economic orthodoxy suggested that monetary policy had little lasting effect on levels of unemployment, and ought more fruitfully be deployed towards the maintenance of price stability; that assessment suggested that the commitment to the employment objective contained in the *Reserve Bank Act* 1973 required re-examination (Dalziel, 1993).

In addition, there was growing scepticism concerning the potentially negative ramifications of direct control by government over monetary policy. Central to this trend was the increase in the currency of the public choice critique that the utility-maximising tendencies of politicians frequently resulted in the mismanagement of monetary policy, with

subsequent sub-optimal outcomes in macro-economic terms. Specifically, critics contended that the current institutional arrangements expedited processes through which governments sought electoral advantage through the use of expansionary monetary policy to stimulate employment in advance of a general election, visiting the subsequent costs upon the electorate at the commencement of the next three-yearly political cycle.

The *Reserve Bank Act* 1989 contained the policy response to those concerns. The primary significance of the legislation that governs the operations of the Reserve Bank lies in the fact that it circumscribes the policy settings within which monetary policy is conducted, and to a certain extent insulates it from the sorts of risks identified above. At the risk of considerable oversimplification, the essence of the legislation lies in its prescription that such conduct is primarily the prerogative of the Governor of the Reserve Bank, and furthermore that the manipulation of monetary policy levers be directed solely at the maintenance of general price stability between 0 - 2% (Dalziel, 1993).¹⁵

In the contemporary parlance of administration, the primary effect of the legislation has been effectively to decouple the Minister of Finance from the implementation of monetary and exchange rate policy on a day-to-day basis. In other words, the legislation has statutorily separated out responsibility for the determination of the parameters of monetary policy (the preserve of the government) from its implementation (the responsibility of the Reserve Bank). Its relevance to this proposal therefore lies in the extent to which it represents statutory codification of certain assumptions that are central to the Virginia school critique. Specifically, the decoupling provisions of the Act suggest that its sponsors harboured the suspicion that politicians are prone to misuse macro-economic policy levers in the pursuit of their own interests. That analysis contends that political control over such levers renders an economy vulnerable to *ad hoc* and inconsistent policy making which owes more to the electoral imperatives faced by ministers than it

¹⁵ See Dalziel (1993) for a discussion of the historical development of the legislation governing the operations of the Reserve Bank of New Zealand. Price stability is now the sole macro-economic objective of the Reserve Bank (see section 8 of the 1989 Act). In contrast with preceding legislation, the most recent Act is notable for the fact that for the first time since amending legislation passed in 1950, specific references to full employment as an objective of macro-economic policy were deleted from the legislation governing the bank's operations (Dalziel, 1993).

does to sound economic principles. The prescriptions attendant upon such a position, and which lie at the heart of the 1989 legislation, call for the statutory insulation from the executive of direct control over monetary policy, and the associated determination that responsibility for the conduct of such policy be vested in the Governor of the Reserve Bank.

However, as Dalziel (1993) has pointed out, consistent with the principle of responsible government, the Crown does reserve the ultimate right to direct economic policy. Section 12 of the Act permits the Minister of Finance to obtain an Executive Order in Council directing the Bank to pursue some other economic objective for up to twelve months. (The extent to which the current Governor, Dr. Don Brash, would be opposed to any such efforts, however, was revealed in February 1996 when he indicated that he would tender his resignation in the event that the bank's inflation target was suspended and substituted with higher growth and employment targets (Dominion, 14.2.96). Comments subsequently made by the leader of the Alliance, Jim Anderton, in response to Dr. Brash's pronouncement go to the heart of the conception of the politics/administration dichotomy proposed by Niskanen. Mr. Anderton described the comments as 'political and inappropriate in an appointed public official' (New Zealand Herald, 14.2.96: 22), inferring that they constituted an illegitimate intervention in a policy debate by a public servant. In an interview undertaken in the context of this research, Dr. Brash indicated that his comments, which had been made to the Finance and Expenditure select committee, had been misrepresented by Mr. Anderton and the media. According to the Governor he had not sought to make an overtly partisan intervention, rather he had simply been responding to an oral question from the committee concerning his personal position on the ends to which monetary policy can effectively be directed (interview, March 1996)).

3.5.2 Fiscal policy - analysis, prescription and codification

Concerns similar to those which informed the *Reserve Bank Act* 1989 comprised the genesis of the *Fiscal Responsibility Act* 1994. The very title of the legislation suggests the analysis that elected representatives are not by nature given to fiscal responsibility; informing the Act is the presumption that in the absence of appropriate constraints, politicians possess an inherent tendency towards policy decisions that are fiscally unsustainable. A

discussion paper released by Treasury in March 1993 was especially influential in establishing the intellectual parameters (and revealing the conceptual antecedents) of the debate out of which the legislation emerged. Comprising Treasury's response to concerns expressed by the then Minister of Finance relating to methods of ensuring fiscal responsibility, *Promoting a Consistent Strategy of Fiscal Balance* (Treasury, 1993a) had primarily to do with the manner in which an appropriate political environment might be constructed so as to encourage a consistent (and responsible) approach to fiscal policy. The document identified as the major obstacle to this end the manner in which:

the preferences of influential groups in the electorate tends to bias policy towards a short term perspective. A particular feature of this problem is the tendency to use borrowing to shift the balance of benefits and costs of government activity in favour of the current electorate, at the expense of future generations (Treasury, 1993a: 1).

More specifically, the analysis suggested that the pursuit of sound fiscal policies frequently ran contrary to the specific interests of interest groups in the electorate; the resultant electoral pressures placed on governments to respond in the short term to the vested interests of such groups militated against the overall goal of fiscal sustainability. In addition, Treasury argued that extant institutional structures and procedures of political decision-making simply exacerbate these pressures. In tandem, the convergence of interest group pressure and a mix of institutional arrangements that renders governments vulnerable to such pressure was held responsible for a systemic bias against the implementation of sound fiscal strategies. Treasury's analysis clearly resonates with the central maxim of the Virginia school variant of public choice: that in Western representative democracies there exist systemic incentives for the articulation of a nexus between the self-interested behaviour of diverse interest groups with that of politicians, the inevitable outcome of which is an approach to fiscal policy that is not grounded in 'sound economic principles' (Treasury, 1993a: 3).

In the paper Treasury identified a number of mechanisms through which this endemic susceptibility of governments to respond to short term fiscal pressures might be redressed. Amongst those canvassed were the use of Cabinet procedures (such as the negotiation of an agreement on fiscal policy

between two partners to a coalition government), legislative enactment and parliamentary procedure (with an eye on the probable advent of MMP, the attraction of this approach for Treasury lay in the difficulties likely to be faced by a coalition government in altering statutorily set expenditure or debt targets), and constitutional restrictions (such as the entrenchment of principles of economic stewardship consistent with fiscal policy) (Treasury, 1993a: 4 - 5). However, Treasury's concluding recommendations on how sound fiscal policies might best be delivered resiled from some of the more extreme prescriptions advocated by the Virginia school. In its own words it was 'open-minded but sceptical about formally binding governments to specific targets' (Treasury, 1993a: 6). Consistent with the assessment that suitably strong electoral pressure would be sufficient to overcome any of the formal mechanisms specified above, it advised against the entrenchment through a fiscal constitution of fiscal objectives against which all policy initiatives would be assessed. Instead, it was suggested that the casting of electoral preferences comprised the most effective means of ensuring a government adhered to sound fiscal policies. As the author of the paper subsequently expressed Treasury's thinking:

We could only go as far as transparency. We could force a government to explain what it was doing, [which] would give weaker incentives for evasion, although they're still there. But finally, a government, if it really believed that it wanted to put something in place which looked like it was inconsistent with received wisdom about sound fiscal policy, they could do it; they were free to (interview, March 1996).

Accordingly, Treasury advocated the formalisation of procedures concerning the disclosure of information relating to a government's intentions; such measures, it contended, would enable voters (through the influence of political preference shapers such as parties, the media, business and union groups) to fully assess the costs associated with any loosening of fiscally tight policy settings, and therefore assist them in evaluating the fiscal performance of a government. In this sense it would be the expressed (and ideally the informed) preferences of voters, rather than more explicit constraints, that would act as an incentive for governments to pursue fiscally sound policies.

In the event, that was partially the course opted for by the then Minister of Finance, Ruth Richardson. Following the announcement of an 'initiative for honest and open government' in the 1993 Budget, the Minister introduced the *Fiscal Responsibility Bill* into the House in September 1993. It was described in the Minister's introductory speech as 'legislation [that] will enforce on New Zealand Governments an unprecedented level of openness and honesty about public finances' (Richardson, 1993); and as chair of the Finance and Expenditure select committee, the Minister oversaw the law's enactment the following year.¹⁶

The Act has been described as:

the last piece in a suite of legislation - the State Owned Enterprises Act, the State Sector Act, the Public Finance Act, and the Reserve Bank Act are antecedents - designed to re-define the role and responsibilities of the State, and establish an environment facilitating responsible and business-like longer-term public management (State Services Commission, 1996b: 27).

In essence, it comprises a legislative framework for the conduct of fiscal policy which is structured around five principles of responsible fiscal management. Those principles seek to:

¹⁶ Significantly, Ruth Richardson did not share Treasury's scepticism about formally binding governments to specific fiscal targets or objectives. As chair of the select committee which reviewed the Bill, the (by then) former Minister originally attempted to entrench the proposed legislation so as to bind future governments to her particular conception of fiscal responsibility. Specifically, the original version of the Bill required that governments furnish a statement of intent before the completion of the budget process in which would be specified mechanisms, principles and objectives it intended to follow (Small and O'Sullivan, 1994). Furthermore, that statement would go before a select committee, which would mediate the public submission process. In effect, the Minister's initiative amounted to an attempt to frame the legislation such that it was extended from codifying process of information disclosure to the codification of prescriptions regarding policy. In the event she received little support from either within or outside of Parliament, and the initiative lapsed. (A notable exception was the former Treasury debt manager John Zohrab, who advocated the specification of mandatory targets for fiscal policy including the requirement that the government achieve a balance sheet with total debt no more than current assets, and that it be required to achieve specified surpluses until the balance sheet objective is reached.) Considerable opposition stemmed from the former Minister's disregard for the long established convention that a Parliament cannot bind its successors; the extent of that opposition was reflected in comments by the Opposition spokesperson for Finance, Michael Cullen, that her move amounted to an attempt to 'set up a government in exile' (Small and O'Sullivan, 1994: 12).

- reduce Crown debt to prudent levels by achieving operating surpluses until such levels are attained;
- maintain Crown debt at prudent levels by ensuring that on average total operating expenses do not exceed operating revenues;
- achieve levels of Crown net worth that provide a buffer against adverse future events;
- manage prudently the risks facing the Crown; and
- to pursue policies consistent with a reasonable degree of predictability about the level and stability of future tax rates (Treasury, 1995).

To those ends the legislation formalised a number of reporting requirements. For instance, the government is required to table with the supplementary estimates a fiscal update for the current fiscal year, and to publish with each Budget and in December of each year three yearly forecasts and fiscal updates. In addition, Treasury is required to prepare a fiscal and economic update similar to that published as part of the Budget process, which must be released between 42 and 28 days before a general election; responsibility for the contents of that document rests with the Secretary to the Treasury, who is 'beyond the Minister of Finance's control on this particular issue' (Scott, 1993). In addition, a government which strays from explicit benchmarks regarding prudent debt and risk management is required to explain the reason behind these departures to the House, and to explain how it intends to return to them (State Services Commission, 1995a).

The intent of the fiscal responsibility legislation, consistent with the advice proffered by Treasury, is clearly to compel governments to disclose information of a nature such as to create a constituency for the maintenance of the fiscal *status quo*. In Treasury's terms, it has effectively '[shifted] the onus of proof onto those wanting to deviate from *established* long term fiscal strategy goals' (Treasury, 1993a: 3; emphasis added). Accordingly, governments deviating from the new norm are required to justify themselves, and indicate when they will return to a 'fiscally responsible' path' (Kelsey, 1995: 3). Given the public choice proposition that the politician's maximand comprises votes, an extension of that analysis would suggest that the creation of an electoral momentum in favour of fiscal restraint would effectively constrain political tendencies to the contrary. Irrespective of the failure of the former Minister of Finance to have

included in the Bill 'specific debt targets, a formula which tied future governments to a budget surplus, and new principles of fiscal responsibility' (Kelsey, 1995: 235), the thrust of the law is such as to erect institutional and normative bulwarks around a specific conception of appropriate fiscal behaviour, one which was clearly considered by the sponsors of the legislation to be at odds with the presumed natural profligacy of politicians.

There is every indication that there was considerable anxiety (shared by both the Secretary to the Treasury and the Minister) that the legislation be passed in advance of the advent of the effective parliamentary functioning of MMP.¹⁷ In its 1993 Budget report, Treasury expressed concern that in the absence of appropriate legislative requirements, the sorts of decision-making processes that were likely to operate in the new political environment would serve to reinforce tendencies towards fiscal drift (Treasury, 1993a: 3). Therefore, the need to have the legislation in place was considered pressing, particularly in view of the fact that the functioning of majority coalition governments would in all likelihood render improbable attempts to substantially amend or to revoke the Act (Treasury, 1993a: 4). Three days before the former Minister of Finance announced her resignation from Parliament the *Fiscal Responsibility Act 1994* was passed, setting in place the 'minimum standards governments [will] have to observe' (Treasury, 1993b; cited in Kelsey, 1995: 239).

4 CONCLUSION

There is every indication that the notion that government is conducted by selfish politicians and colluding bureaucrats, both of whom are prone to

¹⁷ This shared preference is revealed in both the tenor of Treasury discussion paper and information gained from a subsequent interview with its author. In the former, the incentive for movement on the issue is expressed thus:

The New Zealand electorate seems to have become more generally aware of the economic implications of fiscal imbalance in recent years. Recent governments have expressed the desire to adhere to more responsible fiscal policies; impelled, at least in part, by the weak discipline imposed by the liberalisation of New Zealand's financial markets. However, electoral preferences and political decision-making structures and procedures still contain pressures against pursuing a consistent strategy of fiscal balance [and] ... fiscal risk tends in the direction of deficit rather than surplus. *The prospect of electoral reform in New Zealand raises further questions about the long term effect of such pressures in a new environment of political decision-making* (Treasury, 1993a: 3; emphasis added).

'capture' by vested interest groups, lay at the very heart of the reform process. The policy prescriptions attendant upon this position called for a thorough and comprehensive redesigning of the machinery of government. That reconfiguration duly occurred, and in the main it was driven by political executives who, with the intellectual support of officials, were far from loath to use the considerable constitutional power at their disposal (Mulgan, 1992; Sharp, 1994).

It has been my primary intention in this chapter to articulate the linkages between the conceptual foundations and political process of that exercise in redesign; as an integral part of that task the connections between theoretical underpinnings and reform at a wider level have also be illuminated. In other words, the discussion has been directed at the manner in which the reform process bridged theoretical analysis and prescription, and practical implementation. In so doing it has built upon material presented in the previous chapter; as such, central to this discussion has been the proposition that the changes were shaped, in a more or less coherent manner, by the tenets of key theoretical traditions which enjoyed considerable currency with the reformers.

A second key proposition has been that the reforms have had significant impacts at two levels. On the one hand, they have effected change at the public service-wide level, particularly in terms of the decoupling of the roles of ministers and officials, and the consequent specification of managerial responsibilities and vertical relationships of accountability. Those changes, however, have occurred within the context of other reforms which, at a more general level, have significantly redefined the manner in and terms on which governments conduct macro-economic policy. Those reforms have themselves altered the settings within which the public service functions. And as importantly, in both instances, the changes made were premised upon certain assumptions about the motivations of both politicians and bureaucrats, and shaped by concrete prescriptions that reflected those assumptions.

Given that the focus of the thesis is on the extent to which the contemporary public service is 'fit for purpose' under MMP, the profile of the public service that has subsequently been revealed, however, is insufficiently detailed. Accordingly, having illuminated the interface

between conceptual analysis and political process, attention must now be focused on clarifying the nature of the institutional configuration that emerged out of the decade of reform. It is the task of the chapter that follows to concretely specify the nature of the institutional arrangements that are operative within the contemporary core public service.

CHAPTER SIX: THE NEW ZEALAND MODEL OF PUBLIC MANAGEMENT

1 INTRODUCTION

While it is clearly the case that the broad parameters of the new public sector are largely set by the major legislative initiatives discussed above, a study of the legislation alone does not reveal a sufficiently detailed profile of the institutional arrangements now functioning in the state sector. While at an aggregate level it is possible to describe the new public sector in terms of the relationships, duties and responsibilities as specified in statute, to obtain a more precise sense of the dynamics between the administrative and political arms of the executive branch of government it is necessary to delve somewhat deeper into the structural intricacies of the model now in place.

No consensus exists on a single means of articulating the precise configuration of what has been called the 'New Zealand model of public management' (Boston et al, 1996a). In fact, it has been suggested that any attempt to obtain such a consensus will necessarily be hamstrung by 'an array of institutions and a complexity of relationships that is changing too fast to categorise, let alone analyse' (Martin, in Sharp, 1994: 45). Furthermore, attempts at heuristic accuracy are on occasion compromised by the fact that the conceptual models identified in the previous chapter have not in every instance been applied in a consistent or rigorous fashion; moreover, the fact that other factors (such as political pragmatism) also contributed to the overall reform package makes it difficult to draw too precise a connection between conceptual prescription and institutional outcome (Boston et al, 1996a).¹ Therefore, while there is broad agreement on the theoretical underpinnings and the key statutory foundations that comprise the bounded environment of the contemporary public sector (and the considerable but not exclusive extent to which the former informed the latter), there are numerous ways of specifying the configurations of that model.

¹ Boston et al (1996a) and Self (1993) point out, for instance, that the institutional separation of policy and operations has been pursued with greater vigour and consistency in domains such as defence and scientific research than has been the case in social welfare or labour. Similarly, although their elimination was one of the key aims of the reforms, multiple accountability relationships are still not uncommon.

In order to develop a particular profile of the model for the purposes of this work, in the two-part discussion that follows I adopt a thematic approach. Firstly, a number of observations are offered by way of an evaluation of the conceptual foundations and actual outcomes of the reform process; secondly, and based on both those evaluations and the substantive content of preceding chapters, I seek to identify and illuminate a number of the key features of the new institutional configuration. The primary purpose of this exercise is to discern a number of distinct themes, the subsequent elucidation of which might usefully illuminate the institutional arrangements that underscore the operation of the core public service. That effort is fundamental to the thrust of the final two chapters, in which discussions will be directed at the extent to which those structural elements may or may not enjoy congruence with the sorts of legislative and executive patterns that may apply under MMP.

2 EVALUATING THE NEW ZEALAND MODEL OF PUBLIC MANAGEMENT

A consensus does exist (at least in some quarters) that extends as far as agreeing that a number of positive and timely benefits have accrued from the public sector reform process. For example, the devolution from the centre to individual departments of the 'employer' function has assisted and facilitated staff management; similarly, the advent of a statutory obligation to clarify operational objectives and to institute financial management reforms which ensure greater transparency in the use of public resources has resulted in many instances in gains in both efficiency and effectiveness (Martin, 1994). In terms of the operations of the State's trading activities, the implementation of the SOE framework has resulted in cost containment and an increase in the responsiveness of organisations to consumers; and the separation of commercial from non-commercial functions more generally has assisted governments in deciding amongst competing claims for public revenue from State agencies (Treasury, 1987). In addition, the creation of small, sectoral policy Ministries has increased the quality, scope and contestability of policy advice available to governments (Keith, interview, March 1996), and the organisational separation of advisory from implementation functions has clarified the

responsibilities of managers and facilitated processes of performance appraisal (Boston et al, 1996a).

However, it would not be an understatement to suggest that a considerable volume of criticism has been forthcoming concerning both the process and the substantive outcomes of the changes made in the New Zealand public sector since 1984. And while it is beyond the scope of this thesis to provide a detailed evaluation of each of these critiques, nonetheless it is worth noting some of the assessments of the reform process.² The assessment that follows is necessarily selective. While some mention is made of those critiques that have focused on the theoretical foundations of the reform process, in the main the focus of this section comprises an evaluation of certain aspects of the institutional configuration that the process has sponsored. To reiterate, the purpose of the ensuing discussion is to illuminate a number of those characteristics of the public sector the operation of which raises pressing questions in the context of the functioning of the new electoral arrangements.

2.1 Theoretical critiques

2.1.1 Agency theory

One of the more cogent critiques concerning the theoretical precepts of agency theory is that proposed by Perrow (1986), which focuses in the main on the absence in such work of an analysis of power. There is, Perrow contends, in most analyses a presumption of contractual symmetry, in which both parties are assumed to enjoy equal freedom and ability to enter into (and/or to leave) a contractual agreement. That particular presumption finds expression, for instance, in the suggestion that a contract between a worker and an employer does not imply an authority relationship, inasmuch as each is equally able to quit the relationship (Alchian and Demsetz, 1972; cited in Perrow, 1986). However, as has been noted, the ability of an employer to dismiss a worker clearly suggests, in the absence of

² That task is conducted in far greater detail in Boston and Holland (1987); Holland and Boston (1990); Boston et al (1991); Kelsey (1993); Roper and Rudd (1993); Sharp (1994); Kelsey (1995); and Boston et al (1996a). For additional critiques of the public choice school, see Dunshire and Hood (1989); Aucoin (1990); Self (1990); Lane (1993); and Self (1993).

any reciprocal power, that the relationship is in practice an asymmetrical one (Putterman, 1984; cited in Perrow, 1986).

In an extension of that example, other commentators (Self, 1993; Boston et al, 1996a) have also pointed out that applications of the theory tend to focus almost exclusively on the propensity of agents to indulge in self-interested behaviour, ignoring the potential for principals to also act in a self-interested fashion. Advocates of agency theory proceed from the assumption that rational egoism and personal utility-maximisation are inherent dispositions that are universally shared; they must therefore apply equally to both agents and principals, *ipso facto* principals must also be capable of self-seeking behaviour. However, mention is only infrequently made in the literature of the extent to which principals are inclined to mistreat and/or exploit the agents who act on their behalf (Boston et al, 1996a). Moreover, the application of the theory to explain interpersonal disappointments or frustrations solely in terms of someone else's self-serving behaviour is essentially reductionist, and fatally ignores the role that structural imperfections, procedural shortcomings and other extraneous factors frequently play in the conduct of social and political life (Perrow, 1986).

Thirdly, the non-discriminating application of agency theory to relationships which are as diverse as those between politicians and voters, and between ministers and CEs, is necessarily problematic (Boston et al, 1996a). While a case can be made for the proposition that politicians should be responsive to the requirements of their constituents, it would be an abrogation of a very significant constitutional convention to suggest that public servants should in every instance act in perfect accordance with the wishes of their minister. Moreover, a purely theoretical conception of the minister as a truly independent principal significantly misrepresents what is in fact a more complex political reality. In the New Zealand context, ministers are members of a Cabinet that sits at the apex of a system of responsible government. As such, appointments to top public sector positions require at least tacit collective Cabinet approval (Self, 1993). In addition, Cabinet ministers are collectively responsible to the wider electorate, and individually responsible to Parliament for the performance of those departments within their portfolio(s); the operation of the doctrines of individual and collective ministerial responsibility places constraints on

the extent to which the relationship between a minister and his or her CE can be conceived as functioning independently of the considerations of other protagonists.

Finally, the application of agency theory to the relationships that apply within and between actors in the political and administrative wings of the executive precludes an analysis of personal motivation in anything other than terms suggested by the rather arid assumptions of rational egoism. Underlying agency theory is the presumption that, in the final analysis, social actors lack the motivation to achieve anything other than their own selfishly defined ends. In the context of a principal/agent relationship, that represents a potential obstacle to the alignment of the interests of both parties, which must accordingly be compensated for by the contractual provision of a mix of (generally remunerative) incentives and sanctions. Concerning the motivations of employees of the State, any analysis which proceeds from such bases cannot logically allow for the existence, much less the significance, of an altruistic sense of public service. Moreover, an exclusive focus on individual protagonists is at odds with an appreciation of the essentially collective, socially cooperative nature of human endeavour; the application of that assumption to the activities of public sector staff can militate against the generation of a shared and productive sense of commitment to a common good.

2.1.2 Managerialism

In large part, commentaries on the extensive influence of the new managerialism in the reform process have focused on the dangers inherent in transplanting the management techniques and practices of the private sector into the public sector in an uncritical fashion. Such dangers emerge primarily from the assertion that the values which have traditionally informed activity within the public sector, and the diverse ends to which public service delivery aspires, are different in important and fundamental ways to those that inhere in the private sector. As Ovenden has expressed it:

The administration of democratic government is not *like* anything else. It is itself. And it has generated, and still demands, its own language, its own procedures, its own constitutional methods, and its own constraints (cited in Martin, 1990: 136).

The OECD's 1990 background paper *Serving the Economy Better: the role of public management* extends the observations made by Ovenden in making the point that:

Structuring decisions around the ideal of a product may damage the emerging service consciousness in the public sector and encourage decision makers to pass costs onto clients. Trying to increase efficiency may reduce cost effectiveness. Managing services is so different from managing manufacturing, that radically different approaches are needed to markets, product development and standardisation, clients, structures and procedures (OECD, 1990: 18).

Assuming this proposition enjoys some merit, Metcalfe and Richards (1990) argue that the assertion that private sector remedies always and in every instance exist for management issues in the public sector is unwarranted. Within the public sector cultural and institutional imperatives exist that differ from those that apply in the private sector; this necessitates the critical evaluation (and not infrequent reformulation) of practices drawn from the latter, in order that they be rendered appropriate for use in the former. The inference to be drawn is that failure to assess the contextual and substantive differences between the two sectors contributes to the mechanistic and non-critical application of inappropriate techniques within the public sector, and substantially militates against the articulation of appropriately creative and innovative practices.

2.1.3 Public choice

Critiques of those aspects of the process of institutional redesign which reflected public choice assumptions tend to focus on what they see as the moral bankruptcy and empirical difficulties inherent in assuming that the sole determinants of individual activity are rational considerations of utility-maximisation. In short, the public choice conception of economic 'man' is frequently and vigorously contested. The essential problem, as Borins (1988) has asserted, is that such analyses are inherently and radically reductionist, marked by a tendency to subsume other postulates for political and bureaucratic activity, especially those derived from psychological accounts (altruism) and political economy accounts (ideology), into the public choice paradigm. As a consequence, the approach fails to take account

of the diverse mix of reasons behind and motivations for the engagement of voters, members of interest groups, public servants and politicians with the political sphere. Moreover, as Self (1990: 19) points out, the 'neoclassical economic man (sic) of public choice is not 'natural man' (sic), but an ideal type actor within a historically specialised and rare institutional framework.' In practical terms, this means that 'consumers do not only want the cheapest possible market goods; they also want safe drugs, wholesome foods, clean air and water, quiet and safe streets, unpolluted beaches, and a beautiful countryside.' Self's statements reflect the difficulties inherent in assuming that people's decisions are always and everywhere predicated on considerations of economic rationalism.³ In addition, they amount to a cogent challenge to the presumption that competitive markets are capable of ensuring that such amenities are provided. In particular, they highlight the difficulty of attempts to assess people's political motivations solely through the prism of rational egoism. Political behaviour is frequently *not* determined by rational considerations of utility maximisation; it is frequently predicated upon notions that are in those terms entirely irrational (but no less significant), and by the subsuming of considerations of individual benefit to group loyalty (whether by reference to ethnicity, gender, long standing political affiliation etc).⁴ As Sharp suggests:

people [regard] themselves not simply as utility-maximising individuals but as irreducibly members of real collective bodies: of families, of trades and profession and of ethnic groups, for instance. They think their interests are not just their own but those of others,

³ Hutton (The Guardian Weekly, 4.2.96: 14) refers to the challenge to economic rationalism constituted by the emerging New Keynesian critique. He cites the work of American economists Professors Akerlof and Mankiw (of MIT and Harvard respectively), whose challenge to the current orthodoxy is based on the notion that it is rational for economic agents *not* to act in a completely rational manner. Rather than proceeding by 'exhaustively gathering every piece of information so that the market bounces back to normal as we realise our mistakes, [Akerlof and Mankiw argue that] most of us proceed by making rough guesses.'

⁴ Research undertaken by Vowles et al (1995) concerning party voting support provides interesting insights in this latter respect. The point is made that, notwithstanding increased evidence of a recent realignment of traditional patterns of party support, nonetheless both major parties 'maintain a solid core of voters for whom voting choice is an habitual act of support for "their party" ' (1995: 39). Such research indicates that political choices, such as the expression of preferences through voting, are not made purely on the basis of economic self-interest. In other words, voting may be 'expressive' rather than 'rational'.

and they will pursue collective interests as much as individual ones (1994: 14).

An additional and related difficulty concerns the extent to which in anything other than a hypothetical world people enjoy access to the information which is required for decisions to be taken in a truly rational way. Fundamental to methodological individualism is the contention that individuals have perfect access to all the information that is required in order to reach a decision that will maximise their individual utility, and the capacity to sift through and evaluate that information. In the real world, such a state of affairs is simply not possible; the costs associated with collecting and processing the data required to assess the merits, demerits, costs and benefits of all possible courses of action are such as to render such an assumption illusory in all but perhaps the most exceptional of circumstances.

Additionally, specific difficulties are inherent in assessments of governmental or political failure that are couched solely in terms of internal allocative inefficiencies. Such criticisms are frequently cited as justification for the restructuring of government departments along the lines of the private firm, and/or the subsequent transfer of government responsibilities into the private sector. The *State Owned Enterprises Act* 1986, for instance, was at least in part predicated on the belief that the most appropriate measures of operational efficiency are those that focus on the efficient use of resources in producing outputs, and that in those terms, traditional bureaucratic structures tend to score poorly. The prescriptions attendant upon those assumptions suggest the corporatisation of trading structures (which in turn allows for the subsequent sale of the duly restructured organisation into the private sector). Such reasoning, however, fails to acknowledge the extent to which public sector structures are an (often effective) organisational response to market failures. Put another way, the argument can be made that market failure is not solely a function of inefficiencies in the internal use of resources; it is also a function of situations in which the production of goods and services fails the test of equity.

Finally (and as an antidote to the risk of theoretical reification), there is some intrinsic merit in acknowledging the qualifications expressed by key

figures in the reform process concerning the process through which theoretical prescription was given practical effect. Graham Scott, for instance, has made the point that the connections between theory, analysis and implementation were not always as neat as has perhaps been portrayed (interview, March 1996). For example, his recollections of the influence of public choice theory in the process of reform included the following comments:

I suppose I found Niskanen's stuff a bit lightweight. That's not a Noble prize-kind of mind. It was a clever piece of work, it was influential, and 'budget maximisation' became one of the words that was used. [But] I think he was more of a second-tier player. Buchanan ... I found him a bit of a disappointment in a way. He really wasn't the intellect that I had hoped for, quite frankly. Some of his ideas just sounded like personal preferences. He was strongly in favour of big government subsidies for education, for example, without being able to justify it very coherently in terms of his own body of thought. Of course we [were] influenced by public choice theory, and of course Buchanan is a major figure in public choice theory, but I can't actually remember us reading much Buchanan. The working articles by top quality thinkers were really having the influence (interview, March 1996).

2.2 Critiques of organisational outcome

Clearly, given their centrality to the reform process, an assessment of the three bodies of knowledge provided above is an appropriate and necessary initial step towards an evaluation of the new model of public management. However, that exercise does not throw sufficient light on those aspects of the newly configured state sector that might warrant particular scrutiny given the advent of MMP. To achieve that end, a more detailed treatment of those critiques that focus on the new institutional arrangements within the public sector is required. In the ensuing discussion, a selection of such assessments is canvassed in three categories: governance by contract, the institutional separation of functions, and the decoupling the political from the administrative.

2.2.1 Governance by contract

A number of the commentaries on New Zealand's recent public sector reforms focus on the various difficulties that can arise out of a reliance on contractualist modes of governance. Setting relationships on a contractual footing has been one of the key features of the reforms, motivated in large part by a desire to increase the transparency of occupational functions, and to bolster the accountability arrangements 'responsible' politicians and 'unelected' officials. Both aims have been achieved to a considerable extent; nonetheless, as a result of that process costs have accrued and certain shortcomings of the contractualist approach have been exposed. In the first instance, the articulation of a relationship between a principal and their agent necessarily entails certain transaction costs, principally those associated with the specification, monitoring and enforcement of the terms of a contract. Total transaction costs incurred by any one individual or organisation are at least in part a function of the quantum of agency relationships entered into; clearly, the net increase in the number of sector-specific agencies (whose functions extend to either policy advice and/or implementation) provides the potential for the greatly increased generation of such costs. In addition, such costs are multiplied in those situations in which an agent has accountabilities to several agents.

There are additional difficulties associated with the current contractarian emphasis in the public service, especially in terms of ensuring the continuity of public administration. The application of the principles of contract applies equally at the level of individual staff, and aggregate departmental performance. The two levels can be considered separately, but are clearly functionally related; the point of convergence lies within the employment contract of the CE, whose personal performance is evaluated in terms of the success with which the departmental outputs for which he or she is personally responsible (and to which the endeavours of individual staff contribute) have been attained.

More specifically, in those core agencies whose functions have primarily to do with implementation, the limited duration of many contracts introduces potential problems (and costs) in terms of ensuring continuity of service delivery and the maintenance of staff morale. For instance, the incentive for public servants to engage in self-regarding behaviour (identified as a

function of the reliance on contracts) has been held partially responsible for a compromising of the public service ethic (Martin, 1994). Whereas the previous unified public sector was arguably characterised by a commitment on the part of officials to certain values associated with public service, assuming the veracity of public choice arguments concerning rational egoism, a public servant on a short term contract will in all likelihood be less committed in that sense. As such, an employee of the State may therefore be inclined to derive personal utility in other ways, such as using his or her position to establish useful connections and opportunities in the private sector (Self, 1993). In a related sense, articulating the expected outcomes of an agent's activity in a manner that allows for precise appraisal can be problematic, especially in those departments whose implementation functions do not easily lend themselves to quantification. In some domains the nature and complexity of outputs and outcomes are not such as to permit the precise quantification of output classes (social welfare comes to mind). In such circumstances, an exclusive focus on measurable performance can lead to a preoccupation with those tasks that can be quantified and measured, at the risk of marginalising those which cannot be similarly articulated.

At an organisational level, notwithstanding that the specification of outputs can theoretically facilitate an assessment of the manner in which a mix of outputs contributes to the attainment of particular outcomes, precisely articulating the causal relationship between outputs and outcomes (or means and ends) is seldom as straightforward. Frequently, 'the logical and empirical evidence connecting one to the other is ... missing' (Chapman, 1995: 16), and as a consequence, difficulties can arise in articulating precisely how a series of organisational outputs contribute (or not) to the attainment of desired outcomes. As Graham Scott has expressed it:

one of the troubles is that we created a problem with this distinction between outputs and outcomes. It was a very instructive conceptual framework at the time which focused us on deliverables. Government organisations should *deliver* something ... [they] are here for a purpose. The output concept has been wonderful from that point of view. [But] the trouble with using this output/outcome distinction is that it forces you to ask questions that often don't have answers in the outcome area. While it forces you to ask just the right

questions in relation to outputs, it forces you to ask questions in ways that often can't be answered regarding outcomes. So you find yourself asking a question which is eventually about how many angels fit on the head of a pin (interview, March 1996).

Nor, in fact, is the attempt to synthesise the two always in evidence. It has been maintained, for instance, that in practice:

ministers are [often] not familiar with the implications of their purchased outputs for the outcomes they seek, and indeed have not articulated their own views about the values and goals they seek to advance, and how policy advisory or operational outputs can help to advance them (Chapman, 1995: 16).

Achieving effective contractual accountability can be problematic in those instances in which multiple accountability relationships apply. Contractually specifying the terms, sanctions and incentives in a straight line agent/principal relationship entails considerably less difficulty and cost than does attaining the same degree of transparency and consistency in a situation in which, for instance, a departmental CE serves more than one minister.⁵ In addition, the articulation of a series of vertical relationships based on a cascade of contractual performance-based employment relationships may contribute to an increase, rather than a decrease, in self-serving bureaucratic behaviour. Put another way, one of the unintended ironies of the reforms may have been the extent to which they have encouraged aspects of the very behaviour that they were designed to eliminate. Arguably, the introduction of new systems of financial management and the specification of departmental outputs has introduced more rigour to public service activities than might have been the case in the past. Nonetheless, to the extent that competition, rather than cooperation, has become the byword in bureaucratic behaviour, there now exists a new and different set of incentives for directing bureaucratic behaviour towards utility-maximisation. It may well be that the bureaucrat's maximand is no longer the departmental budget; instead, that maximand now goes to the sorts of inducements that are a function of 'a cowboy style of management

⁵ As is presently the case with those in Commerce and Foreign Affairs and Trade (Boston et al, 1996a).

that encourages [individuals] to shoot it out with one another in internal competition' (Moss Kanter, cited by Martin, 1994: 60).⁶

Finally, the extensive use of contracts raises issues concerning the appropriate nature and role of the public service. The conventional (Whitehall) model sought to achieve a convergence between the two values of responsiveness to the government of the day and 'neutral competence' (Martin, 1994). This endeavour required that officials function in an objective and neutral manner in the proffering of professional, dispassionate, 'free and frank' advice to ministers. However, the presumption of bureaucratic non-partisanship has been opened up to contestation by the legislative requirement that the relationship between CEs and their political masters be placed on a contractual basis. The theoretical justification for this suggests that the contractual specification of the relationship represents the best means of ensuring that the requirements of the principal (the minister) are met by his or her agent (the senior public servant). However, the practical import of the initiative is to introduce the potential for the overt politicisation of the public service to an extent that would have been anathema under the *ancien regime*. As Self has forcefully contended:

once the bureaucrat is treated as simply the agent of a politician, the opportunity is there for a return to political patronage, nepotism and other forms of corruption which were stopped by the introduction of civil service merit systems (1993: 167).

Expressed in the interrogative, if it is the prerogative of a minister to contractually specify his or her productive requirements of a CE, does that not suggest that the subsequent actions of officials are to some considerably extent a function of those requirements? If so, it would seem that the statutory introduction of the principal/agent model provides an incentive for senior public servants to provide policy advice that is neither frank, free nor impartial, but rather which satisfies the perceived needs of the minister.

⁶ This proposition enjoys resonances with Dunleavy's account of bureau-shaping (cited in Albin, 1992). Dunleavy proposes that the welfare of managers is more closely aligned to the status and character of their agency than it is to the size of their budgets; the bureau-shaping model suggests that managerial utility is thus a function of the success of officials in contracting out implementation functions in an effort to shift their agency as close as possible to an ideal type of a pure control agency.

Of course, it is constitutionally proper that the public service serve the elected government of the day. On the other hand, in so doing it is enjoined to offer the best advice it is able to do so, and there is more than a hint of a suggestion that an official's ability to do so in a non-partisan manner is increasingly constrained by a more or less formal incentive to 'provide what the minister wants' (Martin, 1994: 59). Moreover, as has also been pointed out, 'human nature suggests that the freedom and frankness of advice from someone at the outset of a five-year term may be greater than that from someone who hopes to renew an expiring contract' (Hensley, 1995: 22).

In addition, the promotion of the principal/agent model as best practice in terms of the purchase of policy advice allows for no distinction to be drawn regarding the source of advice sought by government; in effect, it conceives of public providers as indistinct from exogenous sources.⁷ To the extent that this leads on occasion to the marginalisation of advice based on the institutional and personal expertise of senior public servants, it provides for the introduction of other parties' interests into the policy process, and may as such lead to the capture of that process by sources other than the bureaucracy. Put another way, while external advice may well be untainted by the self-interested expressions of bureaucrats, the purchase of such advice can be conducted in terms that simply confirm either the self-interest of the politician and/or that of those from whom the advice has been sought. Assuming the behaviour of the respective protagonists concurs with the ideal proposed by the principal/agent model, the former's interests will be secured; if it deviates substantially from those precepts (and if one accepts the presumption of rational egoism), those of the latter will be served. In neither instance can the process out of which policy is formulated, purchased and subsequently implemented be considered genuinely devoid of partisan considerations.

2.2.2 The institutional separation of functions

Concerns have also been expressed in relation to the outcomes of the institutionalisation of the vertical division of departmental functions. (Not

⁷ The extent to which many departments now source their advice from the private sector is such that 'differentiation between a [departmental] employee and a consultant has on occasion required independent judgement from the Inland Revenue Department' (West, 1994: 26).

least by Graham Scott, the former Secretary to the Treasury, who feels that there were too many small policy organisations created, at least some of which ought to have been combined into larger institutions (interview, March 1996)). In particular, attention has been paid to the ramifications of the organisational separation of the provision of policy advice from the implementation of that advice. Reflecting Treasury's analysis and prescriptions in *Government Management*, that institutional division was born out of a concern with the costs deemed to be associated with bureaucratic capture of policy-making processes. And to a considerable extent, the principal assumption which comprised one of the bases of that concern, which is that bureaucrats are inherently inclined to utility-maximising behaviour, has gone unchallenged.⁸ However, there is a good deal of debate over the extent to which that assumption serves as a sufficient explanation for the sum of the motivations informing bureaucratic activity. In addition, overseas research has suggested that the purported incidence of provider capture is somewhat less than is commonly assumed to be the case (Boston et al, 1996a). Boston et al (1996a) make the important point that provider capture comprises simply one of a number of different forms of capture (other forms of which include ideological, client and regulatory capture). The fact that many of the structural changes introduced have reflected a narrow concern with provider capture represents one of the apparent anomalies of the reforms. Moreover, provider capture in the new environment can no longer be equated solely with bureaucratic capture; as suggested above, the increase in contestability surrounding processes of policy advice has been such as to provide for the possibility of capture by sources external to the public service.

It is important to acknowledge that, at least in principle, there are good reasons to separate out the provision of policy advice from implementation; specifically, such vertical division offers in principle greater scope for community participation, the decentralisation of control and responsibility, and the crafting of services to the specific needs or requirements of various user groups (Boston et al, 1996a). However, it is also the case that this model is not always the most appropriate institutional manner in which to respond to the purported threat of provider capture. The retention of advisory and operational functions within a single sectorally-focused

⁸ The second major assumption was that the aggregate configuration of the machinery of government which predated the reforms delivered sub-optimal outcomes.

organisation is indicated, for instance, in those situations in which policy advice and/or development requires a detailed knowledge of operational issues; where the public interest requires that a service be delivered by a department that is directly accountable to a minister; and/or when there is little scope for contestable provision (Boston et al, 1996a).

In the absence of such criteria, vertical division of advisory and implementation functions may incur many of the costs associated with structural change, but deliver few, if any, of the purported benefits. Assuming the need for the provision of policy advice that is appropriately grounded in a department's operational *raison d'être*, the separation of policy from implementation may in fact interpose a counter-productive distance between the respective staffing groups. In addition, it could well provide operational agencies with considerable leverage over a policy Ministry which is dependent upon that agency for information (Boston et al, 1996a). As significantly, it may be that designing institutional reforms with the express intention of reducing the incidence and impact of internal bureaucratic rent-seeking behaviour may increase the potential for other forms of external operational capture. Assuming a separation of policy advice and implementation functions, for instance, the splitting of purchaser and provider roles could conceivably provide a major external supplier with the opportunity to maximise their market share; subsequently, that provider could exercise considerable leverage over the policy process by virtue of its control over access to (and the nature of) information.

One particular outcome of the process of vertical division merits particular mention. Between the years 1984 and 1995, twenty six new government agencies were created, which were, in the main, small policy Ministries whose focus was either on a particular policy domain (Health, Education, Justice) or population group (Women's Affairs, Pacific Island Affairs, Te Puni Kokiri, Youth Affairs) (Boston et al, 1996a: 76). It may well be the case that the plethora of providers, both public and private, from which government can now source policy advice has increased the extent to which the provision of such advice is contestable. Equally, however, this phenomenon may well have increased the transaction costs associated with inter-sectoral decision making (Boston et al, 1996a). In other words, in ascertaining a preferred course of intervention, considerable financial and

other costs may be incurred by endeavouring to ensure that all potential sources of advice have been approached. (Failure to achieve anything less would indicate that the process is rather less contestable than its proponents believe. True contestability requires a contest between different sources of advice; independent advice sought solely from one external source does not constitute contestable advice.) In addition, and given the preference for contestable service delivery, the growth in the numbers of discrete, population and/or sectorally focused policy Ministries contributes to difficulties in ensuring that a government's response to the advice it procures is, in aggregate, both consistent and coherent. Expressed another way, the existence of a complex matrix of public and private sources of advice and implementation suggests considerable potential for inter-agency confusion and for difficulties in ensuring the co-ordination of policy advice and service delivery. Arguably, the likelihood of achieving that end is reduced in proportion to the number of sources from which advice is obtained and through which implementation is effected.

One of the most significant criticisms directed at the process of vertical division concerns the extent to which it has contributed to the emergence of a preoccupation with the strategic concerns of specific departments to the exclusion of a service-wide sense of common purpose. In that context it has been proposed that, notwithstanding such efficiency gains as may have been secured, the implementation of private sector management practices in a functionally divided public sector has given rise to 'adverse, if unanticipated consequences for the quality of policy-making and service to the public' (Martin, 1994: 45). In part, those problems are a function of the rise of what Martin has termed 'departmentalism' (which is juxtaposed with the greater unity of purpose and degree of inter-departmental co-operation presumed to have characterised the old unified public service). In particular, the devolution to CEs of the employer function and the increased tendency of departments to function in competitive isolation as autonomous commercial entities have created difficulties in terms of policy coordination. Ironically, those difficulties can be attributed at least in part to the creation of an increased number of single purpose agencies through the institutional separation of functions. Moreover, the 'lack of professional relationships across departmental lines', and the perception that 'they [public servants] don't see themselves as colleagues' was identified by one member of the Bolger cabinet in the early 1990s as largely responsible for

difficulties in integrating policy (McLeay, 1995: 105). Elsewhere, McLeay (1995: 101) confirms Martin's observations in her contention that 'in recent years there have been many signs that ... government has not displayed effective programme coherence or achieved coherent policy implementation.' McLeay offers her assessment in the context of a discussion concerning the weakening of the notion of collective Cabinet responsibility, rather than the impact of the reforms *per se*, but clearly the phenomena are not unrelated; any reduction in coherence within Cabinet regarding strategic policy directions lends itself to difficulties with the co-ordination and implementation of policy within and between departments.⁹ (As a partial aside, some have suggested that the problems of policy co-ordination experienced in the public sector are in large part a function not of the shortcomings of managers within departments, but instead of the inability of ministers to define the collective interests of government. In the Summary of the proceedings of the 1991 Senior Management Conference, Aitken (cited in McLeay, 1995: 103) indicated that discussion groups had been critical of the set of expectations that 'ministers can and will produce some sort of coherent, consistent, mutually reinforcing objectives and outcomes, and are competent to do so.')

2.2.3 Decoupling the administrative from the political

The vertical division of functions discussed above has been executed in tandem with a decoupling of another kind. While the former process reflected a preoccupation with the potential for bureaucratic capture of the policy process that also informed the decoupling of the political and administrative roles, the latter was in addition prompted by a concern with the potentially sub-optimal outcomes of political intervention in the administration of government departments.

⁹ McLeay does go on to discuss the contribution to such difficulties made by 'the [destruction] of the idea and practices of a unified public service' (1995: 102). In fact, she refers to comments made by the Prime Minister in an address to senior public sector managers in 1991, in which Mr Bolger calls for the breaking down of:

the "little islands" culture that's developed in the public service since the State Sector and Public Finance Acts made the chief executives solely responsible to their own ministers. Individual agencies cannot operate in splendid isolation from each other. ... Many of our policies require a high degree of integration, collaboration, and cooperation between Ministries and departments to achieve best results (cited in McLeay, 1995: 102).

It has been argued above that the drawing of a clear distinction between management and political responsibility (in other words, a new conceptualisation of the politics/administration dichotomy) lies at the heart of the new public service. Martin (1990), however, has pointed out that in practice, this decoupling of the political from the administrative has rarely accorded perfectly with theoretical intent, and has instead tended to one of two forms. The first, in which departmental CEs aggressively pursue and publicly assert their responsibility for the management of departmental resources, enjoys some congruence with the principle that ministers actively disengage from day to day departmental decision making. The second, in which ministers maintain a much closer involvement with management and political matters, is somewhat different, and in effect represents a return to the pre-1988 situation, in which 'ministers [were] in charge; the bureaucrats [were] in their place' (Martin, 1990: 130). Elsewhere, Martin (1994: 48) demonstrates the extent to which this decoupling of the political from the administrative has resulted in the emergence of a scenario in which 'power and responsibility for the actions of the state is diffused and distanced from ministers'. The essence of this critique is that fundamental notions of responsibility have been considerably compromised by structural reforms that are predicated upon the desire to reduce (or eliminate) ministerial intervention in the administration of government departments. Significant questions concerning the potential for less than democratic political practice inevitably surface, most of which have to do with the proper location of responsibility for departmental goings on. As Martin contends:

when things go wrong, it is first difficult to locate the point where responsibility resides; then there is a large scope for the shifting of that responsibility backwards and forwards between the body which committed the act of commission or omission and the minister (1994: 48).

In a similar vein, McGee (interview, March 1996) has argued that by setting the purchase of policy advice on a contractual footing, the advisory process has been lent a commercial, rather than a strictly constitutional aura that mitigates against the clear identification of the locus of individual ministerial responsibility. In theory, in the new public sector a distinction is drawn between managerial and political responsibility; in practice, that

distinction is less than clear, and the quest for democratic accountability (or at least the publicly held conception of accountability) is not necessarily best served by dogmatic adherence to the nostrum that the person responsible for a commission or omission is he or she whose contractual responsibility that event was. As McGee has pointed out, ultimately, relationships between portfolio ministers and CEs are enforceable on political, rather than purely legal grounds (interview, March 1996).

Consistent with the prescriptions of agency theory, the contractual decoupling of the roles of ministers and CEs asserts that it is the function of the latter to fulfil to the best of his or her abilities the expectations and preferences of the former. To that extent, the current institutional arrangements suggest that it is proper that public servants be required to act in the minister's (and therefore presumably the government's) interests. Somewhat prosaically, John Martin has suggested that the attitude thus embodied is: 'We [the politicians] are the bosses, and you [the public servants] will just do what we tell you' (interview, March 1996). In and of itself (and independent of the functioning of a particular electoral system), this conceptualisation of the appropriate constitutional relationship between the political and administrative wings of the executive is a contestable one. As Heymann (cited in Boston et al, 1996a: 33) points out, it is arguably the case that the bureaucracy has a role to fulfil that extends beyond the unquestioning execution of government policies, one which 'should provide some sort of "check and balance" on the government's actions'. Clearly, it is the case that the constitutional function of an official is the implementation of policy decisions taken by a duly elected government. However, as Martin has pointed out, 'the minister-is-my-client orientation is always true, but not *absolutely* true' (interview, March 1996; emphasis added). That is, what is at issue is the particular manner in which that role is conceived, and the nature of the institutional framework which governs its fulfilment. In this respect, some have argued that the effect of the reformed institutional arrangements has been to (i) render less applicable the canons of anonymity and confidentiality of the past, and (ii) (and contrary to constitutional convention) increasingly encourage officials not only to explain but to justify and defend the policies of the executive (Martin, 1990: 131).

Finally, Hensley (1995) has suggested that it may not be entirely coincidental that the statutory specification of purchasing agreements between departments and ministers, and of the contractualisation of the relationship between minister and CE, has been paralleled by a rapid growth in the size of ministers' offices. The formal separation of political and administrative responsibilities has, in this sense, created a space within the ministerial office which has in many instances been filled by a minister's own policy unit. This phenomenon may have a series of effects. In the first instance, it might increase the extent to which the provision of policy advice is contestable (bearing in mind the caveat that the existence of diverse sources of advice does not *ipso facto* represent contestability; that is a function of an active contest between those sources). In addition, however, it may also lead to the substitution of the original department by the policy unit, and thus move the provision of political advice on policy issues onto a more partisan footing. Hensley makes the point thus:

With the ... department at arms-length and a policy unit in the office, it is not difficult to guess which a minister will prefer. The consequences, for the morale of the department and therefore the quality of advice, are predictable (1995: 23).

3 KEY CHARACTERISTICS OF THE NEW ZEALAND MODEL

In the two chapters which preceded this discussion, several purposes were achieved. In essence, the conceptual underpinnings of the reform process were outlined, and the connections drawn between those foundations, the political process out of which the reforms were generated, and the diverse means through which the changes were codified. Building upon those previous discussions, to date this chapter has presented a selective critique of the bodies of knowledge that informed the reforms, and of certain of the institutional outcomes of those changes. At this juncture, therefore, my intention is to draw that exploratory process to a provisional conclusion by identifying three stanchions of the model conformed to by the core public sector. They are certainly not the only pillars of the new institutional configuration; there are other aspects of the contemporary public sector

environment that might equally have been selected.¹⁰ Nonetheless, the choice of these three has been a deliberate and purposive one, inasmuch as they inform the manner in which the public service functions in particular ways that may well produce certain tensions given the new electoral arrangements. The extent to which that might (or might not) be the case is the topic of the final chapters of this work; here, my aim is simply to identify and succinctly to describe those three important characteristics.

3.1 Decoupling of policy advice from implementation functions

Arguably the most significant feature of the new model is the extent to which there has been an organisational separation of policy from operational functions. Conventionally, the benefits of integrating both advice and implementation (and, frequently, regulatory and funding) functions in one organisation have found expression in an adherence to what has been referred to as the 'sectoral model'; the facilitation of administrative oversight, the minimisation of transaction costs, and the ability of policy advice to quickly and accurately respond to and reflect operational exigencies have been identified as amongst the major advantages of the sectoral model (Boston et al, 1996a).

To a considerable extent, however, a new 'functional model' has been the preferred organisational form adopted through the reform process (Boston et al, 1996a). Characterised by the vertical division of advisory and implementation functions, this specific institutional response has been largely prompted by the potential for provider capture arguably offered by the traditional vertical integration of diverse departmental functions. In particular, the model is designed to prevent operational interests exerting undue influence and control over a department's decision-making processes. To the extent that institutional redesign reduces the putative dangers of provider, specifically bureaucratic, capture, policy advisers are subsequently enabled to explore the merits and demerits of a wider range of possible policy responses. It is therefore assumed that they are able to provide government with policy advice of a higher quality; specifically, advice which is free from the vested interests of a department's operational

¹⁰ See chapter 4 of Boston et al (1996a) for a more detailed exposition of the objectives and administrative doctrines that have informed matters relating to the machinery of government.

arm, and which therefore does not inherently favour public over private provision. In addition, confusion concerning departmental objectives has been cited as a justification for the preference for the organisational separation of functions. Proponents of the functional model contend that this division enables agency objectives to be articulated with greater clarity and precision, which in turn facilitates processes of individual (and aggregate departmental) performance appraisal from the CE down (Treasury, 1987; Scott and Gorringer, 1989; Scott et al, 1990).

In this context, however, it is important to restate the point made by Boston et al (1996a), who argue that it is a mistake to contend that the new institutional framework is perfectly characterised by strict policy/delivery splits. Clearly, there have been diverse responses to that particular imperative. While in some instances there has been a clear organisational separation of advice, regulatory and delivery functions, in others, functions have been retained within a single department. In those latter cases, a degree of internal contestability has been introduced through the creation within departments of distinct business units. In both instances, however, organisational redesign, either within a sectoral organisation or through the creation of new and discrete agencies, has been directed at effecting a functional division.

3.2 Decoupling the roles of politicians and officials

'Decoupling', it has been suggested, has become the emerging orthodoxy of state sector reform (Roberts, 1987; cited by Martin, 1994: 46). In tandem with those processes of vertical division referred to immediately above, the new institutional configuration is also characterised by a demarcation between the responsibilities of politicians and those of officials.

In essence, the decoupling has been motivated by the desire for increased transparency and accountability, and has significantly formalised the respective responsibilities of ministers and their senior officials. In the first instance, the currency of the Niskanen analysis has led to the (re)assertion of the primacy of representative government over bureaucracy. That end has chiefly been achieved through the vertical division of functions, the specification of objectives and associated processes of performance appraisal, and the introduction of contractual agreements between the various

protagonists. This process, described by Scott and Gorringer (1989) as the 'debureaucratisation' of the state sector, has four key features:

- the granting of greater responsibility to departmental heads;
- a relaxation of input controls;
- an emphasis on the specification of outputs; and
- the establishment of information systems to help assess the performance of public servants.

In addition to the desires identified in the discussion above, the enactment of these features was motivated by the search for increases in allocative and productive efficiency, and therefore effectiveness, within the core public sector. In aggregate, they have facilitated the articulation of a particular and distinctive conception of the appropriate role of officials.

As an adjunct to that process, a more circumscribed role has also been attributed to ministers through the provisions of the *State Sector* and *Public Finance* Acts. The recasting of the political role represented an effort to reduce the scope for political interference in the administration and management of government departments, and as such reflected the prescriptions associated with the Virginia school approach to public choice. Technically, that role is limited to the specification of strategic policy directions; politicians have been formally removed from involvement in the management of departments. Furthermore, the presumed temptation to misuse macro-economic policy instruments has been reduced with the enactment of the *Reserve Bank Act* 1989; and the ability of the wider electorate to hold politicians to account (assuming a tendency on the part of those politicians towards fiscal profligacy or immoderation) has been strengthened with the passage of the *Fiscal Responsibility Act* 1994.

3.3 A reconfigured matrix

Driving the changes made to the machinery of government have been the twin fears of ministerial intervention (or interference) and bureaucratic capture. The particular resolution of the conventional tension between politics and administration adopted during the last decade has hinged on (a) the vertical division of functions, and (b) the drawing of a clear statutory distinction between the respective roles of politicians and bureaucrats.

Self (1993) has referred to the resulting public service model as 'polycentric'; that is, through the vertical separation of functions, the devolution of management powers, and the 'disentangling' of political and administrative roles, the reform process has created an internal "administrative market" characterised by more competitive relationships between government agencies. To that could be added the observation that competition is not restricted to that which occurs solely between agencies of the State; the preference for contestability in both policy advice and implementation is such as to extend the boundaries of that competition to include external sources of supply.

One particular conception of that polycentric model proposes a three-tier hierarchy. The incumbent Minister of Finance has suggested that:

there is a "first tier" of core agencies directly responsible to ministers, concerned with policy advice, administrative, regulatory, contracting and control functions. Then there is a "second tier" of Crown-owned agencies which provide goods and services, funded and purchased by the core agencies. Finally, there is a "third tier"; these are private-sector organisations from which the first- and second- tier agencies purchase goods and services ("government by proxy") (Birch, 1991; cited by Martin, 1994: 48).

In many respects the construction of that new matrix has been motivated by a sense on the part of the reformers that the only activities that government should legitimately be involved with are those that cannot more efficiently and effectively be done by the private sector. That normative stance has lain behind both the privatisation of former government agencies, and the growing tendency to engage in 'government by proxy' through the contracting out of statutory responsibilities into the private and voluntary sectors. More importantly, at least from the point of view of the remaining core public sector, it is also revealed in a preference that the remodelling of core agencies along the lines of the private firm. Hence the recent sea-change in the internal culture of government agencies: the introduction of new management systems and practices, the contractual specification of task responsibility, attempts to precisely specify departmental outputs and to co-ordinate individual endeavour towards these, the emphasis on vertical employment relationships, the emergence of 'departmentalism', and so on.

4 CONCLUSION - WHERE ARE WE NOW?

Perhaps the most rigorous profile of the topography of the contemporary public service in New Zealand is that which has been proposed by Boston et al (1996a: 81 - 82). The authors contend that in aggregate, the new matrix reveals a preference for:

- private over public organisations;
- small-scale over large-scale organisations;
- pluriform over uniform administrative structures;
- the vertical division of functions and responsibilities;
- single- rather than multi- purpose organisations;
- non-departmental organisations for policy implementation;
- small scale, focused policy ministries;
- short hierarchies;
- straight-line accountability arrangements; and
- contestable supply sources.

The juxtaposition of this particular series of institutional arrangements with the sorts of legislative and executive configurations expected under MMP suggests a number of domains in which a lack of congruence may become evident in the new political environment. Given the probability that proportional representation will regularly usher in periods of minority single party or coalition government, the issues likely to be of most relevance to the public service in the foreseeable future are those arising out of the manner in which:

- collective ministerial responsibility operates in coalition arrangements (and the nature of the mechanisms that may be required for a majority coalition to operate effectively);
- how the political management of that issue might effect the cohesion of a government, and
- how it may impact on the relations between a government and other parties in the House (State Services Commission, 1995a).

These concerns represent the functional interface between the capacities of the contemporary public service and the operation of proportional representation, and their resolution will have a profound bearing on the manner in which the public service operates under MMP. There appear to be three major areas in which the potential for a lack of congruence between

the institutional arrangements of the public service and the patterns of government likely under the new regime appears most likely to occur. The first has to do with the potential threat that the advent of proportional representation might pose for the non-partisan, political neutrality of the public service. Two specific concerns suggest themselves:

- are existing accountability arrangements between ministers and CEs appropriate for the new political environment?; and more specifically,
- is the exclusivity of the existing contractual relationship between minister and CE commensurate with the diverse functions that will be required of public servants under MMP?

Secondly, some consideration of a series of issues relating to public service-wide co-ordination and integration in the new political environment is warranted. In this respect, the major concern is whether or not:

- the fragmentation of the unified public service will compromise an administration's ability to effectively co-ordinate policy advice and implementation under coalition arrangements?

The final series of considerations is related to policy advice processes broadly speaking, and in particular to the political environment in which such processes are conducted. Two specific issues are of particular interest in this context:

- are policy advice processes less amenable to internal capture than they previously were?
- does the advent of MMP presage a compromising of the contestability of policy advice processes?

Each of these issues (and their constituent sub-issues) comprises a principle around which discussion in the following chapter is organised. Given that the public sector's current institutional form was constructed under the arrangements and relationships of the previous electoral regime, questions related to each of the above can legitimately be raised concerning the extent to which those arrangements in the public service are 'fit for purpose' under MMP. In other words, it may be that the nexus of the institutional make-up of the public sector and the sorts of legislative and executive configurations likely in the future will result in certain tensions or contradictions. Given that this research is being undertaken in advance of

the October 12th 1996 general election, observations made concerning that likelihood must of necessity be speculative. That said, whether or not, and if so the extent to which such a 'lack of fit' may eventuate is the issue to which we now turn.

CHAPTER SEVEN: TENSIONS AND CONTRADICTIONS

1 INTRODUCTION - A REPRISE OF THE ARGUMENT TO DATE

The central question to which this research is directed concerns the extent to which a lack of congruence might exist between the institutional configuration of the contemporary public service and the patterns of executive government most likely to emerge under MMP. Before exploring that issue in greater detail, and in order that the foci of both this and the final chapter of the thesis might be thrown into the sharpest possible relief, a rehearsal of the logic and sequence of the argument presented in the thesis to date is apposite.

To date, the construction of the research hypothesis has entailed the detailing of two distinct processes. In Chapters 1 and 2 the systemic bases of the power of the political executive were delineated, and a case made that the unbridled use of these by successive governments was central to the emergence of a critical mass of public support for electoral law reform.

The central purposes of Chapters 4 and 5 of the thesis were to identify the theoretical underpinnings of core public sector reform, and to outline the political process through which those reforms were implemented. In large part, that endeavour entailed clarifying the assumptions about the motivations of public servants and elected politicians that substantially informed the changes made to the machinery of government in the decade since 1984. Essentially, those assumptions were that the behaviour of both officials and public servants is fundamentally informed by considerations of self interest, to the extent that significant institutional redesign was considered necessary to render the political process less vulnerable to bureaucratic and/or external interest group capture. In the context of this thesis, those theoretical assumptions are significant to the extent that they appear to be, if only superficially, at variance with the public expectation that electoral law reform would engender a greater responsiveness to diverse interests within the public domain on the part of the organs of representative government.

The discussion contained in Chapter 6 was primarily directed at the identification of those central aspects of the core public service the operation of which in the new political environment might provide the most likely points of tension. That aim was sought through the provision of a critique of the theoretical foundations and institutional outcomes of the reform process, and by the articulation of the key features of the model of public management that has emerged out of the reforms.

Having constructed a profile of the twin processes of state sector and electoral law reform, it is now possible to engage in a far more precise assessment of the likelihood (or otherwise) that interaction between the institutional outcomes of both processes will result in a lack of congruence. That is the central task addressed in this chapter, and one which lies at the very heart of the thesis. The discussion is informed in part by a series of theoretical considerations that have emerged out of the preceding chapters, but primarily it reflects the data generated by a sequence of interviews undertaken with key participants as a part of this research endeavour (see Appendix 1).

2 THE PUBLIC SERVICE MEETS ELECTORAL LAW REFORM

Under MMP, the fundamental constitutional role of the public service will remain that of serving the government of the day in a free and frank fashion within the parameters of the law (State Services Commission, 1995a). While the essential functions of the public service may remain constant however, the advent of the new electoral system will herald significant changes in the manner in which those diverse tasks are executed. The point has been made that the area in which there is most likely to be substantive and immediate change is at the interface between politicians and the most senior public servants. While the implementation functions of the state sector, and the institutional arrangements within which these are situated, may not experience such marked change (other than in the event of a significant renegotiation of policy settings), that will not be the case for those officials who have regular and intimate contact with ministers and Parliament (State Services Commission, 1994a). For the purposes of this chapter, therefore, the issues most likely to arise can broadly be subsumed under one or other of the following three headings:

- the potential politicisation of the public service;
- the co-ordination of policy advice processes; and
- the policy environment.

3 A POLITICISED PUBLIC SERVICE?

One of the key structural modifications introduced through the public service reforms of the mid to late 1980s was the decoupling of the roles of politicians and officials. The principal-agent model upon which that prescription was based suggested that the institutional obfuscation of the roles of officials and politicians lent itself to the incidence of bureaucratic capture of policy processes. In practice, therefore, that particular reform entailed the organisational separation of diverse departmental functions and the subsequent contractual clarification of the rights, responsibilities and duties of the respective parties. In part this was also designed to reduce the incidence of ministerial intervention in the management of departments, but primarily it had to do with clarifying bureaucratic accountabilities, and in particular with ensuring that the productive endeavours of state sector managers reflected the requirements of elected politicians.

Concern was initially expressed that the institutionalisation of this decoupling might result in the systematic abrogation of the long standing tradition of a professional and neutral public service. In particular, (a) the involvement of the political executive in the articulation of the parameters of CEs' job specifications, and (b) the statutory right of veto it enjoys over a candidate recommended by the State Services Commissioner have in the past been held up as potential threats to the non-partisan integrity of the senior public service (Martin, interview, March 1996). It was argued by critics that those statutory provisions would enable a minister to ensure that appointees were people with whom they felt some political affinity; given the imperatives of the principal-agent model and the managerial prerogatives of the CE, that in turn would facilitate a process through which a particular political disposition would become part of a department's cultural fabric (Boston et al, 1996a).

In the event, however, there is little evidence that any such departure from traditionally accepted principles has occurred (Boston et al, 1996a; Keith, interview, March 1996; Martin, interview, March 1996).¹ The point has been made by the manager of the SSC's State Sector Development Branch that, irrespective of the preferred institutional framework through which political and bureaucratic relationships are mediated, in New Zealand there has traditionally been both party political and public support for the retention of an apolitical public service (Matheson, interview, March 1996). The benefits that such an arrangement has consistently delivered, especially in terms of the provision of a professional and 'disinterested' service that is capable of ensuring continuity across changes in administration, have long been recognised. Contingent upon the continuation of that support, there seems little likelihood that the non-partisan nature of the public service will be necessarily compromised in the changed environment. On the contrary, some suggest that there is every indication that there is a strong desire amongst those in public life to maintain a politically neutral public service (Martin, interview, March 1996).

3.1 Relationships between ministers and CEs in coalition government

That notwithstanding, in the context of the patterns of executive government most likely to eventuate under MMP, the traditionally non-partisan status of the public service is likely to be subjected, at the very least, to a modicum of pressure. To the extent that they occur, challenges to the political neutrality of the public service are most likely to arise as a consequence of the convergence of the new political environment with the

¹ Arguably the most notable exception to that rule concerned the resignation in October 1994 of the Secretary for Internal Affairs following a dispute with the then minister regarding an appointment made to a senior position in the Department. In so doing, the incumbent became the first CE since the passage of the *State Sector Act* 1988 to resign as a consequence of a conflict with a minister over a personnel matter. One of the inferences that might be drawn from that episode is that political imperatives, if sufficiently strong, will override statutory provisions. As David McGee has succinctly put it, 'the reality of the situation was that what the minister wanted was not to be politically embarrassed by having a certain person appointed to his department, regardless of where the responsibility [for that appointment] lay' (interview, March 1996).

A distinction can be drawn here between the *role* of the CE and the policy advice *processes* that they significantly contribute to. While (with the exception of examples such as that given immediately above) the former does not appear to have been politicised as a result of the reforms, to the extent that CEs are now constrained to offer advice that lies within the explicit purchase requirements of a minister, the advisory process itself has arguably been a casualty of the reforms.

matrix of arrangements that mediate the interface between politics and administration. The relationship between portfolio minister and CE is conceived as one in which the latter, as public servant, is responsible for assisting in the development and implementation of policy decisions taken by elected representatives. Current orthodoxy has it that the contractual articulation of the responsibilities, incentives and sanctions that comprise the relationship represents the most effective means of ensuring that bureaucratic effort is consistent with ministerial expectation. The reforms have thus effected a closer alignment than previously existed between ministerial priorities and administrative endeavour such that 'ministers [exercise] greater leverage over departmental priorities and resource allocation decisions and have heightened expectations of responsive attention by departments to [their] requirements' (State Services Commission, 1995a: 25). At the core of that new alignment lies the vertical relationship of accountability between ministers and CEs; the centre piece of the reform process, attendant upon the probable operation of that nexus in an MMP environment will be several clearly identifiable risks to the non-partisan status of the public service.

In particular, it has been pointed out that a breakdown in Cabinet discipline within a coalition government could draw departments into a political conflict that may well compromise the disinterested status of public officials (Matheson, interview, March 1996). Tensions between prospective partners may emerge as early as the process through which the government is formed, and be manifest in conflicts over who will be Prime Minister, the basis on which (and the persons and parties to whom) portfolios will be allocated, and the nature of the policy programme to be followed by the administration (State Services Commission, 1994b). Quite clearly, the resolution of such difficulties and their subsequent political management will be critical to the articulation of and subsequent adherence to a collectively defined interest on the part of the government's constituent elements.

Such conflict is, however, 'likely to highlight any potential tension which might exist between chief executives serving their ministers ... and the Government as a whole' (Minister of State Services, 1994: 4). Put another way, any disintegration in collective ministerial responsibility will have significant ramifications for the accountability of senior public servants. In

such circumstances, it is not inconceivable that portfolio ministers will exert pressure on their CEs to conduct themselves in a manner that is not commensurate with the government's collective interest. Given the imperatives of the principal-agent model that are attendant upon that relationship, such pressure may prove difficult to resist for, as has been argued, 'the relationship between the minister and the Chief Executive is not one of people entering a contract on an equal footing' (Keith, interview, March 1996). Accordingly, in the event of the fracturing of Cabinet discipline the statutory leverage enjoyed by portfolio ministers over their officials could conceivably exacerbate tensions between dissident ministers and the government as a whole, with attendant consequences for the integrity of the public servants who are an integral part of policy advisory and implementation processes.² As Martin has pointed out, in such a scenario a minister may well fudge the important distinctions between policy, political and partisan advice, and in so doing place senior public servants in a particularly invidious position (interview, March 1996).

The rejoinder to those observations, of course, is that conflict between ministers is not solely a function of coalition government. Under the previous electoral system, tensions not infrequently arose within Cabinet (perhaps most notably between the Prime Minister and the Minister of Finance during the fourth Labour government's second term in office), and as such the possibility has always existed that a minister might instruct officials not to communicate with other departments. For example, reflecting on his experiences when Secretary to the Treasury, Graham Scott has observed that:

Public servants have always experienced occasional pressure from their ministers not to co-operate with other government agencies in the collective interest. When Roger Douglas was preparing to present his flat tax proposal to the Cabinet in the lead up to the December 1987 announcement he said [to me]: 'I don't want you to talk to other government departments about this, because if it gets out prematurely I may lose it.' I said to Roger: 'I can't accept that

² Martin has made the point that in the post-reform environment there is anecdotal evidence to suggest that there have been 'ministers who have made it clear that if things are not done the way they want them to be done, they will make sure that that person's contract is not renewed' (interview, March 1996).

instruction; Treasury staff must talk to the Department of Social Welfare, otherwise we are not giving you well founded advice.' He got quite angry. His phrase was: 'This is about winning, Graham.' I responded by saying that my obligations were to ensure that the numbers were right, and that we had tested the advice on them (interview, March 1996).

Alex Matheson has pointed out that in such circumstances:

the best that the public service can do ... is to pull back on its collective interest procedures, whereby if something is a Cabinet decision, then they have a professional obligation to advise the minister that it must be carried out, regardless of the minister's particular wishes (interview, March 1996).

Matheson's observation illuminates a significant three-way tension between contemporary institutional arrangements, the conceptual foundations upon which they rest and political practice. It is a fundamental tenet of the theoretical prescriptions upon which the current political/administrative interface is modelled that agents ought never be accountable to more than one principal (see Chapters 4 and 6 above for agency theory's imprecations against multiple accountabilities). That imperative is statutorily codified in the provisions of the *State Sector Act* 1988, but is at odds with the political reality that CEs not only owe an allegiance to the Prime Minister and Cabinet (statutory provision for which is also contained in the *State Sector Act* 1988), they are also party to relationships with the three central agencies (the Department of Prime Minister and Cabinet, the Treasury and the State Services Commission), the Audit Office and select committees (Boston et al, 1996a). In short, while the reforms of the political/administrative interface may have been predicated upon a theoretical preference for straight-line accountabilities, in practice that interface is characterised by a series of multiple accountabilities. By implication, therefore, a change as a result of MMP to the role or status of any one of the institutions to which senior public servants are accountable will have attendant consequences for CEs.

Specifically, it may prove the case that the potential difficulties posed for CEs by those several accountabilities will be amplified by the demands of

political management within a coalition government (Matheson, interview, March 1996; Scott, interview, March 1996). While the statutory imperative that officials accord due prominence to the collective interests of the government may provide a partial bulwark against such an eventuality, if there is an absence of agreement within Cabinet on exactly what that might comprise, those provisions will provide scant guidance or protection for a public servant caught in a political crossfire between dissenting factions within Cabinet. For as has been submitted, 'in the end, if you don't have political harmony there is nothing you can do administratively to stop the impacts of that' (Matheson, interview, March 1996). In such circumstances (and notwithstanding the contention that such difficulties would, at least in the first instance, constitute a political rather than a public service issue), the nature of the contemporary alignment between portfolio ministers and their CEs may in fact exacerbate the risks posed to public servants. Arguably, such scenarios may not result in the destruction of the apolitical tradition, but at the very least, they would subject working relationships between ministers and officials to greater pressure than hitherto has been the norm. In that context Matheson has also pointed out that the likelihood of such tensions impacting negatively on the public service would be greater in cases in which parties to coalitions were less than explicit about their positions on diverse policy issues (interview, March 1996). In particular, he suggests that a lack of transparency regarding the motives or agendas of portfolio ministers (and how those dovetailed with the collective interests of the government) would represent a significant threat to the professionalism of the public service.

3.2 Departmental and managerial 'colouration'

It might also prove the case that the vertical link between minister and CE acts to facilitate a process of transmission whereby the imperatives of the minister and the activities of the department achieve an inappropriate degree of symbiosis. Boston et al (1996a), for instance, have made the point that officials are more vulnerable now than was previously the case to an over-identification with a particular minister and/or policy. The phenomenon has also been alluded to by Graham Scott, who has indicated that part of his personal opposition to MMP at the time he was Secretary to the Treasury reflected an assessment of the risk that:

policy organisations would tend to take on the colouration of political factions. There is evidence that this has happened in Scandinavian countries, where it is generally accepted that a particular party inside a coalition will always get to nominate the minister of some [department] or other. As a result, the Ministry that advises the minister tends to take on the colouration of that political party. If MMP does end up producing long, stable coalitions, then we'll start getting the problem that we see in Asia, where the public servants have worked for the same political party for so long that most of them have never had the experience of one morning going in to work for the sworn political opponent of the person they were working for yesterday (interview, March 1996).

In the New Zealand context, the advent of the scenario alluded to by Scott would represent a significant departure from accepted standards of best administrative practice. The risk of this occurring may be especially pronounced if MMP produces relatively stable coalition governments the key members of which do not frequently change. There are diverging opinions, of course, on the issue of the durability of governments under the new electoral system. Boston et al (1996a) have suggested that governments are likely to be less stable than previously, while Keith (interview, March 1996), on the other hand, has proffered the opinion that greater stability of government is likely to be the norm. The post-war experiences of the Federal Republic of Germany demonstrate an additional possibility that in some respects is situated between those two positions. There, the Freie Demokratische Partei (FDP) has traditionally functioned as a minor coalition partner to other larger parties; irrespective of the precise configuration of the government, however, there has existed for some considerable time an alignment between the FDP and the portfolios of Foreign Affairs, Justice, Economics and Education (Shroff, 1994). In other words, even were a government to change reasonably frequently, one party might consistently function as the linchpin around which administrations are formed, and as a consequence may develop 'ownership' of particular ministries or other portfolios.

Given the degree of political and administrative alignment allowed for in the contemporary New Zealand context, that phenomenon might pose particular issues with regard to the construction and maintenance of a co-

ordinated approach to the problems of collective action. Expressed another way, Scott's comments very clearly illuminate one of the potential outcomes of the alignment between ministerial preference and administrative activity that informs the principal-agent model, the statutory implementation of which was a key feature of the public service reforms.³ They also resonate with related observations made by Martin (interview, March 1996), in which he notes the importance of ensuring that an official's conduct does not compromise the acceptability of that public servant to the government-in-waiting. Martin, however, proceeds from the assumption that under MMP there will be more frequent changes of ministers (if not governments) than was the case previously; in his terms, there is likely to be 'a lot more "politics" around the top of government' (interview, March 1996). Given this, it is reasonable to assume that senior public servants will not wish to become too closely associated with a particular minister, as any such over-identification may compromise their acceptability to a future administration. By way of illustration, Martin makes the point anecdotally that to the incoming third Labour government, just such a process of 'colouration' appeared to have occurred to the public service in aggregate (which had, of course, serviced a National government for in excess of a decade). During his first month as Prime Minister, it seems that:

Kirk had promised a Christmas bonus for beneficiaries, and when the Social Welfare Department was told to get on with it, they said: 'But Prime Minister, we can't possibly do that, the computer programmes will not allow it to be done until January or February.' Kirk apparently just blew his stack completely and, to cut a long story short, two things happened. It *was* paid before Christmas, and secondly, Kirk called in all the permanent heads and apparently gave them a tongue-lashing the likes of which they had never had before (interview, March 1996).

In the contemporary context, the ability of a CE to maintain an appropriate degree of detachment may be compromised by the contractual requirements

³ Scott's comments are also to an extent predicated on the assumption that senior officials are likely to maintain a working relationship with a particular portfolio minister over a lengthy period of time. Again, there are differences of opinion on this issue. Boston et al (1996a), for instance, have indicated that recent practice in New Zealand has been to rotate CEs reasonably frequently. The extent to which this continues to be common practice will clearly have an impact on the occurrence of the process of colouration referred to by Scott.

of their relationship with the minister, and more importantly by the manner in which a potential government-in-waiting views those arrangements. It may be in fact that the contractual mediation of the political/administrative relationship has consequences not too dissimilar to those indicated by Scott above, inasmuch as it serves to 'colour' CEs by effecting an alignment between their activities and the preferences of ministers. To the extent that this occurs, senior public servants may appear unattractive to an incoming administration. The risk of that transpiring may be in proportion with the degree to which CEs respond in an uncritical manner to the requirements of their political masters. Put differently, by precluding the provision of advice that lies outside of the articulated purchase requirements of a minister, the imperatives of the principal-agent model may effectively compromise the culture of providing free, frank and fearless advice, with attendant consequences for the perceptions held by governments-in-waiting of the political neutrality of public servants.

3.3 The profile of the public service

An additional and related series of challenges appears probable as a result of the likelihood that public servants will be required to respond to a plurality of demands (for time, information, advice and so on) from a variety of quarters in the new political environment. To the extent that this transpires, public servants will be required to assume a more publicly visible profile than might have been considered appropriate in the past. The primary risk inherent in assuming a more public and less anonymous status, of course, is that officials become 'seen as attuned to particular policies' (Keith, interview, March 1996).

That issue has and will continue to raise important questions concerning the ability of officials to distinguish between explaining the implementation of and justifying a specific policy. While the former is a function that is properly performed by the public service, the latter indicates the adoption of an inappropriately partisan stance. Since the reforms, some commentators have discerned a marked increase in the public profile of senior public officials. For instance, Boston et al (1996a) have commented on the visibility of the Director-General of the Department of Conservation in the advent of the Cave Creek tragedy, while Martin (interview, March 1996) has pointed out that senior officials in the Ministry of Defence were publicly prominent

in their support of the purchase of frigates. It has been suggested that this increased visibility has partly to do with the public nature of the management of a government agency, inasmuch as management decisions in such organisations inevitably attract considerable public attention (Boston et al, 1996a). In this sense, the phenomenon is clearly a function (albeit perhaps an unintended one) of the preferred role of public servants that informed the core state sector reforms. That process was largely directed at reducing the incidence of provider capture by organisationally separating departmental functions. In turn, the resultant clarification of operational objectives facilitated the articulation of a precise management function, the execution of which frequently requires officials to make decisions regarding the allocation of scarce public resources that arouse intense and public scrutiny. As a result, bureaucrats are on occasion required to publicly account for their decisions (and as a partial consequence tend no longer to assume the same degree of anonymity they might once have), and thus more frequently run the risk of blurring in public the line between advocating and explaining a particular policy, with attendant consequences in terms of their professional neutrality (Boston et al, 1996a).

Transcending the fine line between those two may be required even more frequently of public servants in the new political environment. This will reflect the probability (given that the sovereignty of Parliament is effectively reasserted under coalition and/or minority single party government arrangements) that CEs and senior officials will on occasion find themselves pulled in a variety of potentially conflicting directions. It is likely to be the case, for instance, that officials will be subjected to extensive and expanded scrutiny in select committee hearings within which shifting alliances will determine the outcome of deliberations (State Services Commission, 1995a). The imperatives of a select committee apparatus which the government is unlikely to dominate may be such as to more frequently place pressure on officials to justify, rather than simply to explain, a particular policy (Conceivably, in such an environment senior public servants might also seek to *direct* policy). In such circumstances, the potential exists for demands to be made on public servants which are at odds with the contractual (and statutory) accountability owed to their portfolio minister. In this respect, there is every possibility that one of the key features of the reformed public service, the vertical accountability relationship between official and elected representative, may be at odds with the anticipated machinations of MMP. The convergence of the two will amplify the pressures likely to be placed on

the non-partisan status of the public service, and notwithstanding Sir Kenneth Keith's reminder that under MMP a public servant's constitutional duty remains to the elected government of the day rather than to Parliament (interview, March 1996), fine judgement will clearly be required of officials in order that their neutral and professional status be preserved.

3.4 Periods of risk

The discussion to date has focused on the extent to which the contemporary institutional arrangements governing the political/administrative interface possess the capacity to cater for the pressures that are likely to prove attendant upon the advent of proportional representation. Specifically, it has revolved around the possible ramifications for the political neutrality of the public service in the context of PR given the imperatives of the principal-agent model. That analysis has been predicated upon the assumption that the identity and status of the protagonists to that relationship will in general be beyond dispute. It is in the nature of MMP, however, that there will be periods of the electoral cycle during which the status of the principal to whom officials are responsible will be *less* than clear. There are three specific junctures at which the status afforded a minister may be such as to reduce his or her authority to instruct an agent, each of which has been identified by the State Services Commission (1993b; 1995a) as a high risk period in terms of the impartiality of public servants. The periods during which CEs will be required to resolve a tension between convention and ministerial instruction are:

- during an election campaign;
- during periods of caretaker government, and/or
- during the period it takes to form a government subsequent to a general election.

In the first instance, the new political regime will pose particular difficulties for officials during election campaigns, especially as regards requests for access to the advisory capabilities of the public service. For instance, it is established practice for a government to request from officials costings of the policy proposals of opposition parties, but given that all parties will have an eye on post-election negotiations, such requests will need to be treated

sensitively.⁴ The importance of so doing is accentuated by the possibility that the very parties concerning whose policies information is requested might transpire to be those with which officials will have to work in government subsequent to an election. Assuming that all parties campaign on their specific policy platforms, one obvious example of such a situation would be that in which two parties to an existing coalition government independently request costings of each others' policies. Clearly, this would represent a situation in which the manner in which public servants conduct themselves in response to requests for information will have implications for the future development of relationships between ministers and officials that are characterised by trust and respect. However, it is equally clear that in such circumstances the potential exists for a portfolio minister to utilise the leverage he or she enjoys over officials to press for information regarding the activities of another party which might subsequently be inappropriately used for partisan purposes. Second-guessing the intentions of ministers is not the prerogative of public servants, nonetheless such requests could potentially damage the integrity of the public service, and would place officials in the rather invidious position of having either to accede to or refuse to act on the instructions of the person to whom they are contractually and statutorily beholden. While the latter course of action may demonstrably be the more appropriate, the institutional arrangements currently determining officials' responsiveness to ministerial requirements might conceivably render it the more difficult of the two choices to take. In addition, the integrity of departmental officials may be potentially compromised in a *de facto* sense by the conduct of a minister's personal political advisers during a campaign; concerns have been expressed, for example, that such advisers might enjoy access to public service information that might be used in an explicitly partisan fashion (State Services Commission, 1995a).

⁴ While the costing of the policies contained in parties' election manifestos is most frequently associated with Treasury, the State Services Commissioner has made the point that the issue is in fact germane to the public service more broadly (State Services Commission, 1994b). The current guidelines for public servants for dealing with requests from ministers for such costings are contained in 'The Public Service and Government', one of the papers which goes to make up the *Principles, Conventions and Practice* series produced by the SSC in 1995, and have been most recently restated in a letter (dated 17.4.96) from the State Services Commissioner to CEs (State Services Commission, 1996c). The guidelines apply in instances in which ministers intend to use costing information for expressly partisan purposes, and are intended to establish a process for costing party policies that is 'transparent, has integrity and is without political bias' (State Services Commission, 1996c: 3).

With regard to the second risk period, during the brief interregnum following the 1993 election the State Services Commissioner reiterated that during periods of caretaker government the incumbent administration remained the 'legally constituted Executive authority to which public servants owe their loyalty' (State Services Commission, 1993b: 1). Clear constitutional conventions exist stipulating what can and cannot be done by a government during such a period which, if judiciously adhered to by officials, provide guidance on appropriate behaviour.⁵ However, there will be occasions on which protagonists do not agree on the practical application of such conventions; differences of opinion between a minister in a caretaker administration and a CE concerning the probity of a particular instruction issued by the former would represent a case in point (State Services Commission, 1993b). Given the previously mentioned issues concerning the preservation of a collective interest in the event of dissenting ministers, such situations are conceivably more likely to occur under coalition arrangements than might previously have been the case. In such scenarios, not only might officials find themselves drawn into political conflicts which have administrative ramifications, it is probable that, whole-of-government procedures notwithstanding, considerations of accountability would be blurred by the institutional link between portfolio ministers and CEs.

In addition, periods of caretaker government are also likely to throw up issues relating to the involvement of public servants in broader policy issues. The institutional division of functions that was a major feature of the reform process was aimed, at least in part, at reducing the influence of officials in the determination of policy (other than through the provision of advice to the political executive). However, it is arguably the case that lengthy transition periods between administrations will require the public service to display a greater measure of bureaucratic discretion in matters of policy than is currently preferred. A Cabinet Office Circular (19.12.95) confirms that, in the event of a protracted interregnum, consultation on pressing policy issues must be undertaken with other parties represented in the House. While the convention that no major policy initiatives be undertaken without the consent of the incoming government is restated in the Circular, there is a specification that:

⁵ These conventional guidelines were most recently stated in the Cabinet Office circular dated 19 December 1995 (CO (95) 15).

public servants must be ready to advise ministers on whether an issue is able to be dealt with by the department or minister as part of the day to day business of the portfolio, whether the issue may need to be deferred until it is able to be dealt with by the new administration, or whether the issue must be tackled now through a process of consultation ... [in which] officials will be required to support ministers (Cabinet Office, 1995b: 6).

Implicit is an acknowledgment that in such situations, public servants will be required to exercise discretion with regard to the particular status of a given policy issue, and the priority it ought properly be accorded. Inasmuch as there is an increased likelihood that 'the new electoral system will result in longer and more frequent periods of caretaker government' (Cabinet Office, 1995b: 1), the manner in which public servants conduct themselves in such circumstances will assume some significance in relation to their non-partisan status. That will be especially so in light of the probability that interim administrations are going to have an interest (and possibly an active involvement) in the process of forming a government. To that end, the risk for officials is likely to arise should a government in transition 'want to push the boundaries of what such an administration is expected to do in terms of the instructions regarding the conduct of caretaker governments' (McGee, interview, March 1996). Members of a caretaker executive will be constitutionally entitled to the support of the public service; the challenge for officials will be to ensure that their disinterested status is not tainted through the execution of ministerial instructions that lie beyond those conventionally accepted boundaries. Resolving such conundrums as may arise in such circumstances may well be complicated by the fact that, as McGee has pointed out, the guidelines contained in the recent Cabinet Office circular are not binding upon governments, and might conceivably therefore be subject to contestable interpretation by future caretaker administrations (interview, March 1996).

The third juncture at which the neutral standing of officials is most likely to come under pressure is during the process of government formation. As a part of the process out of which a government is formed, requests will inevitably be made of the public service; they may be forthcoming from the prospective partners in the case of a coalition government, or from other parties represented in the House in the case of a minority administration. In

either event, advice provided by officials would be central to ensuring that 'agreements on which a new government may be based are practical and grounded in sound information and advice' (State Services Commission, 1994f: 4). The formation of a government under MMP promises to be an intensely political process, however, and as such those requests will almost inevitably create tensions for public servants. That will be especially so if requests are made for information and/or advice that is clearly of a partisan nature. The provision of a response to such requests may well lead an official to '[step] over the boundary into explicitly political territory' (Minister of State Services, 1994: 7). The risks to public servants may be greatest where an incumbent (caretaker) government comprises one of several parties to coalition negotiations; members of that administration will enjoy privileged access to the capacities of the public service, and some may on occasion exercise that constitutional leverage in a manner which threatens the integrity of those public servants.

4 THE COHERENCY AND CO-ORDINATION OF POLICY PROCESSES

The convergence of the institutional outcomes of state sector and electoral law reform suggest an additional series of potential difficulties that have to do with the co-ordination of the purchase and implementation of policy advice. As has previously been argued, central to the reformation of the core public service was the assertion that the performance of multiple functions within a single agency allowed for the internal capture of policy processes; that assertion was itself predicated upon an analysis that bureaucratic capture resulted in sub-optimal performance. Accordingly, the organisational division of advisory from implementation and other functions represented an attempt to reduce the incidence of internal capture. In effect it was the major means through which a variety of aims was pursued (including clarity regarding departmental objectives and the precise specification of managerial responsibilities), each of which would contribute to an aggregate improvement in the functioning of core public sector agencies.

However, and in conjunction with the tightening of the vertical lines of accountability between members of the political and administrative arms of

the executive, those changes to the machinery of government have contributed to problems in terms of ensuring coherency amongst the packages of advice purchased from diverse sources, and consistency between policy advice and its subsequent implementation (State Services Commission, 1995a: 25). Those issues were amongst the subjects of recommendations contained within the report submitted by the Steering Group on State Sector Reforms (colloquially referred to as the Logan Report, 1991), and subsequently there has been considerable emphasis placed on trying to re-establish certain of the collective elements of policy making (Keith, interview, March 1996).⁶ The central institutional features of the public service landscape remain, however, and the difficulties to which they have contributed may well be exacerbated by the likely machinations of the new political regime. Two in particular have the potential to prove especially problematic: the nature of the relationship between portfolio ministers and CEs, and the functioning of individual departments as atomistic units.

4.1 Principals, agents and policy co-ordination under MMP

In the discussion in Chapter 4 concerning the theoretical antecedents of core state sector reform, the point was made that the explicit contractual articulation of the expectations, responsibilities, sanctions and incentives attendant upon a given political or administrative transaction was conceived as the best means of effecting an alignment between the interests of portfolio ministers and the behaviour of their CEs. The merits and demerits of that contention were subsequently debated in Chapter 6. It is conceivable that this current preference for the contractualisation of the parameters of the political/administrative interface may create difficulties in policy co-ordination in the new political environment.

The extent to which this may transpire will of course be partially a function of the nature of the policy differences that exist between parties; the personalities, preferences and histories of the key protagonists; and the manner in which the convergence of these diverse factors is managed (Keith, interview, March 1996). Undoubtedly, however, such tensions as do

⁶ Commissioned in June 1991, the thrust of the report's recommendations was that 'formal consultative practices between ministers and chief executives, and between government agencies, should be extended and clarified' (McLeay, 1995: 103 - 104).

emerge around issues of co-ordination will be accentuated should the administration be in the hands of anything other than a single party majority government. In the case of coalition government, the point has previously been made that difficulties are likely to be experienced in operationalising the imperatives of collective ministerial responsibility.⁷ To the extent that Cabinet is responsible for providing the strategic direction which holds the public sector together (State Services Commission, 1995a), any reduction in the coherence with which it approaches the management of strategic policy considerations will likely have negative pipe-line effects, both in terms of vertical co-ordination between government agencies and the political executive, and within and between those agencies.

The Minister of State Services has made the point that under MMP Cabinet will continue to provide:

much of the 'glue' that holds government systems together. [But] coalitions may provide tricky situations for a chief executive where there is some conflict between the responsible minister, and the collective interests of government as a whole. For example, the leader of a smaller coalition party might instruct his or her chief executive not to cooperate with other departments (1994: 5).⁸

Such scenarios would create obvious difficulties for the co-ordination of government policy. Put another way, they would challenge Cabinet's ability 'to place constraints and contexts around individual portfolios' (Matheson, interview, March 1996). And notwithstanding that such instructions were not unknown under the previous political regime, the imperatives of

⁷ Similar problems could of course conceivably beset a single party minority government. The risk for such administrations would in all likelihood come not from divisions within Cabinet (although they too could occur), but from the imperatives of requiring the support of other parties represented in the House in order to pass legislation. The government itself may well possess a coherent and clearly articulated strategic programme; that, however, may be compromised by parties who exact as the price to be paid for support on the floor of the House the inclusion of elements of their own policy package in the government's legislative programme. As a result, 'there could be a whole lot of decisions taken which are not part of the strategy; they've emerged from Parliament and they are quite distracting' (Matheson, interview, March 1996).

⁸ The Minister also provided a concrete example of the extent to which conflicts between ministers can hinder the conduct of government. In Denmark, between 1978 - 1979, ministers from one coalition partner were 'shadowed' by a minister from the other; they were unable to take decisions without the agreement of their 'shadow'.

coalition government arguably render such challenges more likely under proportional representation. The need to achieve cohesion amongst ministers from different parties (in order to maintain an administration in government) may on occasion make it more difficult for a Prime Minister to enforce horizontal departmental communication (Martin, interview, March 1996); that may in turn grant dissident ministers greater latitude to instruct their CEs not to cooperate with other government agencies in the collective interest (Scott, interview, March 1996).

In such instances, the extent to which under existing institutional arrangements a minister can contractually prescribe the outputs and outcomes to which a department's productive endeavours are directed may be such as to militate against the effective and coherent co-ordination of policy implementation across the public service. Expressed differently, the internal dynamics of coalition government may prove such as to permit the institutional leverage enjoyed by portfolio ministers to prevail over the collective interest provisions. Sir Kenneth Keith has likened the relationship between portfolio minister and CE to that which inheres between a master and servant (interview, March 1996). That assessment acknowledges that the practical effect of the reassertion of the political over the administrative has been the granting to ministers of considerable discretion over the direction of their departments' productive output (within the context of the constraints represented by the imperatives of Cabinet discipline and the Prime Ministerial veto). As a consequence of that structural feature, any disjuncture between an individual portfolio minister's priorities and those of the government as a whole in a coalition government may well result in some fragmentation in the aggregate coherency of that administration's policy programme. That is, in the absence of a strategic framework within which every minister is locked, the potential that existing arrangements allow for the considerable alignment of ministerial preferences and departmental action within single purpose organisations may actively facilitate the fragmentation of a collective vision and militate against a co-ordinated approach to government. Moreover, should the emergence of divisions within a coalition government signal a tendency for ministers to request advice from their agencies that falls outside of their immediate portfolio area (and encroaches on the domains of other ministers), managing (much less resolving) conflict would become even more fraught (State Services Commission, 1993a).

(The argument might, of course, be made that under FPP policy agreement within a Cabinet comprising members of a single party also reflected a negotiated consensus between occasionally conflicting points of view. Accordingly, such an argument would proceed, the potential for dissident ministerial action (and its attendant problems) was as likely under FPP as it is under MMP. The difficulty with that proposition is that adherence to the principle of collective ministerial responsibility cannot be presumed across several parties to a government; while New Zealand has developed accepted conventions in relation to collective responsibility largely on the basis of the experience of single party majority government, those conventions have yet to be fully tested under coalition conditions.)

Fragmentation within the political executive, and the modification of the government's strategic vision that such tensions might entail, could well incur certain costs. Contingent upon any effort to re-establish the collective interest, wide-ranging contractual renegotiations may be required in order to effect a realignment between a department's activities and the government's preferred policy directions. In addition, any renegotiation of the interface between a government's preferred outcomes and a department's productive capacities is likely to have considerable pipeline effects further down the departmental hierarchy. In particular, that process would in all likelihood incur significant transaction costs of the nature associated with the relitigation of contracts. For instance, the renegotiation of purchase and performance agreements between a portfolio minister and his or her CE will have a marked strategic impact in those instances in which a CE has multiple accountabilities, inasmuch as changes within the context of one principal-agent relationship are likely to call for changes in another. In addition, any such renegotiation would necessitate additional realignments between the cascading sequence of principal-agent models that in aggregate comprise a departmental structure, each of which would incur incremental agency costs.

The risk of incurring co-ordination and other agency costs may be most pronounced during periods of government formation. For instance, should a minister be unseated at an election, his or her portfolio becomes vacant after twenty eight days of that person ceasing to be a member of Parliament.⁹

⁹ Section 6 of the *Constitution Act* 1986.

Notwithstanding that options exist for ensuring a portfolio does not 'drift' in the event of a lengthy interregnum (such as allocating that portfolio on a temporary basis), the centrality of the minister/CE relationship to issues of public administration is such that problems with co-ordination would be greatly exacerbated in such circumstances. And the longer the period of government formation, the greater the (complexity and) likelihood that such issues would emerge. For instance, questions might well arise concerning the status of existing purchase and personal agreements between an out-going minister and the relevant CE. Following the expiration of the twenty eight day period, those agreements would presumably require renegotiation with a new (or a caretaker) minister, with the attendant accrual of the sorts of agency costs alluded to immediately above.

This tension between the collective interests of the government and the prerogatives of individual ministers *vis a vis* the execution of their portfolio responsibilities aptly illustrates a significant tension between constitutional ideal and contemporary political reality that is likely to be illuminated more sharply under proportional representation. The constitutional function of the public service is administratively to support the *government* of the day; in practice, however, the contemporary framework within which that function is conducted largely affords priority to the contractual relationship between *individual* ministers and their most senior managers. Sir Kenneth Keith has expressed the contradiction thus:

the notion that there is just a vertical relationship between the minister and the CE is incompatible with the fact that we have a single government. There have been some Chief Executives who have seen that vertical relationship in the narrow, private sector way. They forget about the fact that they have twenty bosses, not just one. They are working for the whole Cabinet, not just for their own individual minister. They are actually employed by Her Majesty the Queen in right of New Zealand. They are not employed by the Minister of Education. They serve the Queen's ministers, and that means they serve the whole lot. That is their basic employment relationship. It is with the Crown (interview, March 1996).

In the absence of single party government of either type, that tension will in all probability be amplified under MMP. Coalition governments will have

to remain alert to the faultlines that run between their constituent parties. In times of stress, the visibility of those faultlines will be more markedly accentuated by the statutory alignment of individual ministers and CEs, with attendant negative consequences for policy co-ordination. That outcome might best be precluded by the development of an integrated and detailed policy programme to which parties to a coalition commit themselves. At least one commentator, however, has suggested that the need to obtain a negotiated agreement amongst a disparate series of political positions will tend to militate against agreements of that nature. The difficulty, as expressed by the former Secretary to the Treasury, may be that:

unless you get stable coalitions, you may get an existential sort of policy making. Anything that the coalition can agree to, or anything that you can do a deal about is seen as good. The policy justifies itself, not in terms of the fact that it will deliver a more desirable social outcome, but because there was *agreement* about it (Scott, interview, March 1996).

Scott's prognosis suggests that policy making under coalition government might prove on occasion to be rather less than robust; put another way, the cost of accommodating different interests in that process may be some loss of efficiency. In addition, it infers that in the absence of an internally coherent and consistent approach to an aggregate policy programme (which is not, of course, a necessary adjunct of MMP), individual members of the political executive would *de facto* be granted considerable discretion to pursue their particular policy preferences within the broad constraints offered by a vague and ill-defined collective interest. The potential that would represent for a disjointed and unco-ordinated whole-of-government approach to policy is plainly apparent.

4.2 Departmental atomisation

Reflecting the current preference for organisational contours which accord with the prescriptions of the functional model, it is predominantly the case that the employment relationship referred to by Sir Kenneth above is given effect in the context of single purpose agencies.¹⁰ Expressed another way, as a

¹⁰ See section 3.1 of Chapter 6 for a definition of the functional (as opposed to the sectoral) model of institutional form in the public sector.

consequence of the disaggregation of multi-function sectoral departments in response to the perceived costs of internal capture, government organisations are much more likely now than was previously so to function as 'atomistic units' (Boston et al, 1996a).

In addition 'departmentalisation' has been effected by the devolution of the employer function to CEs under the *State Sector Act* 1988. That statutory provision is consistent with the imperatives of managerialism (inasmuch as it hands to CEs responsibility for all decisions regarding human resource management), and with the preference for straight-line accountability relationships that was an additional feature of the reforms (insofar as the Act removed the State Services Commission from the sequence of intra-departmental principal-agent relationships that function from the CE down). However, one of its practical effects has been to foster a sense of identification on the part of employees with an individual department, rather than with the public service *per se* (McGee, interview, March 1996). Clearly, that may have beneficial productivity implications for a specific department. Conversely, in conjunction with the focus of functionally specific agencies it may work against the aggregate ability of the core public sector to effectively manage service-wide issues of collective action.

The trend towards atomisation has contributed to tensions between departments which have on occasion been manifest within Cabinet. Martin, for instance, recalls that:

one of the reasons why things started to come apart in late '80s, apart from all the other things that were going wrong between Douglas and Lange, was the dominance of the Treasury. I think a lot of the rest of the public service felt that they had been cut out of the game and they were being regularly raped by the Treasury, without being asked if they wished to consent or not. I know that some ministers in the Labour government instructed their officials not to talk to the Treasury about certain policy matters that were dear to their hearts. They would deal with them in Cabinet (interview, March 1996).

Such difficulties may become even more acute under proportional representation, particularly if an internally fractured Cabinet is unable to maintain a whole-of-government approach to matters of policy. Given the

effective leverage afforded portfolio ministers over the departments and ministries within their ambit, government agencies could well become proxy sites for the resolution of intra-Cabinet tensions, with an attendant exacerbation of the co-ordination problems associated with the operation of atomised departmental 'fiefdoms'. The service-wide co-ordination of advice and implementation under a coalition government may prove especially troublesome given the existence of a competitive environment in which departments work against each other (or at least in isolation), rather than in a unified and cooperative manner. That is, to the extent that the current institutional preference for contestability may lend itself to self-regarding competitive behaviour between departments, it has the capacity to seriously compromise a government's efforts to design and implement a co-ordinated package of policies. That may prove especially so:

if an MMP government does start to identify particular factions within particular ministries; if it doesn't have a strong strategic thinking capability in the middle; if the Prime Minister and a few key ministers don't create, protect and progress strategic policy. Then there is a real risk that the glue that the [State Services] Commission and others try to ensure is there will be stressed by this possible connection between departments and factions inside the government (Scott, interview, March 1996).

Graham Scott's comments go to the very heart of the conundrum created by the intersection of proportional representation with the political/administration dichotomy that emerged out of the *State Sector Act* 1988 and the institutionalisation of the sectoral model. That is, the matrix comprising (a) exacting vertical accountability relationships between duos of principals and agents on which hinge (b) the operations of single purpose organisations has the potential to function as a highly efficient institutional conductor in the event of any fragmentation of the collective interest at the level of the political executive. In tandem, those two features of the contemporary public service terrain could conceivably translate schisms within Cabinet into a horizontally disjointed approach to the determination of preferred policy outcomes and the subsequent purchase of departmental outputs.

4.3 An alternative assessment

The thrust of the discussion to date is that the merging of straight-line accountability mechanisms and sectorally specific, single function agencies with the potential dynamics of coalition government is likely to promote difficulties in terms of securing a coherent approach to matters of policy. That point having been made, there is certainly support for the view that such outcomes are far from predetermined. As Graham Scott has pointed out, for example:

there is nothing that says that a coalition government can't in principle design a programme, support it and implement it any less than a first-past-the-post government does. Coalitions can do it. They are doing it all over the world (interview, March 1996).

In this context, it is worth reflecting on the likely significance of the recently adopted framework for strategic management given the exigencies of a proportional representation environment. The efficacy of the new framework relies upon the alignment of government Strategic Result Areas (SRAs) and departmental Key Result Areas (KRAs).¹¹ Lying behind its articulation has been the desire to assist an organisation (the government) that in aggregate has 'tightened its vertical accountability lines [to] strengthen its horizontal capacity to co-ordinate' (Scott, interview, March 1996). There is an acknowledgment that (the occasional actions of dissident ministers notwithstanding) the strategic thinking capability of governments has improved in recent years (Matheson, interview, March 1996; Scott, interview, March 1996), and notwithstanding that the initiative is one that has been developed by the incumbent government, there appears little likelihood that any future administration would wish to significantly resile from this disposition. Quite apart from the rigour that it imparts to strategic

¹¹ SRAs 'shape the priorities of the agencies of government', and are articulated through dialogue amongst ministers (State Services Commission, 1996b: 20). Each may have implications for one or a number of agencies, and each global area is broken down into a series of more specific objectives. KRAs constitute departmental targets, the aggregate attainment of which contributes to the successful achievement of SRAs. SRAs for the public sector for the years 1994 - 1997 are (1) maintaining and accelerating economic growth; (2) enterprise and innovation; (3) external linkages; (4) education and training; (5) community security; (6) social assistance; (7) health and disability services; (8) Treaty claims settlement; and (9) protecting and enhancing the environment (State Services Commission, 1996b: 20).

planning processes, it has been suggested that the current framework might prove useful in the negotiation of coalition agreements, in the sense that it articulates a template for administrative endeavour within which compromises between alternative policy packages might be made (Martin, interview, March 1996; Matheson, interview, March 1996). And in the case of a single party minority administration, the framework could serve a useful function as a part of a wider strategy of soliciting the support of other parties in the House for the government's legislative programme.¹² *Prima facie*, therefore, there is an argument to be made that the existing framework is consistent with and may in fact facilitate processes of governance under MMP. (On the other hand, the veracity of that proposition might be contested on the grounds that the new framework is itself a remedy to the problems associated with securing horizontal co-ordination that were attendant upon the post-1984 reforms.)

Moreover, the extent to which any or all of the speculative scenarios above will come to pass will be, at least in part, a function of the personality and abilities of the Prime Minister of a coalition government (Matheson, interview, March 1996). Should there exist an agreement to which the government's constituent parties are (and remain) committed, and should the Prime Minister possess the requisite skills and capacities to manage political differences within Cabinet, a coalition administration may well prove capable of retaining a long term and strategically coherent focus during its time in office. Certainly there is an alternative argument that in the absence of a nexus between a strong and committed Prime Minister and an equally strong Minister of Finance, members of Cabinet are likely to feel less constrained by the need to direct activities within their portfolios to a common vision (Scott, interview, March 1996). However, should that coalition be headed by a strong Prime Minister who 'really wants a strategy, who is adept at putting a coalition together, and who can control his own caucus', those co-ordination difficulties are likely to be substantially less pronounced (Scott, interview, March 1996).

¹² However, the point has also been made that in order that the system operate optimally, a stable political environment (characterised by infrequent changes in both the administration and major policy settings) which enables both portfolio ministers and CEs to develop a working relationship over several years is required (Boston et al, 1996a). Therefore, if the tendency under MMP is for reasonably frequent changes in government, the effectiveness of the new initiative is likely to be reduced.

Nonetheless, the central institutional features of the public service landscape remain, and the co-ordination difficulties to which they have contributed in the recent past may well be exacerbated in the new political regime. In particular, the institutional embodiment of the desire to reduce internal capture in the public service by (a) vertically separating departmental functions and (b) decoupling the roles of politicians and bureaucrats may militate against an internally coherent approach to policy issues under MMP. Under current institutional arrangements the primary political/administrative relationship is between a portfolio minister and his or her CE; that vertical nexus functions in the context of a government machine the organisational contours of which transpose vertical boundaries between its constituent functions. In conjunction with the faultlines inherent in coalition government, the statutory leverage granted to ministers over the determination of the policy boundaries within which CEs of functionally specific agencies are constrained may therefore amplify the challenges inherent in horizontally coordinating policy development and implementation within a system of Cabinet government.

5 THE POLICY ENVIRONMENT

To date, the issues canvassed in this chapter have focused on the manner in which the convergence of electoral law reform and the institutional arrangements characteristic of the core public sector might present challenges to the non-partisan integrity of the public service and the ability of a government to adopt a co-ordinate approach to policy matters. Those concrete issues are of considerable significance, but equally, it is important to acknowledge that attendant upon the advent of MMP is a series of implications for the broader environment in which policy processes are situated.

In Chapter 5 above there was an extended discussion of the influence of the Virginia school variant of public choice in the statutory redefinition of the climate in, and ends to which politicians might direct the use of fiscal and monetary policy levers. Those reforms, while not specifically impacting on the machinery of government, have very significantly modified the nature of the macro-economic policy settings that substantially wrap around the domain in which issues of public management are resolved. The arrival of

MMP might very well presage substantial challenges to the central bulwarks of that context, and it is to a consideration of such matters that this discussion now turns.

5.1 Interest group articulation - pluralist polity or capture by another name?

Of the various issues to which the core public sector reforms were directed, that which enjoyed perhaps the highest priority was the concern that policy processes were prone to internal capture. Treasury's analysis, expressed with erudition in *Government Management*, was that bureaucratic capture was essentially a function of systemic deficiencies in institutional design. On the basis of that analysis, the machinery of government was substantially redesigned, most significantly through the vertical division of functions.¹³ That reform was in large part intended to effect an institutional separation between the generation of advice and its subsequent implementation, such that providers did not enjoy a monopoly on the provision of policy advice. It had also to do with increasing the number of suppliers from which advice might be sourced, again, with the intention of increasing the quality *and* quantity of the policy available to government (Keith, interview, March 1996).

Importantly, however, Matheson (interview March 1996) has made the point that it is an over-simplification of what was a very much more complex political reality to suggest that the public service ever enjoyed a monopoly over the provision of policy advice to government prior to the reforms. Nevertheless, to the extent that policy processes (at least in some domains) are now characterised by a more genuine contest of ideas as a result of changes made to the machinery of government, it might be argued that one of the primary intentions of the reforms has been successfully achieved.¹⁴

¹³ Many of the other major features of the reform process were predicated upon (but not necessarily exclusively determined by) that separation. For example, the preference for single purpose organisations, the specification of departmental objectives, and the subsequent linking of performance appraisal mechanisms with those objectives all stem from the vertical division of departmental functions.

¹⁴ Matheson also points out, however, that this process has not simply been a function of the reforms. In addition, for instance, the provisions of the *Official Information Act 1982* have contributed to the net stock of publicly available information, thus facilitating contests between ideas (interview, March 1996).

However, the very success of that endeavour has introduced a potential contradiction between the aim of reducing the incidence of capture and the sorts of political configurations that are most likely to emerge under MMP. That is, inasmuch as MMP is likely to make a significant contribution to the creation of a political environment that is more 'porous' than before, the new institutional arrangements may in fact *facilitate* processes of capture, albeit of a non-bureaucratic nature. The previous institutional design was purportedly such as to provide incentives for the formation of alliances between interest groups, politicians and bureaucrats which lent themselves to mutually self-serving (and ultimately economically sub-optimal) behaviour. While the new public service arrangements may militate successfully against the incidence of *internal* capture, the significantly greater sanctioning power of the franchise under MMP will, in conjunction with an increase in the number of possible entry points for externally generated policy, arguably render politicians more vulnerable to capture by well-organised and resourced external groups. For as one commentator has speculated, under MMP we may have:

more accessible ministers, we [may] have groups that are very good at lobbying, [and] we are going to have a greater front of possibilities, of certain political influences. That might not necessarily work in the interests of the public as a whole (Matheson, interview, March 1996).

What it may instead do is work in the express interests of those groups who, for reasons to do with levels of skill, expertise and/or resourcing, are best positioned to gain access to and exercise leverage in the new political environment. Much the same analysis informs comments made by Graham Scott, who has noted that 'New Zealand ... was going through a lot of deregulation, and you can see MMP as a deregulation of the political market' (interview, March 1996). Underpinning that metaphor is the assessment that support for MMP was predicated upon a desire to render politicians more responsive to the expressed requirements of voters. The logical evolution of that proposition suggests that to the extent that it is successful in deregulating the political system, proportional representation will create opportunities for external groups to exercise influence commensurate with their position as consumers within the political market place.

Put slightly differently, under MMP there exist clear incentives for parties (and politicians) to maximise their share of the party vote. In fact, given that the process of translating voters' preferences into representation in the legislature is more accurate under PR than was previously the case, those incentives will be arguably greater under MMP than they were under FPP (that is, greater than was proposed in the original Downsian formulation).¹⁵ Thus, given the opportunities for interest group participation that will exist in the emerging political regime, policy processes may prove vulnerable to capture by interest groups able to exercise leverage in a particular policy domain by tailoring together voting support sufficient to have particular legislation carried in the House. Alternatively, such capture may be the result of the purchase by ministers of advice sympathetic to the partisan interests of groups who are able to exert some influence over the shaping of aggregate voter preferences (and therefore whose support it may be in the government's interests to cultivate). Thirdly, it may be a function of the difficulties coalition governments may experience in achieving and maintaining a strategically coherent approach to policy development and implementation. That is, to the extent that:

MMP threatens the prospect of strategic coherence in government policy making, then the question of capture emerges in that perhaps ministers are easier to capture in an MMP situation because there isn't strategic coherence at the middle (Scott, interview, March 1996).

It is fair to suggest, however, that a situation that might comprises one person's interest group capture is likely to represent another's pluralist polity. That is, although the proposition has been put forward that MMP may facilitate the external *capture* of political processes, an alternative evaluation of that process would suggest that it will aid and extend interest group *articulation* within those processes. A possible scenario has been described thus:

¹⁵ Another way of expressing this proposition is to suggest that under the new electoral system parties can no longer afford to direct the bulk of their energies into identifying and courting the mythical 'median voter'. They must now either focus their energies on a specific niche in the political spectrum, and/or endeavour to capture votes across as significant a part of the spectrum as possible. It might be argued, therefore, that the matrix of interests and preferences that characterises the national electorate is more complex than that represented by Downs' spatial theory of voting. In the context of the new environment, Downs' original propositions regarding the spacing of votes across a single normal distribution curve might well require a multi-modal disaggregation.

I think [that] if a lot more information goes out, [then] everybody has the right, the opportunity and the duty to exert as much influence as they can in a democratic society. The trick is to ensure that there is some fairness about it (Matheson, interview, March 1996).

Informing that observation is the sentiment that the active involvement of the public (either as individuals or as part of an organisation) in political decision-making processes is both a legitimate activity and a defining characteristic of a functional democratic polity. And the point has not infrequently been made that a qualitative and quantitative increase in such engagement comprises one of the most prominent expectations attendant upon electoral law reform (Keith, interview, March 1996). As John Martin has expressed it, support for change to a regime that allowed for the systematic marginalisation of certain political viewpoints reflected that fact that:

the elected dictatorship was alive and well in New Zealand ... There was a juggernaut rolling forward that not even Parliament, when it had the opportunity, could slow up [in order] to give the electorate time to think. That led towards electoral law reform. [People] were looking around for something, and thought: 'Well, we had a Royal Commission headed by the great and good, which told us that we could have a better system of both representation and participation through proportional representation. Let's dust it off and push it on (interview, March 1996).

Greater contestability within policy advisory processes will sit quite comfortably with the imperative toward increased public participation that is presumed to be a feature of the new, more responsive political climate. That is, it would assist in the creation of a policy environment in which the expression of the widest possible array of informed positions is both encouraged and effectively facilitated; that in turn ought to contribute to more considered legislative processes than were frequently manifest under the simple plurality system. The public service will in all probability have an integral part to play in the fostering of that environment. That role is likely to revolve around the dissemination of information, and the facilitation of consultation. In the first instance it will be the case that public servants will be required by ministers to have greater contact with

representatives of both other (non-government) parties in the House, and public groups seeking an input into policy deliberations. That is, assuming a government requires voting support from outside of its own party to proceed with its legislative agenda, other parties may well wish to be appraised of the policy analysis provided by the public service as part of their own process of deciding whether or not they wish to support the government on that particular issue. Similarly, and as a function of the need for politicians to more comprehensively gauge public opinion on specific issues, public service expertise may increasingly be offered to interest groups as part of the deliberative process. As a result, under PR (and assuming other than single party majority governments) it is highly likely that the scrutiny to which public service advice will be subjected will increase substantially. In that regard, it might be argued that the quality of the advice provided by the public service (and other sources of supply) will be subject to a process of assessment and evaluation that will itself be more transparent than may previously have been the case.

5.2 Macro-contextual constraints

The argument has been made above that under MMP incentives for parliamentarians may be such as to render the political process particularly vulnerable to capture by external sources. That said, the likelihood of this transpiring will be considerably reduced by the institutional arrangements put in place with the *Reserve Bank Act* 1989 and the *Fiscal Responsibility Act* 1994. If one accepts the public choice critique, these two initiatives comprise important and substantial bulwarks against the negative ramifications of the presumed tendency of elected representatives to indulge in rent-seeking behaviour in response to short term political exigencies. In brief, their effect has been such that it is 'no longer possible for the main parties just to line up around the interests quite so crudely' (Matheson, interview, March 1996). By insulating monetary policy from the influence of politicians and contributing to the construction of a climate of electoral opinion in favour of fiscal rectitude, they have significantly reduced the scope for politicians to engage in self-interested activity either for their own ends, or on behalf of high demand groups.

Advocates of the *Reserve Bank Act* 1989, for instance, would suggest that the legislation provides significant protection against some of the likely

outcomes should a government prove vulnerable to external capture. Thus, as the Governor of the Reserve Bank has indicated, in the event that a government was to respond to externally generated political pressures by running a budget deficit, the provisions of the Act would require the Bank to adjust monetary policy to tighter settings (Brash, interview, 1996). Clearly, under MMP the legislature retains the sovereign right to modify or substantially revisit the legislation. However, assuming single party majority government is increasingly the exception to the rule of coalition government, an executive would need to obtain the support of other parties in the House in order to effect such a change. Currently, there is little support for such a move amongst most political parties; in fact according to McGee the *Reserve Bank Act 1989* is 'treated as the most entrenched piece of legislation that we have got on the statute book' (interview, March 1996). Moreover, future governments pondering the implementation of macro-economic policies likely to result in adverse long term consequences will be chary of the probability that investors will 'vote with their feet, or their money' (Brash, interview, March 1996). In this respect, the legislation 'promotes a very important discipline and a very important bulwark against silly behaviour' (Brash, interview, March 1996), and as such conceivably represents an important antidote to certain of the potential excesses of the new political environment.

Similarly, the reporting provisions of the *Fiscal Responsibility Act 1994* impose a certain discipline with regard to the conduct of fiscal policy that is likely to militate against the incidence of external capture. Scott (interview, March 1996) has argued that the tensions likely to arise within a coalition Cabinet between people with strong personal commitments to particular areas of public policy will have fiscal ramifications; in the absence of a coherent fiscal strategy and a 'counter-weight which says all of that has to fit within a fiscal envelope at the end of the day', those tensions will in all probability result in an expanding fiscal envelope. In terms of that assessment, the current Act will act as the necessary counter-weight. It will provide governments with an incentive to ensure that the fiscal implications of its actions are commensurate with the conception of sound fiscal practice embodied in the legislation, and as such may well ensure that some measure of levity is introduced into the relationships between external interests and the political executive.

On the other hand, while those provisions may very well ensure a measure of levity, a counter argument can certainly be mounted to the contention that the *Reserve Bank Act* 1989 and the *Fiscal Responsibility Act* 1994 were timely and necessary additions to the defensive complex erected in recent times in response to the alleged proclivities of politicians. An alternative evaluation suggests that the effect of those pieces of legislation has been to cede beyond Parliament political sovereignty over key macro-economic policy levers. As has been argued in the case of the former:

[it] attempts to remove a very important policy issue from debate in Parliament by making monetary policy a matter of law, and not a matter of exercising political power. So while it is true that in a legal sense that piece of legislation is not entrenched, politically, it is very entrenched (McGee, interview, March 1996).

As McGee infers, the cession has not been in any sense a constitutional one. Parliament retains its sovereign right to legislate as it sees fit, and the point has frequently been made that, irrespective of the electoral system in place, a government with the support of the legislature can change in any fashion it sees fit the essentials of any particular piece of statute law (Brash, interview, March 1996). However, the degree to which the Reserve Bank is substantially removed from the parliamentary accountability mechanisms that apply to other Crown entities is indicated by its absence from the Schedule of Crown Entities in the *Public Finance Act* 1989, and by the fact that it is not audited by the Auditor General. To that extent, political sovereignty has been ceded through the construction of a statutory pedestal at arms length from the executive and legislative branches of government on which rests a quasi-independent agency responsible for the management of an integral policy domain.

Accordingly it can be argued that the political environment created by the legislation governing the operations of the Reserve Bank and the conduct of fiscal policy is in key respects inconsistent with certain of the public expectations attendant upon MMP. As proposed in preceding chapters, to a not insignificant extent support for the changing of the electoral system reflected a public perception that authority over macro-economic policy had been removed from the political process. Electoral law reform, it seemed, could contribute to the construction of a political environment in which

control over those major policy levers might be regained. However, the new macro-economic framework has (as was intended) created a climate of expectation that will constrain to a considerable degree the ability of a future government to pursue fiscal and/or monetary policy directions that are at variance with the current orthodoxy in those domains. In fact the Governor of the Reserve Bank has ventured the observation that:

if a party had won 45% of the seats in a future Parliament, and a condition of their being part of the government was, for example, making employment growth the principle objective of monetary policy, the financial markets' reaction to that could be quite severe (Brash, interview, March 1996).

Certainly the *Reserve Bank Act* 1989 and the *Fiscal Responsibility Act* 1994 may have increased the transparency and accountability with which government is conducted. On the other hand, they have also contributed to a reduction in the room for manoeuvre available to governments in terms of the conduct of monetary and fiscal policy. That is, there now exist considerations in the determination of macro-economic policy settings that extend beyond purely political concerns and/or the expressed preferences of voters. Most obviously, the threat of an adverse reaction from the markets would serve as a significant disincentive to a future government thinking of significantly revisiting, for instance, the *Reserve Bank Act* 1989. In that respect, the financial markets arguably possess an independent power of sanction which militates against parliamentary efforts at restoring sovereignty over policy. Put another way, in a relatively small and porous economy a government's discretionary movement on matters of macro-economic policy is necessarily constrained by a range of external (and predominantly market) considerations. Dr. Brash has demonstrated the point by suggesting that:

New Zealanders, and indeed others, would react to a perception that the government was behaving in ways which were going to have serious adverse long term consequences. If the government were to say: 'We are going on a substantial spending spree', and [its] own forecasts suggested that that would lead to a rising debt: GDP ratio, or perhaps to a stable ratio but only on unrealistically optimistic growth assumptions, savers both here and abroad are very likely to say:

'Look, we feel quite nervous about this. We think interest rates are more likely to rise; we think the exchange rate is more likely to fall; we think the value of the New Zealand dollar is likely to diminish. Let's get out of here.' You would see not only foreigners withdrawing their investments, but New Zealanders withdrawing their investments (interview, March 1996).

That may be consistent with the analysis that economic decision-making processes should ideally be free from partisan and short term political considerations. Equally, however, it is arguably the case that electoral law reform was supported by a constituency that did not wish those processes to be held entirely hostage to the discipline and imperatives of the free market, and which did wish to reassert some measure of political sovereignty over the exercise of the major levers of macro-economic policy.

5.3 Synthesis?

There is no doubt that the intention of those who sponsored the legislation relating to the conduct of fiscal and monetary policy were primarily concerned with putting in place statutory bulwarks to the perceived or actual proclivities of elected political representatives. And in the case of the *Fiscal Responsibility Act* 1994 at least, those sponsors were wary of the presumed excesses of a parliament formed under proportional representation, and as such evidenced a keen desire to have the requisite legislation in place before the advent of MMP (Scott, interview, March 1996).

Paradoxically, however, the contemporary macro-economic framework may prove consistent in key respects with the expectation that the new electoral system will render processes of governance more transparent, accountable and responsive. The Governor of the Reserve Bank, for instance, has pointed out that:

the bad old days when a government could surreptitiously or covertly tell the central bank to crank up the economy a bit because an election was coming shortly are no longer feasible. Monetary policy has been put on the basis where Parliamentary sovereignty is clearly established, but the government is obliged to be totally transparent,

totally overt, totally public about what its intentions are (interview, March 1996).

In this context, both the *Reserve Bank Act* 1989 and in particular the *Fiscal Responsibility Act* 1994 compel governments to publicly articulate their broad intentions regarding the conduct of macro-economic policy, and to indicate the likely implications of short term policy decisions over the longer term. That goes some considerable way to ensuring that a government's preferred objectives are transparent; as a consequence, for instance, ministers are less able than they previously might have been to conduct their portfolio responsibilities in the absence of the informed knowledge of Cabinet (Matheson, interview, March 1996). It also facilitates the precision with which the public (and opposition parties in the House) can evaluate the likely impact of a government's intentions (and past performance), and as such contributes to an individual's or group's ability to 'ask searching questions of the executive' (Matheson, interview, March 1996) and to engage in political action on issues in which they may have a particular interest. Arguably, therefore, not only do those pieces of legislation provide powerful incentives for governments to engage in 'responsible' decision making, they also ensure that people can make informed evaluations concerning a government's performance on the basis of information that must be made available in the public domain. (Conversely, of course, such legislation may also act as a constraint on sections of the public. Matheson (interview, March 1996) for one has argued that the statutory provision of more (and more accurate) information renders it is much easier for the various participants in a policy debate to evaluate the likely consequences of the adoption by a government of a position espoused by any one of the parties to the issue.)

Importantly, the transmission mechanisms provided for by MMP will enable voters to make more effective use of the information that that statutory framework requires governments to divulge. To this extent, the convergence of the new electoral regime with the more stringent reporting requirements provided for by statute may prove mutually reinforcing. For instance, assuming that the electoral climate of resistance to fiscal profligacy that the *Fiscal Responsibility Act* 1994 is intended to create does in fact eventuate (or currently exists), the new electoral system will enable voters to convey that message to political parties much more effectively. Clear

incentives exist for politicians to heed public opinion on such matters under MMP; assuming a critical mass in favour of fiscal rectitude (and that voters' expressions of preference are accordingly informed), parties whose policies are consistent with fiscal orthodoxy will fare considerably better than those who are considered fiscally profligate. In tandem, therefore, the reporting requirements imposed by statute and the functioning of the new electoral system may prove perfectly consistent with the desire for a more participative political environment that informed public support for electoral law reform.

6 CONCLUSION

The public service goes on and ministers change. The public service is a resource that belongs to the nation, not to the government of the day, which is the temporary steward of that resource (Martin, interview, March 1996).

Both the resource to which John Martin has referred and its stewards are entering a substantially new era in the nation's political history, one in which the vocation of public management will encounter new challenges. The hypothesis to which this research has been directed is that the changed environment is likely to be characterised by a lack of congruence between the anticipated patterns of executive government and key features of the institutional configuration that circumscribes the operations of the core public sector.

As a consequence of the core public sector reforms, there now exists a bureaucracy that is arguably more responsive to the elected government than it was previously; similarly, as a function of the reformation of the electoral system, that government is likely to be rendered more responsive to the requirements of those it is elected to represent. Ironically, therefore, the institutional outcomes of electoral law reform may lead back to the very issue that was addressed through the reforms instigated by the fourth Labour government after 1984. However, whereas the concern at that time was with the negative consequences of the internal capture of the political process, under MMP it may well be that those processes are captured by external agents. To the extent that that proves to be the case, resultant

tensions within Cabinet might well be exacerbated by the vertical faultlines that extend from a portfolio minister down through a departmental hierarchy, and as such are likely to nullify the effectiveness of recent attempts to strengthen the horizontal capabilities of the public service.

Alternatively, an increased responsiveness to the national electorate on the part of the legislature and the political executive ought, if well managed, to result in more considered policy processes. Put another way, the new electoral system should contribute to legislative outcomes that are more representative and durable than has frequently been so previously. Those ends may in turn be facilitated by a matrix of institutional arrangements that (a) ensures a government's macro-economic policy intentions are publicised, and (b) which has effected a closer alignment between departmental outputs and preferred ministerial outcomes than was possible under the *ancien regime*.

There are differing prognoses concerning the extent to which (and which of) those contingencies is most likely to eventuate under MMP. Advocates of an assessment that the current institutional shape of the politics/administration dichotomy would be workable under any electoral system might infer that significant tensions need not necessarily transpire under MMP. Alternatively, future events may throw into sharp relief a considerable disjuncture at the interface of the political and administrative wings of the executive branch of government. That is, while the institutional outcomes of the public service reforms were commensurate with the imperatives of the simple plurality system, the need under MMP to continuously negotiate over directions and priorities may render those institutional arrangements obsolete and result in processual entropy and sub-optimal policy outcomes. Of course, the eventual resolution of the issue will depend on the convergence in the new environment of a series of variables, not the least of which is the wider political context within which the public service and its stewards comprise but two of the significant groups of actors. A consideration of the nature and likely interaction of those variables under proportional representation comprises the subject matter of the final chapter of this thesis.

CHAPTER EIGHT: STABLE DOORS AND BOLTING HORSES

1 INTRODUCTION

This thesis has been directed at testing the proposition that a lack of congruence exists between certain of the institutional arrangements characteristic of the core public sector and the configurations of executive government that are likely to occur under proportional representation.

To that end, its early chapters were devoted to an evaluation of the systemic bases that comprised the power of the political executive, and of the emergence and ultimate success of a movement supportive of electoral law reform that was in considerable part a reaction against the use made of those powers by recent administrations. That analysis having been constructed, the middle chapters detailed the theoretical bases of the process of state sector reform, the manner in which those reforms were codified, and a profile of the model of public management that emerged out of the institutionalisation of the reforms.

The juxtapositioning of the analyses presented in those chapters identified a series of junctures at which tensions might potentially arise in the new political regime, the detailed illumination of which comprised the substance of the penultimate chapter. Having thus completed the bulk of the endeavour, it falls to the final chapter of the thesis to draw some tentative and necessarily speculative conclusions concerning the prognosis for the current mix of institutional arrangements given the advent of the new electoral system. That task will be executed in two sections: the first will comprise a number of observations concerning the points of incongruence canvassed in Chapter 7, and the second, a series of concluding comments regarding the likelihood (or otherwise) of further substantial modifications being made under MMP either to the core machinery of government or to the wider institutional context within which that machinery is situated.

2 CRITICAL JUNCTURES REVISITED

Fundamentally, this thesis has concerned the capacity of the public service to cope with the demands that will arise at the political/administrative interface in a rapidly changing political environment. As a consequence of the statutory de-coupling of the roles of elected politicians and public servants, that interface is now mediated through a series of contractual agreements, the essential purpose of which is to align the activities of officials with the expressed requirements of ministers. Significantly, this codification of the principal-agent model has ramifications for the capacity of the public service to respond to the pressures and challenges contingent upon the advent of proportional representation.

In the first instance, and specifically in the context of a coalition government that is stressed, it will lend itself to the vertical transmission of conflict throughout the public service apparatus. The dynamics of the principal-agent model upon which the relationship between minister and CE is predicated could facilitate a process through which divisions within cabinet are manifested throughout the public service. In short, the politics/administration interface as it is currently structured could well function as a gateway through which tensions within the political executive could pass through to and 'contaminate' the activities of the administrative arm. In such circumstances, government agencies would become the stages on which intra-cabinet divisions would be played out, with attendant consequences for the ability of officials to conduct themselves in a non-partisan and disinterested fashion.

Second (and as a specific example of the exigencies alluded to immediately above), current arrangements allow for a process of 'colouration' to occur, whereby the internal culture and capacities of particular agencies take on the political hue of those agencies' ministers. Expressed in the terminology of public choice, the operationalisation of the principal-agent model at the interface between politics and administration has resulted in the capture of the public service by the political executive. Up to a point it is, of course, entirely proper that officials be accountable and responsive to the preferences of their minister(s), but there are shortcomings associated with that process of political symbiosis that might well be amplified under PR. Specifically, and given the incentives for ministers in a coalition

government to have about them officials (and other advisers) with whom they feel some political affinity, under PR that transmission mechanism could well be utilised to effect an alignment between ministers (as principals) and CEs (as agents) that is more overtly partisan than has previously be considered acceptable. That would clearly compromise the public service's aggregate ability to serve the government of the day in a free, frank and disinterested manner, and may in turn may generate an impetus for a more formally partisan public service. Put differently, should the degree of partisan alignment between elected politicians and officials become pronounced under PR, the traditions of the professional and neutral public service may be dismantled in favour of an expressly partisan administration.

Third (and not withstanding that the protection traditionally afforded officials through the offices of the State Services Commissioner and the collective interest provisions may effectively militate against any future overt politicisation), the imperatives of the principal-agent model may function so as to preclude the provision of advice by the public service that lies beyond the ambit specified by a minister. In this respect, it may well have compromised the ability of the public service to maximise its capacity to provide the most robust and comprehensive advice it is capable of generating. That is, to the extent that the output of advice from within the public service is now a function of a minister's purchase requirements, the reforms have arguably resulted in the politicisation of the public service in a *de facto* sense. In the new environment that circumscribed advisory capacity is unlikely to be commensurate with the expectation that the public service will be capable of and required to respond to a variety of demands from a plurality of sources.

Fourth, the considerable extent to which a minister's preferences constitute the imperatives to which bureaucratic endeavours are directed may generate tensions should circumstances dictate that there are other exigencies to which the public service must be responsive. This issue has less to do with multiple accountabilities (although the tensions associated with CEs' responsibilities to the individual *vis a vis* the collective are likely to be amplified under MMP), and rather more with the likelihood that there will be junctures at which officials primary accountability to their minister (or the government) will have to be measured against the imperatives of

constitutional convention. During periods between administrations, for instance, current arrangements would permit a caretaker government to exercise its prerogatives *vis a vis* access to the public service's capacities to effect considerable leverage during the process of government formation. That may be consistent with the imprecation that a caretaker government constitutes the legally constituted executive to which officials owe a primary duty, but could well on occasion be at odds with the expected standards of conduct articulated in constitutional conventions. And again, the capacity of the public service to accommodate and respond to that tension is likely to be compromised by the imperatives attendant upon the principal-agent model.

The link between ministers and CEs will clearly contribute to issues concerning the non-partisan status of public servants in the future. In addition, and in conjunction with the current preference for single purpose government agencies, it will raise issues in relation to the co-ordination of policy advice. The capacity of the public service to function in a co-ordinated manner will be significantly tested in the event that divisions within the political executive preclude the maintenance of an integrated approach to matters of policy. It is arguably the case that the capacity of the public service to co-ordinate its activities horizontally will be strengthened assuming the retention of the current framework for strategic management. On the other hand, the potential for internal fragmentation within coalition governments over issues of policy is likely to result on occasion in periods of policy entropy, during which a focus on securing a *rapprochement* within the government detracts from consideration of public service-wide co-ordination. In such circumstances, the ability of a dissident minister to shape the productive outputs of predominantly single-purpose agencies could well complicate efforts (on the part of the central agencies and others) to maintain a whole-of-government approach.

3 RESOLVING THE CONTRADICTIONS

There are numerous variables the precise nature and alchemical interaction of which will in the future determine the extent to which the potential disjunctures identified in this research eventuate. Under MMP the party political composition of the legislature will assume an importance in terms of the occurrence and management of those incongruencies that it rarely

enjoyed under FPP. For that reason, the most decisive variable is likely to be the pattern of political preferences expressed by the voting public at an election. The eventual configuration (and the policy packages) of the political executive will much more directly reflect those preferences under the new electoral system, and as such voting patterns will assume fundamental significance to the contours of the political environment within which the public service operates in the future.

Clearly, the calibre of the political leadership provided by the Prime Minister of a future government will be crucial in determining whether or not the potential machinations of MMP will compromise either the neutrality of officials and/or the strategic integrity of a government's policy programme. In terms of the latter, for example, the political management abilities of the Premier will be fundamental in determining whether or not pressures either from within a multi-party Cabinet or from other parties in the House on whose support a government depends will compromise the effectiveness of the current framework for the strategic management of policy issues. As indicated in the previous chapter, that framework has considerable potential to facilitate the formation and operation of governments in the new environment. However, its successful functioning depends upon a relatively stable policy environment, and its efficacy would necessarily be reduced through frequent shifts in policy settings as a consequence of accommodations reached within a fragmented political executive or changing patterns of support on the floor of the House. As such, the political skills of future Prime Ministers will be central to ensuring that the immediate imperatives attendant upon the maintenance of a government do not detract from the capacity of the executive to manage its business in a sound and strategic sense.

Moreover, the political conventions that develop with regard to the scope and specificity of coalition agreements negotiated between parties (and the role that such agreements might subsequently play during an administration's term in office) will have significant ramifications for the strategic framework within which the public service functions. The State Services Commissioner has noted that in overseas jurisdictions characterised by non-single party government coalition agreements function as the 'major tool for governing relationships at the politico-public servant interface' (State Services Commission, 1994h: 1). Should a similar

preference for relatively prescriptive and precise understandings emerge in New Zealand, there would be reduced scope for departure from a common vision. Clearly, a detailed agreement that publicly and formally articulates a government's proposed programme during its term in office that would also act as an incentive for portfolio ministers to refrain from instructing officials in a manner inconsistent with that strategic direction. If, on the other hand, elected representatives demonstrate a taste for coalition agreements which tend to be 'steeped in generalisations designed to paper over divisions' (State Services Commission, 1994h: 1), the latitude provided dissident ministers to depart from the collective interest (and for policy advisers to canvass a wider range of policy options) will be correspondingly greater.

In addition, changes to either the size and/or structure of the political executive attendant upon MMP would have an impact on the nature and functioning of the political/administrative interface. The new electoral system will not necessitate the introduction of such changes, yet the suggestion has been made that during a time of considerable constitutional change it may be opportune to re-evaluate the institutional contours of the political executive (Boston et al, 1996b). For instance, at the time of the formation of the National-United coalition, the Prime Minister alluded to possible changes which would see the size of Cabinet reduced from twenty members to approximately twelve to fourteen ministers (Boston et al, 1996b). Were such changes to eventuate in a future administration, decisions taken concerning the distribution of portfolios may well have a significant impact on the nature of the relationships between portfolio ministers and CEs, and perhaps more importantly, on those between various departments and policy ministries. For example, if important portfolio responsibilities were allocated to ministers outside of Cabinet, the absence of regular representation at the Cabinet table on the part of some departments could presage difficulties for a government in establishing a co-ordinated series of priorities. On the other hand, were all existing portfolio responsibilities (currently slightly in excess of fifty) retained within Cabinet, in the event of an aggregate reduction in the size of the executive, the inevitable increase in ministers' workloads may have a negative impact on the quality of work undertaken (Boston et al, 1996b). Moreover, any attempt at rationalising ministerial responsibilities would likely have institutional implications; specifically, the recombining of responsibilities may well

require parallel revisions to the machinery of government which would clearly be at odds with the contemporary preference for the organisational separation of functions (Boston et al, 1996b).

Those difficulties could well be exacerbated should the political process subsequent to an election return a government in which a significant number of ministers were relatively inexperienced (or first term) members of Parliament. In such a situation, members of the executive who were less than thoroughly versed in the dynamics and politics of power could well find themselves occupying marginalised positions within the ministry, and as a consequence prove less than effectual in fighting their particular portfolio corner. Rather more conspiratorially, an inexperienced minister may also prove vulnerable to the imprecations of experienced public servants. That nexus would grant officials a degree of leverage which is not commensurate with expectations of the role and influence of the public service in matters political, and may in addition exacerbate the difficulties associated with departmental atomisation.

There are, too, implications for the nature of the advice and guidance provided to public servants regarding appropriate conduct in the diverse problematic situations that will arise in the new environment. Considerable work on that front has and continues to be undertaken by the three central agencies (*viz* the recent Cabinet Office circular relating to public service conduct during periods of caretaker government (Cabinet Office, 1995) and the *MMP Newsletter* for CEs published monthly since mid-1994 by the State Services Commission). Much of that work is necessarily speculative, however, and given that 'you don't know that you have constitutional conventions until you are actually exercising them' (McGee, interview, March 1996), some refinement of the conventions governing existing practices and the development of new contingencies to cover new exigencies can be expected in the future. In that context, the extent to which politicians respect both existing and emerging conventions regarding the demands that they might reasonably place on their officials will also have some bearing on the manner in which such conflicts and tensions as do emerge are resolved.

4 MMP AND THE BIG PICTURE

The convergence of these and other factors will clearly have a bearing on the nature of public management in the future. However, it is important to reiterate that the public service's current institutional configuration was legislatively constructed by administrations elected under the former simple plurality system. As a creature of its time, it is predicated upon the political configurations that were characteristically mediated by that electoral system, and as illustrated in this research it is in key respects not altogether commensurate with those that are likely to emerge under MMP. Therefore, to the extent that they contribute to public sector management outcomes that are demonstrably counter-productive and/or at odds with new political realities, any future and substantial resolution of the tensions identified immediately above and in the previous chapter would require legislating for additional structural changes to be made to the machinery of government.

As remarked in previous chapters, alternative theoretical prescriptions do exist for the political/administrative interface and the shape of the machinery of government that might be legislatively substituted for the current mix of arrangements. Whether or not that comes to pass, however, will depend in large part upon the priorities and preferences of the voting public and the parties (or party) in government. For that reason, this thesis concludes with a consideration of the likely nature of the wider political environment in which governments will be operating in the future. In particular, some assessment is required of the probable outcomes of the convergence of broader political-economic constraints with the anticipated workings of the new electoral system. Functioning in tandem, MMP and the statutory and normative contexts within which policy deliberations currently occur will constitute important parameters around the legislative scope afforded future governments. To a not inconsiderable extent, therefore, they will determine whether or not, and if so the extent to which public service arrangements (or those characteristic of any other domain) are significantly revisited in the future.

4.1 Courageous dishonesty revisited

The defining feature of the last decade of structural reform has been the reconfiguration of the institutional frameworks within which both public administration and macro-economic policy are conducted. In terms of the latter, the sentiments that informed the requisite legislative changes reflected to a striking degree the distrust of government that characterises the Virginia school variant of public choice. Perhaps most notably, they have resonated with James Buchanan's imprecation that the most effective means of constraining inherently profligate politicians is the imposition of constitutional bulwarks around the power of the State (Lane, 1993). The flexible nature of this country's constitutional arrangements has afforded considerable scope to recent reformist governments who have, through perfectly legitimate parliamentary processes, put in place partial elements of the style of fiscal constitution advocated by Buchanan.

The irony behind those changes is that those who took it upon themselves to redefine the responsibilities of elected representatives *vis a vis* the conduct of fiscal and monetary policy were the very ones who, according to the public choice critique at least, depended upon an ability to manipulate those levers for the continued maximisation of their individual utility. The doctrine of parliamentary sovereignty dictates, of course, that reforms of such magnitude and nature must of necessity be implemented within the legislative domain; nonetheless, the fundamental assumptions of the public choice critique suggest that there exist few, if any, incentives for elected political representatives to embark on such a course of their own volition, much less in the absence of effective public pressure.¹ Legislative initiatives such as the *Reserve Bank Act* 1989 and the *Fiscal Responsibility Act* 1994 might accordingly be lauded as the actions of principled individuals intent upon wresting from the control of other (more profligate) politicians decision-making responsibilities that are more safely vested in the hands of others. If so, they perhaps indicate an inclination on the part of (at least some) politicians to selflessly deny themselves the fruits of public office that cannot fully be accounted for by cruder variations of the public choice critique concerning the politicians' maximand.

¹ See Goodman (1991) for a discussion on reasons why members of a government might be motivated to pass legislation limiting their immediate control over the levers of macro-economic policy.

Irrespective of the motives of the protagonists concerned, the process of redefining the limits of the national political-economy was characterised by an added irony. In order that the terrain occupied by the State be reduced such that the scope for market driven activities might be increased, political executives were required to utilise their considerable powers in an explicitly proactive fashion. In other words, an ever leaner State apparatus functioning within an increasingly circumscribed domain was secured through the extensive and energetic use of executive power. In the case of state sector reform, for example, the redesigning of the machinery of government depended in the first instance on the insulation in the short run of politicians from the potential constraints represented by the imperatives of particular interest groups (Haggard and Kaufman, 1992; cited in Kelsey, 1995). The successful attainment of that end was, of course, facilitated by the removal from immediate political control of responsibility for the conduct of monetary policy, and subsequently bolstered by the introduction of the diverse reporting requirements attendant upon the *Fiscal Responsibility Act* 1994. That successive Labour and National administrations were spectacularly successful in their respective reformist endeavours, however, was in addition a direct function of the fact that the simple plurality system delivered patterns of legislative representation which provided governments with a buffer between themselves and other legitimate interests, both within and external to the legislative and executive branches of government. For all the dismissive rhetoric concerning the self-maximising behaviour of politicians (and public servants), members of the political executives which sponsored and drove through reforms such as the *Reserve Bank Act* 1989 and the *Fiscal Responsibility Act* 1994 proved themselves more than adept at utilising the extensive powers and expertise available to them to ensure that those reforms were set in place, irrespective of the positions of others.

4.2 Living by the sword

An even greater irony lies in the fact that the branch of government which has so effectively and extensively used its institutional power to redesign the parameters of the national polity has itself been reinvented as a function of a legislative process that it was required, albeit grudgingly, to sponsor. The point has been forcefully made throughout this work that in the years since 1984, political executives have employed the considerable control they

have exercised over the legislative branch to reconfigure both the parameters of the core public service (and the public sector more widely), and its own discretionary control over the various levers of macro-economic policy.

But while governments of recent times have been more than happy to restrict the power of the bureaucrats, and have perhaps reluctantly supported constraining the extent to which they can intervene in matters of macro-economic policy, they have been demonstrably less than enthusiastic about altering that plank of the constitution that more than any other was fundamental to the modern executive's power to legislate with relative impunity. Faced with mounting public pressure to reform the electoral system, the fourth Labour and National administrations engaged in extensive filibustering and political foot-dragging of one kind or another in a vain attempt to see off the momentum for electoral law reform. In the final analysis, however, those efforts came to nought. In fact, the implacable opposition to reform publicly demonstrated by a considerable number of politicians (both within and outside of Cabinet, and across the two major parties) in all likelihood contributed in no small manner to the eventual outcome of the final and binding referendum. Their combined best efforts to the contrary notwithstanding, the vote for constitutional change was carried, and the National government found itself compelled to sponsor reforming legislation which dismantled one of the most effective bulwarks to executive omnipotence.

5 LOCKING IN THE REFORMS

5.1 Legislating under MMP

The argument has not infrequently been made that, however well articulated or otherwise, many of those who supported electoral law reform did so because proportional representation offered a systemic and effective antidote to the unfettered legislative powers that were vested in the hands of the political executive under the simple plurality system (Martin, interview, March 1996; McGee, interview, March 1996). In Sir Kenneth Keith's words, public support for MMP reflected:

a desire for an electoral system that would call people to account rather more, and would ensure greater responsibility in the way they exercised power. It would be one too that would put in place some restraints. The politicians are going to have to gain agreement across a wider sector of the community before they can make the kinds of decisions that they have made in the past; decisions that people didn't like (interview, March 1996).

Put another way, public support for MMP reflected a desire to reclaim political sovereignty by placing constraints on the law-making powers of the political executive operating in a system which permitted majoritarian excesses. It may in fact transpire that the advent of proportional representation *will* signal a reduction in the incidence of decision-making processes of the sort previously possible: by virtue of that fact, however, it is also likely to render attempts at rapid and comprehensive legislative change much more problematic.

In the event of any executive configuration other than a single party majority government, this will reflect the fact that an administration seeking to make any legislative progress will require the support of other parties in the House; that support may be forthcoming by virtue of the functioning of a formal coalition agreement, or it may depend upon the support of other parties not represented at the Cabinet table on an issue-by-issue basis. In either event, a government may experience difficulties in weaving together a majority in the House in support of comprehensive reforms to existing policy settings on the scale of those promoted during the decade of structural reform. Sir Kenneth Keith has illustrated this point by way of reference to patterns of support for the introduction of proportional representation in the United Kingdom:

In England some of the major supporters of proportional representation are people on the right of the Tory party. [In 1992] they were worried that a Kinnock government, elected with only 38% of the vote, would nationalise everything. So they see proportional representation as a conservative force which would make it more difficult to achieve rapid change. I think the chances of changing ... things will be reduced by the fact that there has to be broad agreement

on the changes. I think [proportional representation] can actually lock things in (interview, March 1996).

(Of course, legislative sclerosis need not necessarily be an adjunct of MMP. Having established that substantive legislative change may be more problematic in the new environment, Sir Kenneth Keith has also pointed out that decisions which may *not* be taken by a single party majority government might well be required of a coalition or single party minority administration (interview, March 1996). That is, in the case of the latter two forms of government, leverage may be exercised either by coalition partners or other parties in the House such that a government is forced to adopt a position that a single party majority government would be strong enough to resist.)

5.2 The prognosis for existing policy settings

Sir Kenneth's observations illuminate a further irony as regards those sections of the voting public who supported the move to MMP because of objections to the *substance* of the policy initiatives that have comprised the reforms, in addition to the *style* with which those reforms were instituted, and who thus may assume that the new electoral system will *ipso facto* result in substantive changes to existing policy settings. In this context the Clerk of the House of Representatives has indicated that he does not think that:

there is any chance of [MMP] delivering on the expectations people have of it. I think there are a lot of unreal expectations that have been created about these reforms. And I don't think there is a chance of people feeling satisfied by the MMP system, because there will be policy decisions made by the politicians, however they got into parliament, that will benefit or be seen as advantageous to some sections of society and disadvantageous to others. I think it would be quite unreal to think that people will be satisfied with outcomes because of the MMP electoral system (McGee, interview, March 1996).

In short, in a legislative environment bound by a system of proportional representation, it is going to be substantially more difficult for a future

reformist administration to change existing policy settings than was previously the case. As Alex Matheson has pointed out:

What the literature says about proportional representational systems is that laws are harder to make, and harder to unmake. [Therefore] whatever policy you go into proportional representation with, the likelihood is it will remain relatively stable (interview, March 1996).

As a result, the aggregate policy environment will in all probability be characterised by greater stability and continuity than was frequently so under the previous electoral system, and rather less prone to the 'jerky policy changes that have tended to characterise New Zealand's recent history' (Matheson, interview, March 1996). In addition, the likelihood that substantial structural change will again occur in the future may also be reduced by the personal and institutional accommodations that have already been made with the new matrix of structural arrangements. Haggard and Kaufman (cited in Kelsey, 1995: 70) have observed that the consolidation of a series of reforms entails:

stabilising expectations around a new set of incentives and convincing economic agents that they cannot be reversed at the discretion of individual decision makers. Consolidation is most likely where governments have constructed relatively stable coalitions of political support that encompass major private sector beneficiaries, and have secured at least the acquiescence of the major political forces competing within the political system.

Broadly speaking, what in effect amounts to a cultural consolidation of that nature does appear to have been achieved with regard to the major reforms of the last decade. With regard to the *Reserve Bank Act* 1989, for instance, at the time of completing this research only two of the seven parties represented in the House (the Alliance and NZ First) have signalled an intention to do anything other than incrementally tinker with the Policy Targets Agreement between the Minister of Finance and the Governor of the Reserve Bank. Similarly, there does not appear to be a party political constituency for repealing (as opposed to amending) the *Fiscal Responsibility Act* 1994, and the absence of debate concerning the legislative framework that determines the form of the public sector would suggest that

there exists little likelihood of fundamental change on that front either. Perhaps most significantly, however, under MMP it is highly unlikely that any one decision maker (or coterie thereof) will be able to dominate Cabinet, caucus and the House to the extent that unilateral action can be taken on major initiatives. In short, MMP is unlikely to allow for the future emergence of a Ruth Richardson or a Roger Douglas.

5.3 The public sector reforms

The point has previously been made in this thesis that the dynamics that occur at the political/administrative interface will be altered in the new environment, but substantial changes to the machinery of government *per se* are not necessary adjuncts of proportional representation. The extent to which they may occur will reflect the policy positions of the various parties and the voting preferences expressed at an election, but currently there is little indication that a further substantial round of restructuring is imminent. In the first instance, a substantial body of opinion exists within the public service and the wider polity which suggests that the current framework will permit such accommodations as may need to be made in light of new experience to be successfully effected within existing institutional confines. In addition, the analysis presented to date suggests that the legislative dynamics characteristic of proportional representational systems are such that the physical contours within which the public service operates are likely to endure into the future.

However, MMP will not lock in the existing institutional arrangements and policy settings in any absolute sense, of course, and major modifications will not be impossible to make. Assuming a theoretical preference for institutional arrangements that is substantially different to that which informed the recent reform process, it may well be that some future government does choose to significantly revisit issues regarding the core public sector. The existing mix of arrangements is far from immutable; as has been pointed out, '[while] a particular institutional reform might resolve a long-standing tension, ... in doing so it is just as likely to create or expose a new one' (Boston et al, 1996a: 7). Accordingly, there exist theoretical prescriptions for public management models the implementation of which would significantly amend many of the central features of the current matrix. To state the obvious: Parliament remains

sovereign under MMP, and an executive able to command the confidence of the House on such matters may well resile from the contemporary *status quo*.

Therein, however, is likely to lie a considerable challenge. Securing that majority support will in the future require substantially greater cross-party co-operation and agreement than has previously been a pre-requisite of major legislative change. In the event of either minority single party or coalition government, the absence of a broad constituency for change in the House (and in all probability more publicly too) would simply render such initiatives impossible. The decisive variable, on this or any other issue, will be the political composition of the legislature as mediated through the electoral process. Given that MMP will function more accurately as a means of aggregating individual voting preferences, a public substantially in favour of significant change could well return a legislature prepared and able to legislate accordingly. The reverse, of course, would also hold. Sir Kenneth Keith has observed that 'we have had such upheaval and change in the systems of government that it is now a matter of people bringing it together and starting to make it work better' (interview, March 1996); should there exist little appetite in the wider electorate for further significant structural readjustment, an informed voting public versed in the nuances of proportional representation will ensure that its preferences are reflected in appropriately composed legislative and executive branches of government.

5.4 The irony of a more considered policy process

The argument has been made that under proportional representation it will be more difficult to instigate major legislative change than it was under an electoral system that systematically delivered single party majority governments. As a consequence, the existing matrix of policy settings is likely to prove rather durable. Depending on particular assessments as to the desirability of that matrix, that likelihood may or may not be considered positive. Certainly there are communities of interest (paradoxically amongst which may well be numbered some who originally expressed vehement opposition to the introduction of proportional representation) which have expressed some satisfaction with the fact that the new electoral system

appears likely to lock in the major reforms to a certain extent. One such group, for instance, has indicated that it believes:

that the economic fundamentals [in New Zealand] are solid, and that both major traditional parties seem to be committed to the existing parameters of policy. Minor changes are not seen as threats to the policies already in place. Because it will be more difficult in the future to create parliamentary majorities, it will also be increasingly hard to overturn reforms already in place. ... The political forces both in power now, and in the future, will probably not want to reverse the *virtuous cycle* presently in place' (Moody's, cited in Kelsey, 1995: 7; emphasis added).

On the other hand, of course, MMP will also make the implementation of radical change more difficult where and when change of that nature may be sought. Moody's express considerable satisfaction at the probability that the 'virtuous cycle' will not be substantially modified in the foreseeable future; the inference behind that observation is that MMP will render undesirable changes (by implication, those that represent an interference with the *status quo*) unlikely. By the same token, however, should circumstantial change dictate that some reappraisal of the fundamental bases of macro-economic policy is required, the stability and continuity provided for under MMP may well be redefined by commentators such as Moody's as counter-productive.

That notwithstanding, as indicated in Chapters 2 and 3, however articulate public understandings of the nuances of MMP may have been, the possibility of a less frantic and more deliberative political process is precisely what lay behind the eventual success of the movement for electoral law reform. As David McGee has graphically expressed the problem associated with the simple plurality system:

There was never any doubt about [legislative] outcomes. There might have been doubt about the final form of [those] outcomes as a result of public participation through the select committee system, but there wasn't any doubt that governments could get their legislation through. They just had to sit in the House long enough, and they had to put up with the inconvenience of a few nights of urgency, and they would succeed (interview, March 1996).

The probability that that will change in the future is predicated upon the assessment that (depending upon voting patterns) MMP will not mediate the emergence of Cabinets drawn from a single party, and who are able to set themselves on 'taking the hard decisions in the best interests of the country'. Rather, under the new regime the onus will be much more clearly on those proposing change to convince the wider electorate of the need for that change. As John Martin has concisely put it:

It's not good enough, for instance, for [politicians] simply to say: 'These things are necessary to remain internationally competitive.' They have got to demonstrate that, and they have got to demonstrate it through the political process (interview, March 1996).

6 MMP: THE ULTIMATE PUBLIC CHOICE STRATEGY?

Therefore, the new mixed member proportional electoral system can be conceived in essence as a means through which limits are placed around the discretionary activities of elected political representatives. Put differently, just as much of what constituted public sector reform was predicated on a desire to constrain the administrative arm of the executive, electoral law reform was the outcome of a public desire to similarly constrain the unfettered power of the political executive. There is one obvious and crucial difference between the two processes, of course: while the former was instigated by a political executive that was not required to have recourse to public opinion on the merits or otherwise of its reform programme, the latter reformist initiative *did* enjoy a considerable degree of public support, and was a partial reflection of both the style and substance of recent governance processes. John Martin has colourfully conveyed the sorts of sentiments that lay behind that popular support in suggesting that those who supported electoral law reform did so in large part because:

we didn't actually want the smack of firm government. We had seen the smack of firm government; now we wanted to swing back to a more orderly system where the politicians could not so easily make radical change. We wanted to slow down (interview, March 1996).

Paradoxically, those who had institutionalised highly effective means of constraining the opportunistic proclivities of others through the process of state sector reform are now likely to find their own scope for discretionary movement constrained by the imperatives of proportional representation. In that respect, it might be argued that the dual processes of state sector and electoral law reform enjoy a shared intellectual lineage, insofar as the statutory codification of both reduces the opportunities for discretionary behaviour available to members of the political and administrative arms of the executive branch of government.

Self (1990) makes the point that one of the normative prescriptions of the public choice approach requires the erection of effective means of transmitting individual preferences within the political system (paralleling the information transmission mechanisms ostensibly characteristic of a perfectly functioning free market system). If 'effective' is defined as the accurate translation of voting preferences into legislative representation, there is considerable congruence between that normative prescription and the anticipated outcomes of the machinations of MMP. In this sense, and inasmuch as they had essentially to do with a desire to limit the ability of governments to act in an unfettered manner (McGee, interview, March 1996), the public sentiments that informed the choice of New Zealand's new electoral system can justifiably be described as public choice in nature. MMP can thus be conceived as an institutional embodiment of the prescriptions attendant upon the Virginia school approach to public choice. Certainly, many peoples' understandings of the likely functioning of MMP may have been less than comprehensive at the time the final and binding referendum was conducted. In fact, it seems reasonable to concur with the Clerk of the House, who has suggested that:

most people weren't really *au fait* with the issues. I don't believe for a moment that the interest in electoral reform stemmed from a deep knowledge of constitutional structures, and was one which resulted in a large mass of people taking a rational decision to reject one form of electoral system in favour of another one. I don't believe that for a second (McGee, interview, March 1996).

Nonetheless, electoral law reform does represent a constitutional modification which will embed incentives that are (a) likely to reduce the

incidence of opportunistic behaviour on the part of politicians, and (b) to render the legislative and executive branches of government more responsive to the expressed requirements of the national electorate. To utilise the central construct of transaction cost analysis, as the linchpin of the matrix of institutional arrangements through which the principal-agent relationship between the citizenry and its elected representatives is mediated, MMP is likely to ensure a far closer alignment between the preferences of the former and the actions of the latter than did its predecessor.

7 CONCLUSION

David McGee has observed that:

Ten years [ago] there wasn't really a country in the world that was as unstructured in its constitutional arrangements as New Zealand. No written constitution; no Bill of Rights; a unicameral parliament; and a first-past-the-post electoral system. [There was almost] a complete absence of checks and balances in the constitutional area (interview, March 1996).

That observation describes a constitutional arena that has markedly altered in the period since 1984. The last decade in New Zealand has been one in which profoundly comprehensive and wide-ranging constitutional change has taken place. Of all of the diverse processes of re-creation that have left their marks upon different domains of the national political economy, three have been of particular significance for the purposes of this work.

Firstly, the statutory reinvention of the public sector has thoroughly re-worked the institutional framework within which the core functions of the administrative arm of government take place. In aggregate those changes have contributed positively to the formation of a more responsive and accountable public service; there have also been tradeoffs, particularly as regards the traditionally anonymity of public servants and the ability of a government to co-ordinate horizontally the diverse functions of its bureaucracy.

Secondly, the institutional arrangements which bind the conduct of monetary and fiscal policy have been substantially reworked. In both domains the actions and intentions of the political executive have become significantly more transparent; arguably, that tangible benefit has accrued at the cost of political sovereignty over the control of the most important levers of macro-economic policy.

Perhaps most importantly, the simple plurality electoral system has been replaced by proportional representation. That either of the two reform processes referred to above occurred at all in large part reflected the fact that under FPP, Parliament was effectively held hostage to the political executive. That the legislature was able to do little more than formally ratify the initiatives of reformist governments made a practical mockery of the constitutional notion that Parliament is sovereign: the systemic distortions of the simple plurality system were such that political sovereignty was in fact ceded to the executive. Electoral law reform was in part prompted by the desire to restrain the political executive by removing from it the institutional means through which a raft of reforms had been rapidly instituted. On the basis of voting patterns over recent decades, it is anticipated that MMP will rectify that imbalance and restore to the relationship between the legislative and executive arms of government a balance that more closely approximates the constitutional ideal.

The convergence of those three processes, however, has thrown up a number of potentially significant tensions the aggregate effect of which may be to frustrate the expectations of the protagonists of electoral law reform. In particular, there exists a degree of incongruity between the anticipated machinations of non-single party majority government and key planks of the structural framework within which the public service functions.

Conceivably, reforms of the scope and scale implemented in the public sector since 1984 would have been much more difficult to achieve under MMP (Boston et al, 1996a); the fact that they are now in place means, however, that they are likely to endure in the immediate future. That is also likely to be the case with those legislative initiatives that comprise the contours of the wider political-economy. Paradoxically, therefore, the fact that the new electoral system will render government more accountable to the people on whose behalf it acts will likely ensure that the tensions and

contradictions referred to throughout this thesis will be locked in for the foreseeable future. The stable door may have been locked, but the echo of bolting horses will resonate for some time to come.

APPENDIX ONE:

METHODOLOGICAL STRATEGY AND ANALYTICAL TECHNIQUES

1 METHODOLOGY

The research method adopted for the field work component of this research was the long interview. A semi-structured, qualitative method of social research which facilitates the exploration of specified areas while allowing for the emergence of unanticipated issues, the key characteristics of the long interview can be summarised as follows:

- a it is an act of verbal communication for the purpose of eliciting information (Black & Champion, 1976), in which
- b the topics to be covered are loosely specified in advance (Patton, 1987) and in which
- c the interviewer decides both the sequence and the specific wording of the questions used in the interview (Patton, 1987).

The approach was chosen as an appropriate method for ascertaining information held by key interviewees and allowing those persons to advance assessments of the likely impact of the MMP electoral system on the operation of the New Zealand public service. In particular, it was selected as an effective means of accessing relevant data concerning the recent and contemporary context of New Zealand public policy (a) that I had had no direct experience of, and (b) much of which was not readily accessible through other sources. All of those interviewed have made significant contributions to one or other (and in some instances both) of the two broad areas of endeavour that comprise the domain of this research (public service and electoral law reform), and as such it was imperative that as the researcher I utilise an approach that afforded insights and information not readily available elsewhere. At the time I commenced the research (in November 1995) there was a relative dearth of published information specifically related to the likely impact of a new electoral system on the operations of the New Zealand public service (with the notable exception of the State Services Commission's monthly newsletters for public service CEs and its 1995 publication *Working Under Proportional Representation: A Reference for the Public Sector*). However, since I began the process of data collection and analysis the body of relevant literature has increased

substantially, the most recent example of which is the 1996 publication by Boston et al, *New Zealand Under MMP: A New Politics?* (Auckland, Auckland University Press/Bridget Williams Books)

Given the lack of certainty regarding the likely impact of MMP on the public service, my research was of necessity speculative. As such I sought in my interviews to extract from participants a sense of their personal involvement in and engagement with what were (and remain) particularly political phenomena (in the sense that they had to do with processes and institutions that partially comprised the national polity). Accordingly, the data I pursued was of an essentially qualitative nature, and not at all the sort of material that lent itself to access through the employment of more categorical or standardised methods. Neither tightly prescriptive nor utterly unstructured, the utilisation of the long interview format offered an overarching framework which was sufficiently flexible to permit me to explore a set of identified concerns, while also allowing for an interviewee to introduce relevant information that I had not specifically sought. For my purposes, therefore, its primary strength lay in the fact that it lent itself to use (i) in a directive fashion where specific responses were required, and (ii) in a less prescriptive manner when it was appropriate that a respondent be provided with sufficient scope to comment on a particular avenue of inquiry.

2 THE RESEARCH PROCESS AND DATA COLLECTION

2.1 The sample group

The focus of the research is on the likely ramifications for the public service of the advent of MMP. Specifically, it has to do with an examination of the extent to which MMP might risk a politicisation of the public service, particularly at the level of the relationship between CEs and ministers, and of a coalition government's ability to develop and implement policy in a coordinated fashion. In the context of the field work for the research, the illumination of these issues necessitated interviewing persons with a knowledge of either the new electoral system and/or its possible implications for the public service. In the first instance I endeavoured to

arrive at a list of prospective interviewees who would be able to offer information relating to:

- the emergence of electoral law reform as a major public issue in New Zealand;
- the detail of MMP, and its possible implications for the formation and operations of the executive branch of government;
- the theoretical foundations and institutional outcomes of the process of public sector reform; and
- the changes (and continuities) that non-single party majority government might herald for the operations of the public service.

Initial approaches were accordingly made to seven potential interviewees in the fields of public law, politics and public administration. Those approached were:

- Dr. Graham Scott former Secretary, New Zealand Treasury;
- Sir Kenneth Keith Appeal Court judge and former member of the Royal Commission on the Electoral System;
- Mr. David McGee Clerk of the House of Representatives;
- Sir Geoffrey Palmer former Prime Minister and Minister of Justice;
- Mr. Don Hunn State Services Commissioner;
- Mr. Simon Murdoch CE, Department of Prime Minister and Cabinet;
- Mr. John Martin Reader, Public Policy Group, Victoria University;
- Dr. Don Brash Governor of the Reserve Bank.

(With the obvious exception of Sir Geoffrey Palmer, the sample group may be considered notable for the absence of either former or current parliamentarians. That absence is a reflection of the fact that the primary foci of the research go only partially to issues of parliamentary representation; they are more specifically concerned with the administrative implications of MMP than they are with the substantive changes that will likely accrue to the legislature. Secondly, while there is a reasonable dearth of information concerning the implications of MMP for the public service, there does exist a considerable body of published material relating to the diverse configurations that the political executive can assume under systems of proportional representation. As such, it did not seem appropriate

to me that I direct scarce resources to accessing data that was readily available elsewhere.

That said, and as indicated below, I had hoped that in an interview with Sir Geoffrey Palmer I would have been able to canvass a series of issues relating to the reaction of MPs to the issue of electoral law reform. However, the final selection of interviewees was determined as much by the willingness of individuals to give of their time and knowledge as it was by peoples' specific contributions to the domains of either public sector and/or electoral law reform, and unfortunately, Sir Geoffrey Palmer felt unable to participate in the research.)

With the exception of Don Hunn, Sir Geoffrey Palmer and Simon Murdoch, each of those approached agreed to participate in the research. That these three declined to be interviewed impacted on my proposed data collection and analysis strategy. In particular, I had hoped to obtain from Sir Geoffrey Palmer insights into the manner in which the Labour caucus had responded to, in the first instance, the substantive recommendations of the Royal Commission, and secondly, to what is seen in some circles as the apparent 'blunder' committed by the Prime Minister in the televised leaders' debate in advance of the 1990 general election. Similarly, the State Services Commissioner's personal views on the nature of the administrative/politico interface under the new electoral regime would have been immensely valuable, as would have the prognoses of the CE of the Department of Prime Minister and Cabinet.

In the event, and on the recommendation of those initially approached, subsequent (and successful) requests for interviews were made to:

- Ms. Nicola White Cabinet Office, and to
- Mr. Alex Matheson Branch Manager, State Sector Development
Branch, State Services Commission.

Both of those interviews yielded very substantial benefits for my research. The familiarity of both interviewees with the diverse ramifications of the implementation of proportional representation is such that they were able to contribute considerable detail concerning the intellectual and practical issues confronting the public service as it moves into the new political regime. The identity of those who declined to participate in the research

notwithstanding, my sense is that the interviews with Ms. White and Mr. Matheson generated a substantial amount of data which I might not otherwise have had access to, and which very significantly enhanced the quality of the research.

2.2 The research process

Permission to proceed with the research was obtained from the Massey University Human Ethics Committee, and the seven interviews were conducted in Wellington over a five day period during the final two weeks of March 1996. The duration of each interview was between one and two hours, and in each instance the interview was conducted at the respective interviewee's work place. The interviews were taped, and subsequently transcribed. Each interviewee was forwarded a copy of the interview transcription for verification purposes, and the data subsequently incorporated into the thesis is drawn from these transcriptions.

3 DATA ANALYSIS

3.1 Analysing the interview data

As inferred in the discussion above, the qualitative data generated through the fieldwork component of this research was rich and varied. By its very nature, qualitative data tends not to lend itself easily to conversion into standard, measurable units, and while the quantification of the seven interviewees' contributions was not my intention, nonetheless, the articulation of clear categories of analysis was essential in order that the value of the data generated be maximised.

That part of the research process that had taken place before the completion of the field work had already suggested the primary axes of inquiry. In other words, when I undertook the interviews I had two domains of inquiry that I wished to pursue in the context of governance under MMP:

- issues of politicisation within the public service and
- matters of policy co-ordination and coherency.

However, consistent with the rationale behind the use of the long interview method, the fact that the research strategy was informed by these two lines of inquiry did not restrict the uses to which the data generated was subsequently put. The substantive content of the material that emerged out of the interviews was such that a series of additional and more specific categories of analysis was revealed. Amongst these were included:

- prospects for departmental colouration (section 3.2 of Chapter 7);
- the theoretical synergies between MMP and the current foundations of macro-economic policy (section 5.3 of Chapter 7); and
- the prognosis for existing policy settings (section 5.2 of Chapter 8).

Methodologically, the value that was added to the research by the interview data was in part a function of a resistance to the sole use of strategies of data analysis that were determined in advance of the fieldwork. In this respect, the long interview approach afforded me the flexibility to constantly hone my understandings of the diverse phenomena with which I was engaged. In practical terms, that process was the outcome of revisiting the interview transcripts on frequent occasions, in order that common themes might be distilled and alternative interpretations of specific phenomena be juxtaposed.

3.2 Documentary data

A substantial body of data was generated through the seven interviews. In addition, this research is complemented by material taken from a variety of documentary sources. These include the 1986 report of the Royal Commission on the Electoral System, the State Services Commission's 1995 publication *Working Under Proportional Representation: A Reference for the Public Sector*, and Treasury's 1987 post-election briefing papers, *Government Management*.

In addition, I have also had recourse to extensive documentation (in the form of internal memoranda, unpublished papers and briefing notes) from the Department of Prime Minister and Cabinet, Treasury and the State Services Commission. One of those documentary data sources (the Cabinet Office memo relating to the conduct of caretaker administrations) was obtained as a result of a specific request to the Cabinet Office; each of the remaining sources was obtained through requests made to the relevant

agencies pursuant to the *Official Information Act* 1982. I made one request to each of the three agencies cited (for any material germane to that agency's operations under MMP), and in each case extensive documentation was provided within three weeks of the request having been lodged. One of the agencies initially approached, the State Services Commission, has on two additional occasions furnished me with additional documentary data sources.

APPENDIX TWO:

APPLICATION TO HUMAN ETHICS COMMITTEE

NAME	Richard Shaw
STATUS OF APPLICANT	Senior tutor/Masterate Student
DEPARTMENT	Social Policy and Social work
EMPLOYMENT	Massey University
PRJOECT STATUS	M.A. (Social Policy)
FUNDING SOURCE	MURF
SUPERVISOR	Chris Eichbaum, Director of Labour Studies, Massey University
TITLE	MMP and the Public Sector: The Nature of the Interface
ATTACHMENTS	Information Sheet and Consent Form
SIGNATURE	Researcher
DATE	11.1.96

1 DESCRIPTION

1.1 Justification

My thesis addresses the implications for policy development processes at central government level of the advent of MMP, and in particular it will examine the extent to which tensions might exist between these emergent processes and the institutional arrangements that have emerged out of the post-1984 state sector reforms.

The nature of the thesis is such that I will be drawing largely upon both primary and secondary academic sources of information relating to the processes of state sector and electoral reform. In addition, I intend to undertake a limited number of focused interviews with seven key senior civil servants and politicians who have been party to the events and processes addressed in the thesis.

1.2 Objectives

The objectives of the field work will be to gain access to and to collate interviewees' interpretations and assessments of the policy/legislative processes that they have been and/or are party to, and/or with which they are familiar, and to analyse and make sense of these in the context of the thesis. Much of what I will canvass with the participants has been widely published, but I hope to generate anecdotal information which will add a qualitative dimension to my work not available through published sources.

1.3 Procedures for recruiting participants and obtaining Informed Consent

The people I wish to interview have been selected on the basis of their past or present engagement with the processes of state sector and electoral law reform over the last decade. Those I will approach are:

- 1) Dr. Graham Scott former Secretary, New Zealand Treasury
- 2) Sir Kenneth Keith Appeal Court judge and former member
of the Royal Commission on the Electoral
System

- | | | |
|----|---------------------|--|
| 3) | Mr. David McGee | Clerk of the House of Representatives |
| 4) | Sir Geoffrey Palmer | former Prime Minister and Minister of Justice |
| 5) | Mr. Don Hunn | State Services Commissioner |
| 6) | Mr. Simon Murdoch | CE, Department of Prime Minister and Cabinet |
| 7) | Mr. John Martin | Reader, Public Policy Group, Victoria University |
| 8) | Dr. Don Brash | Governor of the Reserve Bank. |

In the first instance I intend to write to each proposed participant seeking their agreement to be interviewed. Subject to that agreement, I will send a further package of information including an Information Sheet and Consent form.

1.4 Procedure in which research participants will be involved

Participants will be asked to agree to participate in a single two hour, semi-structured interview with the researcher. No other requirements will be asked of participants.

1.5 Procedures for handling information and material produced in the course of the research including raw data and final research report.

The interviews will in the first instance be taped, and subsequently transcribed by an administrative assistant. The resultant transcripts will be sent to the appropriate participant for verification, and, subject to this taking place, incorporated into the thesis proper. Both tapes and transcripts will be securely stored in the researcher's office. On the completion of the research, the recordings of the interviews will be destroyed, but I will seek the permission of the participants to keep the written transcripts for the purposes of future research and publication.

2 ETHICAL CONCERNS

2.1 Access to Participants

Given the nature of the research methodology and the profile of those I wish to interview, access to participants can clearly only take place at their behest. I am seeking to attribute data to those from whom it is forthcoming, and as such will only be able to undertake the planned interviews with each participant's explicit consent and cooperation.

2.2 Informed Consent

As indicated, I will be seeking the explicit and informed consent of each of the potential interviewees. Inasmuch as the research approach I have chosen reflects a desire to obtain data of a nature that cannot be obtained through any source other than by way of a detailed and frank interview with the individuals concerned, in the absence of such consent the interview will simply not take place. Each participant will be fully informed of the nature, scope and intended uses of the data generated in the interview, and will be offered the right to view this data before it is used in any fashion, and to withdraw their consent at any time of the research process.

2.3 Anonymity and Confidentiality

I will explicitly request the permission of the research participants to attribute their responses to them in any publications arising out of the research. This request will be accompanied by the caveat that participants be able to require that any or all of the information that they choose to divulge be given in confidence. There is a three-fold justification for this position.

- In the first instance, the relatively small number of interviewees and the focused nature of the research topic are such that guarantees of confidentiality would be of limited effect. Given the profile of the participants and the composition of New Zealand's political community it would not be a difficult exercise to match specific information with particular persons.

- Secondly, the proposed interviewees enjoy a standing in their respective fields such that their opinions and judgements carry considerable authority, and explicit acknowledgment of their contribution will lend scholarly robustness and substantive value to the thesis. Moreover, in very many respects individuals have been selected on the basis of the positions which they currently hold, or have in the past occupied. Without reference to these positions, data obtained will have limited utility at best.
- Finally, there may be some potential interviewees who would agree to participate only on the understanding that their contributions are directly attributed to them. For instance, based on his experience as a member of the then Prime Minister's staff, my supervisor has indicated that Sir Geoffrey Palmer is unlikely to agree to an interview on anything other than an on the record basis.

2.4 Potential Harm to Participants

The focused nature of the research is such that the only safety issue that might conceivably occur would arise from an inaccurate attribution of data to a specific participant. Contingencies to prevent this from occurring include the seeking of each participant's informed consent, and the provision of a written transcript for the perusal of each participant before its use in the thesis.

2.5 Potential Harm to Researcher

I am unable to envisage any situation in which the research would place me in a potentially harmful situation.

2.6 Potential Harm to University

As above.

2.7 Participant's right to decline to take part

Participants have the right not to participate in the research. Moreover, they will have the right to withdraw their approval to participate at any stage of the process, and to request that data not be attributed to them. Interviewees

also possess the right to stipulate that their data not be used in specific contexts (e.g. in papers arising out of the thesis).

2.8 Uses of the Information

The data that will be generated by the interviews will primarily be incorporated in the thesis. However, it is my intention to prepare papers for publication out of the thesis, and therefore it is probable that interview information will also appear in published form. Participants will be made aware of that probability in advance of agreeing to participate.

2.9 Conflict of Interest

I am unable to identify any conflict of interest arising out of my status as an employee of the university and the research approach I propose to use and/or the uses to which resultant data will be put.

2.10 Other ethical concerns

I can think of no other ethical concerns or issues raised by the proposed research.

3 LEGAL CONCERNS

3.1 Legislation

The verbal data that I seek to access will be in the first instance the 'property' of those from whom it is forthcoming; accordingly, dependent upon securing their permission to use it for the purposes outlined above, its treatment is not contingent upon the legislation relating to intellectual property rights and obligations. The research does not fall within the jurisdictions of the statutes listed in paragraphs 3.1.2 in the Application Format.

3.2 Other legal issues

There are no other legal issues raised by the focused nature of the research.

4 CULTURAL CONCERNS

The intentions/purposes of the research, the proposed themes to be explored in the interview, and the identity of the proposed interviewees are such that no concerns regarding appropriate cultural conduct are raised by the research.

5 OTHER ETHICAL BODIES RELEVANT TO THIS RESEARCH

5.1 Ethics Committees

There are no other ethics committees to which this application is being forwarded.

5.2 Professional Codes

This research is being conducted solely within the professional context provided by the university, and accordingly there are no other professional codes of ethics that are germane to its execution.

APPENDIX THREE:**INFORMATION SHEET****MMP AND THE PUBLIC SECTOR: THE NATURE OF THE INTERFACE***Information Sheet***MASSEY
UNIVERSITY****The Researcher**

My name is Richard Shaw, and I am employed in the Department of Social Policy and Social Work at Massey University, Palmerston North. I can be contacted c/- the Department, by phone (06 350 4304), by fax (06 350 5681) or by email R.H.Shaw@massey.ac.nz. The post-graduate study that I am undertaking is supervised by a Senior Lecturer at Massey University, Mr. Chris Eichbaum, who can be contacted c/- the Department, by phone (06 350 4070), by fax (06 350 5681) or by email C.J.Eichbaum@massey.ac.nz.

The Study

This study seeks to examine the anticipated outcomes of the new Mixed Member Proportional (MMP) electoral system in the context of the public sector reforms that have taken place during the last decade. My interests lie in the extent to which there is a congruence between the institutional arrangements characteristic of the new public sector model and the imperatives that have attended the process of electoral law reform. More specifically, I wish to explore the policy making process and the relationships that might apply between Cabinet, Parliament and the public service under MMP.

Your Participation

Should you agree to take part in the study, I will meet with you on a single occasion for a two hour interview. The time and place of the interview will be a matter for you to decide. The interview will be tape-recorded, and will be transcribed by an administrative assistant who will have signed a

confidentiality agreement. **As shortly after the interview has taken place as is practicable, I will provide you with the transcript of our discussion which I will ask you to check, correct and amend in any way you think is necessary.** Both tapes and transcripts will be securely stored at the University, and access to these will be limited to the researcher and his supervisor.

Prior to publication of the research, you will have the opportunity to review those sections of the transcribed interview that I wish to use. Responses to questions concerning four aspects of the policy process will be used in the research:

- contestability of policy processes
- the politicisation of the public service
- the coordination of the policy-making process
- the accountability relationships between Ministers and CEs.

Please note that you may stipulate that your responses remain anonymous in the context of the research. However, given the relative size of the national policy community, the limited sample and focused nature of the research topic are such that absolute guarantees of anonymity cannot be given.

At the completion of the research, the tapes will be destroyed, but I ask your permission to retain the transcripts for the purposes of future publication. Alternatively, you may request to have the transcripts archived, destroyed, or returned to you.

Rights

Should you decide to take part in the project, you have the right to:

- ask any further questions about the project that might occur to you at any time during your participation,
- refuse to answer a specific question, request that specific information you have provided not be used in the context of the research, and to withdraw your involvement at any time,
- request to be given access to a summary of the conclusions of the research when completed.

I would like your permission to attribute your responses to you in any written proceedings that arise out of the research. However, you have the right to request that any or all of the information that you choose to divulge be treated in strictest confidence, and not attributed to you.

In acknowledgment of your contribution to my research, I will provide you with a copy of my completed thesis. All things being equal, I hope to have it completed by the end of June, 1996.

Richard Shaw

APPENDIX FOUR:

CONSENT FORM

MMP AND THE PUBLIC SECTOR: THE NATURE OF THE INTERFACE

Consent Form**MASSEY
UNIVERSITY**

I have read the Information sheet for this study and have had the details of the research project explained to me. Any questions that I have about the study have been answered to my satisfaction, and I understand that I may ask further questions at any time.

I agree to the interview being audio-taped. I understand I have the right to ask for the tape recorder to be turned off at any stage. I also understand that I have the right to withdraw from the study at any time, to decline to answer any particular question that may be asked of me, and/or to request that any information I have provided not be used in the context of the research. I understand that responses to questions concerning four aspects of the policy process will be used in the research:

- contestability of policy processes
- the politicisation of the public service
- the coordination of the policy-making process
- the accountability relationships between Ministers and CEs.

Such information as I provide I do so on the understanding that:

Either

- 1 The researcher is permitted to attribute my responses to me in any written proceedings that arise out of the research. Before completion of the study, the researcher will provide me with a transcript of the interview.

Or

- 2 It remains anonymous and shall not be directly attributed to me in the context of written proceedings that arise out of the research. Before completion of the study, the researcher will provide me with a transcript of the interview.

(Please delete as appropriate)

In regard to the status of the transcripts of the interview following completion of the research, please indicate which of the following options you wish to pursue:

- I wish to have the transcripts archived;
- I wish to have the transcripts destroyed; or
- I wish to have the transcripts returned to me.

(Please delete as appropriate)

I wish to participate in this research under the conditions set out in the Information Sheet.

Signed:

BIBLIOGRAPHY

- Aberbach, J. D., Putnam, R. A. and Rockman, B. A. (1981) *Bureaucrats and Politicians in Western Democracies*. Cambridge, MA; Harvard University Press. Cited in Campbell, C. and Peters, B. G. (1988) 'The Politics/Administration Dichotomy: Death of Merely Change?', *Governance: An International Journal of Policy and Administration*, vol 1(1): 79 - 90.
- Aitken, J. (1991) 'Summary', in State Services Commission, *Proceedings of the Senior Management Conference, 9 - 11 April*. Wellington, the Commission. Cited in McLeay, E. (1995) *The Cabinet and Political Power in New Zealand*. Auckland, Oxford University Press.
- Albin, S. (1992) *Bureau-Shaping and Contracting Out: The Case of Australian Local Government*. Discussion Paper no. 29, Public Policy Programme, Australian National University, Canberra.
- Alchian, A. A. and Demsetz, H. (1972) 'Production, Information Cost, and Economic Organization', *American Economic Review*: 777 - 795. Cited in Perrow, C. (1986) (3rd ed.) *Complex Organisations: a critical essay*. New York, McGraw Hill Inc.
- Ashton, T. (1992) 'Reform of the Health Services: Weighing up the Costs and Benefits', in Boston, J. and Dalziel, P. (eds.) *The Decent Society? Essays in Response to National's Economic and Social Policies*. Auckland, Oxford University Press.
- Aucoin, P. (1990) 'Administrative Reform in Public Management: Paradigms, Principles, Paradoxes and Pendulums', *Governance: An International Journal of Policy and Administration*, vol. 3(2): 115 - 137.
- Bagehot, W. (1928) *The English Constitution*. London, Oxford University Press.

- Bassett, M. (1976) *The Third Labour Government: A Personal History*. Palmerston North, the Dunmore Press. Cited in Calder, J. L. (1989) 'Election Manifesto Promises: the law and politics', in *New Zealand Law Journal*, March: 108 - 111.
- Bennett, H. (1994) 'Campaign for Better Government', in Vowles, J. and Aimer, P. (eds.) *Double Decision: The 1993 Election and Referendum in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 6.
- Bernard, C. (1938) *The Functions of the Executive*. Cambridge, Harvard University Press. Cited in Aucoin, P. (1990) 'Administrative Reform in Public Management: Paradigms, Principles, Paradoxes and Pendulums', *Governance: An International Journal of Policy and Administration*, vol. 3(2): 115 - 137.
- Birch, W. F. (1991) Speech to Master of Public Policy students, Victoria University of Wellington, unpublished, 21 February. Cited in Martin, J. (1994) 'The Role of the State in Administration', in Sharp, A. (ed.) *Leap Into the Dark. The Changing Role of the State in New Zealand since 1984*. Auckland, Auckland University Press.
- Black, J. A. & Champion, D. J. (1976) *Methods and Issues in Social Research*. New York, John Wiley and Sons, Inc.
- Bolger, J. (1991) 'The Government's Vision for the Public Service', in State Services Commission, *Proceedings of the Senior Management Conference, 9 - 11 April*. Wellington, the Commission. Cited in McLeay, E. (1995) *The Cabinet and Political Power in New Zealand*. Auckland, Oxford University Press.
- Borins, S. F. (1988) 'Public Choice: "Yes Minister" made it popular, but does winning the Nobel Prize make it true?', *Canadian Public Administration/Administration Publique du Canada*, vol. 31(1): 12 - 26.
- Boston, J. and Holland, M. (eds.) (1987) *The Fourth Labour Government: Radical Politics in New Zealand*. Auckland, Oxford University Press.

- Boston, J. (1990) 'The Cabinet and Policy Making under the Fourth Labour Government', in Holland, M. and Boston, J. (eds.) (2nd ed.) *The Fourth Labour Government. Politics and Policy in New Zealand*. Auckland, Oxford University Press.
- Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds.) (1991) *Reshaping the State: New Zealand's Bureaucratic Revolution*. Auckland, Oxford University Press.
- Boston, J. and Dalziel, P. (eds.) (1992) *The Decent Society? Essays in Response to National's Economic and Social Policies*. Auckland, Oxford University Press.
- Boston, J. (1993) 'The challenge of governance: New Zealand's experience of economic liberalisation, 1984 - 91', in Marsh, I. (ed.) *Governing in the 1990s: An agenda for the decade*. Melbourne, Longman Cheshire.
- Boston, J. (1994) 'Governing With a Tenuous Majority', in *The Implications of MMP for Government and Policy Making in New Zealand*. The Gamma Foundation, Occasional Paper No. 6.
- Boston, J. (ed.) (1995) *The State Under Contract*. Wellington, Bridget Williams Books.
- Boston, J., Levine, S., McLeay, E., and Roberts, N. (1995) 'Proportional Representation and the Public Service: Will MMP Make a Difference? A Review of "Working Under Proportional Representation: A Reference for the Public Sector" ', *Public Sector*, vol. 18(4): 24 - 27.
- Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds.) (1996a) *Public Management: The New Zealand Model*. Auckland, Oxford University Press.
- Boston, J., Levine, S., McLeay, E. and Roberts, N. (1996b) *Implications for the Political Executive*. Paper prepared for the New Zealand Political Change Project and presented at the May conference on the Constitutional Implications of MMP, Legislative Council Chambers, Wellington.

- Boston, J. and Uhr, J. (1996) 'Reshaping the Mechanics of Government', in Castles, F., Gerritson, R. and Vowles, J. (eds.) *The Great Experiment. Labour Parties and Public Policy Transformation in Australia and New Zealand*. Auckland, Auckland University Press.
- Brash, D. (1996) Interview, March.
- Brookfield, F. M. (1989) 'The New Zealand Constitution: the search for legitimacy', in Kawharu, I. H. (ed.) *Waitangi: Maori and Pakeha Perspectives of the Treaty of Waitangi*. Auckland, Oxford University Press.
- Brookfield, F. M. (1992) 'Kelsen, the Constitution and the Treaty', *New Zealand Universities Law Review*, vol. 15(2): 163 - 177.
- Brookfield, F. M. (1995) 'Parliament, the Treaty, and Freedom - Millennial Hopes and Speculations', in Joseph, P. (ed.) *Essays on the Constitution*. Wellington, Brooker's.
- Bryce, J. (1903) *Studies in Jurisprudence*. Vol. 1, Essay 3. Cited in Joseph, P. (1993) *Constitutional and Administrative Law in New Zealand*. Sydney, the Law Book Company.
- Buchanan, J. (1984) 'Politics Without Romance: A Sketch of Positive Public Choice Theory and its Normative Implications', in Buchanan, J. and Tollison, R. D. (eds.), *Theory of Public Choice*. Vol ii. Ann Arbor, Michigan University Press. Cited in Lane, J-E. (1993) *The Public Sector. Concepts, Models and Approaches*. London, Sage Publications.
- Buchanan, J. (1986) *Liberty, Market and State*. London, Harvester Wheatsheaf.
- Buchanan, J. (1988) 'Market Failure and Political Failure', *Cato Journal*, vol. 8(1): 1 - 13. Cited in Lane, J-E. (1993) *The Public Sector. Concepts, Models and Approaches*. London, Sage Publications.
- Buchanan, J. and Tullock, G. (1962) *The Calculus of Consent*. Ann Arbor, University of Michigan Press.

- Butt, R. (1967) *The Power of Parliament*. London, Constable. Cited by Skene, G. (1987) 'Parliamentary Reform', in Boston, J. and Holland, M. (eds.) *The Fourth Labour Government: Radical Politics in New Zealand*. Auckland, Oxford University Press.
- Buurman, G. (1992) 'Economic Issues 2: Economics and Health, Health Care as a Special Case', in North, N. (ed.) *Health Reforms and the Workforce: Responses and Options*. Dept. of Management Systems, Massey University, Palmerston North.
- Cabinet Office (1995a) *Consultation With Political Parties: Revised Procedure and New CAB 100 Form*. CO (95) 8.
- Cabinet Office (1995b) *Cabinet Office Circular: Conduct During Periods of Caretaker Government*. CO (95) 15.
- Cabinet Office (1995c) *Calling Parliament During Periods of Caretaker Government*. CO (95) 685.
- Cabinet Office (1996a) *Standing Orders: Implementing The Financial Veto Procedure*. CO (96) 2.
- Cabinet Office (1996b) *New Deadlines For Cabinet Committee Papers*. CO (96) 3.
- Calder, J. L. (1989) 'Election Manifesto Promises: the law and politics', *New Zealand Law Journal*, March: 108 - 111.
- Campbell, C. and Peters, B. G. (1988) 'The Politics/Administration Dichotomy: Death or Merely Change?', *Governance: An International Journal of Policy and Administration*, vol 1(1): 79 - 90.
- Carpinter, P. (1993) 'MMP and Coalitions - possible issues in the New Zealand context', *Public Sector*, vol. 16(1): 5 - 8.
- Castles, F. (1994) 'The Policy Consequences for Proportional Representation: A Sceptical Commentary', *Political Science*, vol. 46(2): 161- 172.

- Castles, F., Gerritson, R. and Vowles, J. (eds.) (1996) *The Great Experiment. Labour Parties and Public Policy Transformation in Australia and New Zealand*. Auckland, Auckland University Press.
- Catt, H. (1992a) *Voters Choice: electoral change in New Zealand*. Palmerston North, Dunmore Press.
- Catt, H. (1992b) 'What Can Electoral Reform Do For Women?', *Broadsheet*, koanga/spring, vol. 95: 44 - 45.
- Catt, H. (1994) 'Referendum Themes', in Vowles, J. and Aimer, P. (eds.) *Double Decision: The 1993 Election and Referendum in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 6.
- Chapman, R. (1989) 'Political Culture: The Purposes of Party and the Current Challenge', in Gold, H. (ed.) (2nd ed.) *New Zealand Politics in Perspective*. Auckland, Longman Paul Ltd.
- Chapman, R. (1995) 'Improving Policy Advice Processes: Strategic Outcome Definition, Policy Evaluation and a Competitive Policy Market', *Public Sector*, vol. 18(2): 16 - 22.
- Chen, M. (1993) 'Remedying New Zealand's Constitution in Crisis: Is MMP part of the answer?', *New Zealand Law Journal*, January: 22 - 39.
- Clark, C. (1993) 'Anti- MMP campaign based on fear', *PSA Journal*, August: 9.
- Cooke, R. (1984) 'Practicalities of a Bill of Rights.' F.S Dethbridge Memorial Address, in Joseph, P. (1993) *Constitutional and Administrative Law in New Zealand*. Sydney, the Law Book Company.
- Cooke, R. (1995) 'The Suggested Revolution Against the Crown', in Joseph, P. (ed.) *Essays on the Constitution*. Wellington, Brooker's.

- Cowen, P. B., Cowen, T., and Tabbarock, A. (1992) *An Analysis of Proposals for Constitutional Change in New Zealand*. Wellington, The Business Roundtable.
- Dalziel, P. (1992) 'National's Economic Strategy', in Boston, J. and Dalziel, P. (eds.) *The Decent Society? Essays in Response to National's Economic and Social Policies*. Auckland, Oxford University Press.
- Dalziel, P. (1993) 'The Reserve Bank Act: Reflecting Changing Relationships between State and Economy in the Twentieth Century', in Roper, B. and Rudd, C. (eds.) *State and Economy in New Zealand*. Auckland, Oxford University Press.
- Davis, G. and Gardner, M. (1995) 'Who Signs the Contracts? Applying Agency Theory to Politicians', in Boston, J. (ed.) *The State Under Contract*. Wellington, Bridget Williams Books.
- Denemark, D. (1990) 'Social Democracy and the Politics of Crisis in New Zealand, Britain and Sweden', in Holland, M. and Boston, J. (eds.) (2nd ed.) *The Fourth Labour Government. Politics and Policy in New Zealand*. Auckland, Oxford University Press.
- Denhardt, R. B. (1984) *Theories of Public Organisation*. Brookes/Cole, Monterey.
- Dixon, O. (1965) *Jesting Pilate*. Sydney, The Law Book Company Ltd. Cited in Joseph, P. (1995) *Essays on the Constitution*. Wellington, Brooker's.
- Donald, R. (1993) 'The Case for Supporting the MMP Electoral System', in McRobie, A. (ed.) *Taking it to the People: the New Zealand Electoral Referendum Debate*. Christchurch, Hazard Press.
- Douglas, R. (1985) *Economic Statement 12 December*. Wellington, Government Printer. Cited in Gregory, R. (1987) 'The Reorganisation of the Public Sector: The Quest for Efficiency', in Boston, J. and Holland, M. (eds.) *The Fourth Labour Government: Radical Politics in New Zealand*. Auckland, Oxford University Press.

- Douglas, R. (1989) *The Politics of Successful Structural Reform*. Paper delivered to the Mont Pelerin Society.
- Downs, A. (1957) *An Economic Theory of Democracy*. New York, Harper Brothers.
- Downs, A. (1967) *Inside Bureaucracy*. Boston, Little and Brown.
- Dunleavy, P. (1986) 'Explaining the Privatisation Boom: Public Choice Versus Radical Approaches', *Public Administration*, no. 64: 13 - 34. Cited in Albin, S. (1992) *Bureau-Shaping and Contracting Out: The Case of Australian Local Government*. Discussion Paper no. 29, Public Policy Programme, Australian National University, Canberra.
- Dunshire, A. and Hood, C. (1989) *Cutback Management in Public Bureaucracies. Popular theories and observed outcomes in Whitehall*. Cambridge, Cambridge University Press.
- Easton, B. (1994) 'How did the Health Reforms Blitzkrieg Fail?', *Political Science*, vol. 46(2): 215 - 233. Cited in Kelsey, J. (1995) *The New Zealand Experiment. A World Model for Structural Adjustment?* Auckland, Auckland University Press/Bridget Williams Books.
- Eichbaum, C. (1992). 'Market Liberalisation in New Zealand: *Fightback!* in Practice?', in Vintila, P., Phillimore, J., and Newman, P. (eds.) *Markets, Morals and Manifestos. Fightback! & the Politics of Economic Rationalism in the 1990s*. Institute for Science and Technology Policy, Murdoch University, W. A., Australia.
- Eichbaum, C. (1993) 'Challenging the Intellectual Climate of the Times: Why the Reserve Bank of Australia is too Independent', *Economic Papers*, vol. 12(1): 1 - 18.
- Electoral Reform Coalition (1993). *Victory Edition Newsletter*. Number 29, November. Wellington, The Coalition.
- Fallow, B. 'Brash's resignation would follow any policy change', *The New Zealand Herald*, 14.2.96: 22.

- Gold, H. (ed.) (1992) (3rd ed.) *New Zealand Politics in Perspective*. Auckland, Longman Paul Ltd.
- Goldfinch, S. and Roper, B. (1993) 'Treasury's Role in State Policy Formulation during the Post-War Era', in Roper, B. and Rudd, C. (eds.) *State and Economy in New Zealand*. Auckland, Oxford University Press.
- Goodman, J. B. (1991) 'The Politics of Central Bank Independence', *Comparative Politics*, vol. 23(3): 329 - 349.
- Gregory, R. (1987) 'The Reorganisation of the Public Sector: The Quest for Efficiency', in Boston, J. and Holland, M. (eds.) *The Fourth Labour Government: Radical Politics in New Zealand*. Auckland, Oxford University Press.
- Haggard, S. and Kaufman, R. (1992) 'Institution and Economic Adjustment', in Haggard, S. and Kaufman, R. (eds.) *The Politics of Economic Adjustment*. New Jersey, Princeton University Press. Cited in Kelsey, J. (1995) *The New Zealand Experiment. A World Model for Structural Adjustment?* Auckland, Auckland University Press/Bridget Williams Books.
- Hall, P. A. (1986) *Governing the Economy. The Politics of State Intervention in Britain and France*. Cambridge, Polity Press.
- Hallett, G. et al. (1993) *Regional Policy Forever?* London, I. E. A.
- Ham, C. and Hill, M. (1984) *The Policy Process in the Modern Capitalist State*. London, Harvester Wheatsheaf.
- Harmon, M. and Mayor, R. T. (1986) *Organisation Theory for Public Administration*. Boston, Little, Brown and Company.
- Harris, P. (1991) 'Electoral Reform - The Last Frontier?', *Institute of Policy Studies: Newsletter*, May, no. 26: 14 - 15.

- Harris, P. (1992) 'The Electoral System', in Holland, M. (ed.) (1992) *Electoral Behaviour in New Zealand*. Auckland, Oxford University Press.
- Harris, P. (1992-93) 'Changing New Zealand's Electoral System: The 1992 Referendum', *Representation*, vol. 31: 53 - 57.
- Harris, P. (1994) *The New Zealand Economic Experiment. A background briefing prepared by the New Zealand Council of Trade Unions*. Wellington, CTU.
- Hartley, K. and Tisdall, C. (1981) *Microeconomic Policy*. New York, Wiley.
- Hawke, G. (1993) *Changing Politics? The Electoral Referendum 1993*. Victoria University, Wellington, Institute of Policy Studies.
- Hayek, F. A. von (1955) *The Counter-Revolution of Science*. New York, Free Press. Cited in Lane, J-E. (1993) *The Public Sector. Concepts, Models and Approaches*. London, Sage Publications.
- Helm, D. (1986) 'The Economic Borders of the State', *Oxford Review of Economic Policy*, vol. 2(2): i - xxiv.
- Hensley, G. (1995) 'Free and Frank Advice to Ministers - Reappraising Ethical Fundamentals', *Public Sector*, vol. 18(3): 21 - 25.
- Heylen Research Centre (1992) *One Network News/Heylen Political Polls*. Auckland, Heylen Research Centre. Cited in Vowles, J. (1995) 'The Politics of Electoral Law Reform in New Zealand', *International Political Science Review*, vol. 16: 95 - 116.
- Heymann, D. (1988) 'Input Controls and the Public Sector: What Does Economic Theory Offer?' Paper prepared for the Fiscal Affairs Department, International Monetary Fund, Washington. Cited in Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds.) (1996a) *Public Management: The New Zealand Model*. Auckland, Oxford University Press.

- Holland, M. and Boston, J. (eds.) (1990) (2nd ed.) *The Fourth Labour Government. Politics and Policy in New Zealand*. Auckland, Oxford University Press.
- Holland, M. (ed.) (1992) *Electoral Behaviour in New Zealand*. Auckland, Oxford University Press.
- Hood, C. (1990a) 'Beyond the Public Bureaucracy State? Public Administration in the 1990s'. Inaugural Lecture, London School of Economics, 16 January. Cited in Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds.) (1991) *Reshaping the State: New Zealand's Bureaucratic Revolution*. Auckland, Oxford University Press.
- Hood, C. (1990b) 'De - Sir Humphreying the Westminster Model of Bureaucracy: A New Style of Governance?', *Governance: An International Journal of Policy and Administration*, vol 3: 205 - 214. Cited in Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds.) (1996a) *Public Management: The New Zealand Model*. Auckland, Oxford University Press.
- Hubbard, A. (1993) 'Money Versus MMP', *The Listener*, September: 26 - 28.
- Hutton, W. 'Who's whistling the best tunes now?', *The Guardian Weekly*. 4.2.96: 14.
- Jackson, K. (1987) *The Dilemma of Parliament*. Wellington, Allen and Unwin New Zealand Ltd.
- Jackson, K. (1989) 'Caucus: The Anti - Parliament System?', in Gold, H. (2nd ed.) *New Zealand Politics in Perspective*. Auckland, Longman Paul.
- Jackson, K. (1992) 'Caucus: The Anti - Parliament System?', in Gold, H. (3rd ed.) *New Zealand Politics in Perspective*. Auckland, Longman Paul.
- Jackson, K. (1993) 'The Origins of the Electoral Referendums', in McRobie, A. (ed.) *Taking it to the People: the New Zealand Electoral Referendum Debate*. Christchurch, Hazard Press.

- James, C. (1994) 'The Future', in Vowles, J. and Aimer, P. (eds.) *Double Decision: The 1993 Election and Referendum in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 6.
- Jesson, B. (1989) *Fragments of Labour: The Story Behind the Labour Government*. Auckland, Penguin.
- Joseph, P. (1993) *Constitutional and Administrative Law in New Zealand*. Sydney, the Law Book Company.
- Joseph, P. (1995) (ed.) *Essays on the Constitution*. Wellington, Brooker's.
- Keeling, D. (1972) *Management in government*. London, Allen and Unwin.
- Keith, K. (1992) 'On the Constitution of New Zealand', *Political Science*, vol. 44(1): 28-34.
- Keith, K. (1996) Interview, March.
- Kelsey, J. (1993) *Rolling Back the State. Privatisation of Power in Aotearoa/New Zealand*. Wellington, Bridget Williams Books.
- Kelsey, J. (1995) *The New Zealand Experiment. A World Model for Structural Adjustment?* Auckland, Auckland University Press/Bridget Williams Books.
- Kilroy, S. 'Richardson jibes at altering "defective" Electoral Act'. *The Dominion*, 5.8.93: 2.
- Lamare, J. W. (1991) 'Crisis in Confidence: Political Powerlessness in New Zealand', in McLeay, E. (ed.) *The 1990 General Election: Perspectives on Political Change in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 3.
- Lane, Jan-Erik. (1993) *The Public Sector. Concepts, Models and Approaches*. London, Sage Publications.

- Lange, D. (1987) Letter from D. Lange to P. W. Wood (29 April), included in Wood, P. W. (1988) 'The Doctrine of Ministerial Responsibility', unpublished research paper for B. Laws (University of Canterbury). Cited in McLeay, E. (1995) *The Cabinet and Political Power in New Zealand*. Auckland, Oxford University Press.
- Lange, D. (1995) 'Lawmaking and the political process', *New Zealand Law Journal*, August: 245 - 248.
- Levine, S. and Roberts, N. (1992a) 'National to Power: Voter Choice in 1990', in Gold, H. (ed.) (3rd ed.) *New Zealand Politics in Perspective*. Auckland, Longman Paul Ltd.
- Levine, S. and Roberts, N. (1992b) 'Electoral Reforms and Referendums: The Views of Voters in New Zealand in 1987 and 1990', in Simpson, A. (ed.) *Referendums: Constitutional and Political Perspectives*. Wellington, Department of Politics, Victoria University, Occasional Publication No. 5.
- Levine, S. and Roberts, N. (1993) 'The Referendum Results: "The People Screamed" ', in McRobie, A. (ed.) *Taking it to the People: the New Zealand Electoral Referendum Debate*. Christchurch, Hazard Press.
- Levine, S. and Roberts, N. (1994) 'The Last Hurrah: The New Zealand General Election of 1993 - What Happened and Why', in Vowles, J. and Aimer, P. (eds.) *Double Decision: The 1993 Election and Referendum in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Publication No. 6.
- Lewis, R. 'How Muldoon Waved a Big Stick Over the Unions', *The Times*, 14.4.76: 18. Cited in Palmer, G. (1987) (2nd ed.) *Unbridled Power: An Interpretation of New Zealand's Constitution & Government*. Auckland, Oxford University Press.
- Lindblom, C. E. (1977) *Politics and Markets*. New York, Basic Books.

- Lijphart, A. (1984) *Democracies: Patterns of Majoritarian and Consensus Government in Twenty One Countries*. New Haven, Yale University Press.
- Lijphart, A. (1987) 'The Demise of the Last Westminster System? Comments on the Report of New Zealand's Royal Commission on the Electoral System', *Electoral Studies*, vol. 6(2): 97 - 103.
- McCraw, D. (1981) 'A Classification of New Zealand Elections', *Political Science*, vol. 33: 163 - 174.
- McDowell, M. and Webb, D. (1995) *The New Zealand Legal System*. Wellington, Butterworths.
- McGee, D. (1994) (2nd. ed.) *Parliamentary Practice in New Zealand*. Wellington, The Government Printer.
- McGee, D. (1996) Interview, March.
- McLean, I. (1987) *Public Choice: An Introduction*. Oxford, Blackwell Publishers.
- McLeay, E. (1987) 'Towards a Better Democracy?: Review Essay of the "Report of the Commission on the Electoral System" ', *Political Science*, vol. 39(1): 80 - 96.
- McLeay, E. (1995) *The Cabinet and Political Power in New Zealand*. Auckland, Oxford University Press.
- McRobie, A. (ed.) (1993) *Taking it to the People: the New Zealand Electoral Referendum Debate*. Christchurch, Hazard Press.
- McRobie, A. (1994) 'Final and Binding: the 1993 Referendum', in Vowles, J. and Aimer, P. (eds.) *Double Decision: The 1993 Election and Referendum in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 6.

- McRobie, A. (1995) 'The Electoral System', in Joseph, P. (ed.) *Essays on the Constitution*. Wellington, Brooker's Ltd.
- MacDonald, F. (1993) 'A Run For Their Money', *New Zealand Listener*, 11 - 17 December: 24 - 27. Cited in Vowles, J. (1995) 'The Politics of Electoral Law Reform in New Zealand', *International Political Science Review*, vol. 16: 95 - 116.
- Marquand, D. (1992) 'Closing the Westminster Club', in Smyth, G. (ed.) *Refreshing the Parts: Electoral Law Reform and British Politics*. London, Lawrence and Wishart Ltd.
- Marsh, I. (1993) 'Strategies for governing: Bargained Consensus, "king hits" and coalition building', in Marsh, I. (ed.) *Governing in the 1990s: An agenda for the decade*. Melbourne, Longman Cheshire.
- Marsh, I. (1995) *Beyond the Two Party System. Political representation, economic competitiveness and Australian politics*. Melbourne, Cambridge University Press.
- Marshall, T. H. (1950) *Citizenship and Social Class and Other Essays*. Cambridge, Cambridge University Press.
- Martin, F. 'Brash insists on inflation target', *The Dominion*, 14.2.96: 1.
- Martin, J. (1990) 'Remaking the State Services', in Holland, M. and Boston, J. (eds.) *The Fourth Labour Government. Politics and Policy in New Zealand*. Auckland, Oxford University Press.
- Martin, J. (1994) 'The Role of the State in Administration', in Sharp, A. (ed.) *Leap Into the Dark. The Changing Role of the State in New Zealand since 1984*. Auckland, Auckland University Press.
- Martin, J. (1995) 'Contracting and Accountability', in Boston, J. (ed.) *The State Under Contract*. Wellington, Bridget Williams Books.
- Martin, J. (1996) Interview, March.

- Matheson, A. (1996) Interview, March.
- Matheson, A. (1996) 'The Impact of Contracts on Public Management in New Zealand', *Public Sector*, vol. 19(1): 2 - 8.
- Metcalf, L. and Richards, S. (1990) (2nd ed.) *Improving Public Management*. London, Sage Publications.
- Mills, K. 'No need to panic, says political scientist', *The Manawatu Evening Standard*, 8.6.96: 12.
- Minister of State Services (1994) 'How Does the New Electoral Environment Affect the Role and Structure of the Public Service?', Keynote Address to the Conference: MMP Changing the Way We Govern. 24 March.
- Mitchell, A. V. (1969) *Politics and People in New Zealand*. Christchurch, Whitcombe and Tombs.
- Moody's Investor Services (1994) *New Zealand Sovereign In-Depth Analysis*. New York. Cited in Kelsey, J. (1995) *The New Zealand Experiment. A World Model for Structural Adjustment?* Auckland, Auckland University Press/Bridget Williams Books.
- Moss Kanter, R. (1989) *When Giants Learn to Dance*. New York, Simon and Schuster. Cited in Martin, J. (1994) 'The Role of the State in Administration', in Sharp, A. (ed.) *Leap Into the Dark. The Changing Role of the State in New Zealand since 1984*. Auckland, Auckland University Press.
- Mueller, D. C. (1979) *Public Choice*. Cambridge University Press. Cited in Self, P. (1993) *Government by the Market? The Politics of Public Choice*. London, The MacMillan Press.
- Mulgan, R. (1978) 'The Concept of the Mandate In New Zealand Politics', *Political Science*, vol. 30(2): 88 - 96.
- Mulgan, R. (1984) *Democracy and Power in New Zealand*. Auckland, Oxford University Press.

- Mulgan, R. (1989) (2nd ed.) *Democracy and Power in New Zealand*. Auckland, Oxford University Press.
- Mulgan, R. (1992) *The Westminster Model. Elite Capture and Popular Revolt: The New Zealand Experience*. Unpublished paper for the RSSS, November.
- Mulgan, R. (1993) 'A Pluralist Analysis of the New Zealand State', in Roper, B. and Rudd, C. (eds.) *State and Economy in New Zealand*. Auckland, Oxford University Press.
- Mulgan, R. (1994) *Politics in New Zealand*. Auckland, Auckland University Press.
- Mulgan, R. (1995) 'The Democratic Failure of Single Party Government: the New Zealand Experience', *Australian Journal of Political Science*, vol. 30: 82 - 97.
- New Zealand Council of Trade Unions. (1994) *The New Zealand Economic Experiment. A background briefing paper prepared by the New Zealand Council of Trade Unions*. NZCTU.
- New Zealand Labour Party. (1981) *Manifesto - Policy on Open Government*.
- New Zealand Labour Party. (1984) *Manifesto - Policy on Open Government*.
- New Zealand Labour Party. (1990) *Manifesto - Policy on Open Government*.
- Niskanen, W. A. (1971) *Bureaucracy and Representative Government*. Chicago, Aldine-Atherton.
- Niskanen, W. A. (1973) *Bureaucracy: Servant or Master?* London, I. E. A.
- Niskanen, W. A. (1994) *Bureaucracy and Public Economics*. Aldershot, Edward Elgar Publishing Limited.
- Nordhaus, W. D. (1975) 'The Political Business Cycle', *Review of Economic Studies*, 42: 169 - 190.

- North, D. C. (1990) *Institutions, Institutional Change and Economic Performance*. Cambridge, Cambridge University Press. Cited in Lane, J-E. (1993) *The Public Sector. Concepts, Models and Approaches*. London, Sage Publications.
- Olson, M. (1982) *The Rise and Decline of Nations: economic growth, stagflation, and social rigidities*. New Haven, Yale.
- Organisation for Economic Cooperation and Development (1990) *Serving the Economy Better: the role of public management*. OECD, June.
- Osborne, D. and Gaebler, T. (1992) *Reinventing Government. How the Entrepreneurial Spirit is Transforming the Public Sector*. New York, Plume.
- Ostrom, V. (1973) *The Intellectual Crisis in American Public Administration*. Tuscaloosa, University of Alabama Press.
- Ostrom, V. and Ostrom, E. (1971) 'Public Choice: A Different Approach to the Study of Public Administration', *Public Administration Review*, 31: 302 - 306.
- Ostrom, V. and Ostrom, E. (1977) 'Public Goods and Public Choices', in Savas, E. S. (ed.) *Alternatives for Delivering Public Services*. Boulder, Westview Press.
- Ovenden, K. (1988) 'Recent Developments in the Light of Democratic Theory', in Clark, M. (ed.) *Constitutional Changes: Intended and Unintended*. Wellington, SSRFC Symposium Proceedings. Cited in Martin, J. (1990) 'Remaking the State Services', in Holland, M. and Boston, J. (eds.) *The Fourth Labour Government. Politics and Policy in New Zealand*. Auckland, Oxford University Press.
- Pallot, J. (1991) 'Financial Management Reform', in Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds.) (1991) *Reshaping the State: New Zealand's Bureaucratic Revolution*. Auckland, Oxford University Press.

- Palmer, G. (1979) *Unbridled Power: An Interpretation of New Zealand's Constitution & Government*. Auckland, Oxford University Press.
- Palmer, G. (1987) (2nd ed.) *Unbridled Power: An Interpretation of New Zealand's Constitution & Government*. Auckland, Oxford University Press.
- Palmer, G. (1992) *New Zealand's Constitution in Crisis: Reforming Our Political System*. Dunedin, John McIndoe Ltd.
- Palmer, G. 'Democratic baseline must stay', *The Dominion*, 4.8.93: 8.
- Palmer, V. M. (1928) *Field Studies in Sociology: A Field Students' Manual*. Chicago, University of Chicago Press. Cited in Burgess, R. G. (ed.) (1982) *Field Research: a Sourcebook and Field Manual*. London, George Allen and Unwin.
- Parliamentary Counsel Office. *Discussion Document Two: Impact of MMP on the Legislative Process*. Unpublished internal discussion document, undated.
- Patton, M. Q. (1987) *How to Use Qualitative Methods in Evaluation*. London, Sage Publications.
- Payne, T. *Rights of Man*. Cited in Joseph, P. (1993) *Constitutional and Administrative Law in New Zealand*. Sydney, the Law Book Company.
- Perrow, C. (1986) (3rd ed.) *Complex Organisations: a critical essay*. New York, McGraw Hill Inc.
- Pierson, C. (1991) *Beyond The Welfare State?* Cambridge, Polity Press.
- Pirie, M. (1988) *Micropolitics*. London, Wildwood House.
- Pollitt, C. (1993) (2nd ed.) *Managerialism and the Public Services*. Oxford, Blackwell Publishers.

- Probine, M. (1990) 'Public Sector Update. The State Sector - Where Now?', *Public Sector*, vol. 13(4): 2 - 4.
- Putterman, L. (1984) 'On Some Recent Explanations of Why Capital Hires Labor', *Economic Inquiry*, 33: 171 - 187. Cited in Perrow, C. (1986) (3rd ed.) *Complex Organisations: a critical essay*. New York, McGraw Hill Inc.
- Richardson, R. (1993) *Speech to the House introducing the Fiscal Responsibility Bill*. JHR, 16 September: 18050.
- Ringer, J. B. (1991) *An Introduction to New Zealand Government*. Christchurch, Hazard Press.
- Roberts, J. (1987) *Politicians, Public Servants and Public Enterprise*. Wellington, Victoria University, Institute of Policy Studies. Cited in Martin, J. (1994) 'The Role of the State in Administration', in Sharp, A. (ed.) *Leap Into the Dark. The Changing Role of the State in New Zealand since 1984*. Auckland, Auckland University Press.
- Robertson, J. (1994) 'Address in Reply' delivered by Sir John Robertson to mark his retirement as Chief Ombudsman. 14 December.
- Roper, B. (1993) 'A Level Playing Field? Business Political Activism and State Policy Formulation', in Roper, B. and Rudd, C. (eds.) *State and Economy in New Zealand*. Auckland, Oxford University Press.
- Roper, B. and Rudd, C. (eds.) (1993) *State and Economy in New Zealand*. Auckland, Oxford University Press.
- Royal Commission on the Electoral System (1986). *Report of the Royal Commission on the Electoral System: Towards a Better Democracy*. Wellington, Government Printer.
- Rydon, J. (1987) 'Issues in Electoral Reform with special reference to Australia and New Zealand', *Political Science*, vol. 39(1): 58 - 69.

- Saxby, P. (1994) 'Electoral Reform Coalition' in Vowles, J. and Aimer, P. (eds.) *Double Decision: The 1993 Election and Referendum in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 6.
- Scott, G. and Bushnell, P. (1988) 'An Economic Perspective', in Martin, J. and Harper, J. (eds.) *Devolution and Accountability*. Wellington, GP Books/NZIPA.
- Scott, G. and Gorrings, P. (1989) 'Reform of the Core Public Sector: the New Zealand Experience', *Australian Journal of Public Administration*, vol. 48(1): 81-92.
- Scott, G., Bushnell, P. and Sallee, N. (1990) 'Reform of the Core Public Sector: the New Zealand Experience', *Public Sector*, vol. 13(3): 11 - 24.
- Scott, G. (1993) *Interview with Radio New Zealand*. 21 September.
- Scott, G. (1996) Interview, March.
- Self, P. (1985) *Political Theories of Government: Its Role and Reform*. London, Allen and Unwin.
- Self, P. (1990) 'What's Wrong with Government? The Problem of Public Choice', *Canberra Bulletin of Public Administration*, no. 60: 17 - 21.
- Self, P. (1993) *Government by the Market? The Politics of Public Choice*. London, The MacMillan Press.
- Sharp, A. (ed.) (1994) *Leap Into the Dark. The Changing Role of the State in New Zealand since 1984*. Auckland, Auckland University Press.
- Shroff, M. (1994) *The Operation of Central Government Under Proportional Representation Electoral Systems. Report of a visit to Germany, the Netherlands, Sweden and Ireland*. Unpublished paper, the Secretary of the Cabinet.

- Simpson, A. (ed.) (1992) *Referendums: Constitutional and Political Perspectives*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 5.
- Skene, G. (1987) 'Parliamentary Reform', in Boston, J. and Holland, M. (eds.) *The Fourth Labour Government: Radical Politics in New Zealand*. Auckland, Oxford University Press.
- Small, V and O'Sullivan, F. ' "Minister in Exile" battles to balance the Budget - forever. ' *The National Business Review*, 11.3.94: 12 - 13.
- Smith, M. (1990) 'Pluralism, reform pluralism and neopluralism: the role of pressure groups in policy making', *Political Studies*, XXXVIII: 302 - 322.
- Sproule-Jones, M. (1988) 'Science as art and art as science: A response to Professor Borins' paper', *Canadian Public Administration/Administration Publique du Canada*, vol. 31(1): 34 - 41.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1993a) *The Implications of MMP for the Public Service*. Unpublished internal paper, November.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1993b) *The Public Service During the 'Caretaker' Period*. Memorandum to Chief Executives from the State Services Commissioner, 8 November.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1994a) *Strategic Directions for the SSC - MMP*. Unpublished internal paper, 7 February.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1994b) *MMP - Notes for Chief Executives' Meeting*. Unpublished internal paper, 10 February.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1994c) *MMP: Changing the way we govern - IIR Conference*. Report to the Minister of State Services from the Deputy State Services Commissioner, 27 April.

- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1994d)
The Implications of MMP for the Public Service. Memorandum to Chief Executives from the State Services Commissioner, 28 April.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1994e)
Speech on MMP to the Master of Public Policy Students. Memorandum to the Minister of State Services from the State Services Commissioner, 5 August.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1994f)
The Working Group On The Implementation of Proportional Representation: Progress Report and Citizen Initiated Referenda. Memorandum to the Minister of State Services from the State Services Commissioner, 5 December.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1994g)
MMP Newsletter: A Newsletter for Public Service Chief Executives. June. Wellington, SSC.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1994h)
MMP Newsletter: A Newsletter for Public Service Chief Executives. July. Wellington, SSC.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1995a)
Working Under Proportional Representation: A Reference for the Public Sector. Wellington, SSC.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1995b)
Working Under Proportional Representation: Paper for IPR. Memorandum to the Minister of State Services from the State Services Commissioner, 28 July.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1996a)
Implementing Proportional Representation. Minute to Chief Executives from the State Services Commissioner, 13 February.

- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1996b)
New Zealand's State Sector Reform: A Decade of Change. Wellington, SSC.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1996c)
MMP Newsletter: A Newsletter for Public Service Chief Executives.
April. Wellington, SSC.
- State Services Commission/Te Komihana O Nga Tari Kawanatanga (1996d)
MMP Newsletter: A Newsletter for Public Service Chief Executives.
May. Wellington, SSC.
- Stiglitz, J. E. (1975) 'Principal and Agent', in Eatwell, J., Milgate, M. and Nennan, P. (eds.) (1987) *The New Palgrave Dictionary of Economics*. London, MacMillan. Cited in Lane, J-E. (1993) *The Public Sector. Concepts, Models and Approaches*. London, Sage Publications.
- Taylor, F. W. (1911) *The principles of scientific management*. New York, Harper and Brothers. Cited in Pollitt, C. (1993) (2nd ed.) *Managerialism and the Public Services*. Oxford, Blackwell Publishers.
- Treasury (1984) *Economic Management*. Wellington, Government Printer.
- Treasury (1987) *Government Management*. Wellington, Government Printer.
- Treasury (1993a) *Promoting A Consistent Strategy of Fiscal Balance*. Budget Report No. 35, March 31.
- Treasury (1993b) Budget Report No. 61, Annex C, para. 8, May 29. Cited in Kelsey, J. (1995) *The New Zealand Experiment. A World Model for Structural Adjustment?* Auckland, Auckland University Press/Bridget Williams Books.
- Treasury (1993c) *Fiscal Processes and Institutions in the New Environment*. Unpublished internal memorandum, 26 November.

- Treasury (1994) *Budgeting In An MMP Environment*. Report from the Deputy Secretary of the Treasury to the Minister of Finance, 2 December, T94/3367.
- Treasury (1995a) *Fiscal Responsibility Act 1994. An Explanation*. Wellington, Adprint Limited.
- Treasury (1995b) *Identifying the Characteristics of Good Public Sector Decision-Making Processes*. Unpublished internal paper, March.
- Treasury (1995c) *Work Relating to the Implementation of Proportional Representation*. Memorandum from the Deputy Secretary of the Treasury to the Minister of Finance, T95/676.
- Treasury (1995d) *Implications of a Successful No Confidence Motion*. Unpublished internal memorandum, 14 June.
- Treasury. *Implications of Proportional Representation for Policy Advice Processes*. Unpublished internal memorandum, undated.
- Trebilcock, M. (1995) 'Can Government Be Reinvented?', in Boston, J. (ed.) *The State Under Contract*. Wellington, Bridget Williams Books.
- Tunncliffe, D. (1993) 'Public Participation in the Legislative Process: The New Zealand Experience', *Legislative Studies*, Spring, vol. 8(1): 7 - 14.
- Vile, M. J. C. (1967) *Constitutionalism and the Separation of Powers*. Oxford, Clarendon Press. Cited in Chen, M. and Palmer, G. (1993) *Public Law in New Zealand. Cases, Materials, Commentary and Questions*. Auckland, Oxford University Press.
- Vowles, J. (1992) 'Businesses, Unions and the State: Organising Economic Interests in New Zealand', in Gold, H. (ed.) (3rd ed.) *New Zealand Politics in Perspective*. Auckland, Longman Paul Ltd.

- Vowles, J. (1995) 'The Politics of Electoral Law Reform in New Zealand', *International Political Science Review*, vol. 16: 95 - 116.
- Vowles, J. and Aimer, P. (1993) *Voters' Vengeance: The 1990 Election in New Zealand and the Fate of the Fourth Labour Government*. Auckland, Auckland University Press. Cited in Vowles, J. (1995) 'The Politics of Electoral Law Reform in New Zealand', *International Political Science Review*, vol. 16: 95 - 116.
- Vowles, J. and Aimer, P. (eds.) (1994) *Double Decision: The 1993 Election and Referendum in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 6.
- Vowles, J., Aimer, P., Catt, H., Lamare, J., and Miller, R. (eds.) (1995) *Towards Consensus? The 1993 Election in New Zealand and the transition to Proportional Representation*. Auckland, Auckland University Press.
- Walker, M. 'Past comes back to haunt Gingrich', *The Guardian Weekly*. 26.11.95: 6.
- Walsh, P. (1991) 'The State Sector Act 1988', in Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds.) *Reshaping the State: New Zealand's Bureaucratic Revolution*. Auckland, Oxford University Press.
- Weimer, D. L. and Vining, A. R. (1992) (2nd ed.) *Policy Analysis. Concepts and Practice*. New Jersey, Prentice Hall.
- Weller, P. (1991) 'Prime Ministers, Political Leadership and Cabinet Government', *Australian Journal of Public Administration*, vol. 50: 131 - 144. Cited in McLeay, E. (1995) *The Cabinet and Political Power in New Zealand*. Auckland, Oxford University Press.
- West, A. (1994) 'Public Service is Independent of Public Servants', *Public Sector*, vol. 17(2): 26 - 29.
- Whitcombe, J. E. (1987) 'Restructuring the New Zealand Public Service', *Public Sector*, vol. 10(1): 3 - 9.

- Whitcombe, J. E. (1992) 'The Changing Face of the New Zealand Public Service', in Gold, H. (ed.) (1992) (3rd ed.) *New Zealand Politics in Perspective*. Auckland, Longman Paul Ltd.
- White, N. (1995) *Report of the Standing Orders Committee on Constitutional Aspects of its Subcommittee's Study Tour of European Parliaments*. Appendix 1 in the Report of the Standing Orders Committee on the Review of Standing Orders, AJHR (1995) I.18A.
- Williams, D.V. (1990) 'The Constitutional Status of the Treaty of Waitangi: An Historical Perspective', *New Zealand Universities Law Review*, vol. 14: 9-36.
- Wilson, O. (1987) 'Some Thoughts on the Report of the Royal Commission on the Electoral System', *Political Science*, vol. 39(2): 153 - 160.
- Wilson, M. (1989) *Labour in Government: 1984 - 1989*. Wellington, Allen and Unwin.
- Wood, G.A. (1988) *Governing New Zealand*. Auckland, Longman Paul Ltd.
- Wood, G.A. (1990) (2nd ed.) *Governing New Zealand*. Auckland, Longman Paul Ltd.
- Wood, G. A. (1994) 'Looking Ahead', in Vowles, J. and Aimer, P. (eds.) *Double Decision: The 1993 Election and Referendum in New Zealand*. Wellington, Department of Politics, Victoria University, Occasional Paper No. 6.