Electoral Law Reform and the Work of the New Zealand Parliament

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New Zealand's adoption of the mixed-member proportional (MMP) electoral system in 1993 has significantly changed much of what goes on in the political institutions of a country once described as the 'purest example of the Westminster model of government'.[1] Less than a decade has passed since the first MMP election was held on 12 October 1996, but in that relatively short space of time coalition and minority governments have become the norm, minor parties have emerged from the electoral shadows, and the demographic composition of the New Zealand Parliament now more accurately reflects that of the citizenry it represents.

There is a substantial literature regarding these and other consequences of electoral reform for public life in New Zealand, including analyses of the legislative challenges faced by minority administrations, the changing nature of the Budget process, and the enhanced policy-making role of select committees.[2] However, little

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[1] A. Lijphart (1987), 'The Demise of the Last Westminster System? Comments on the Report of New Zealand's Royal Commission on the Electoral System', *Electoral Studies*, 6(2): 97. For Lijphart the model is characterised by two sets 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 consists of either a unicameral legislature or a bicameral legislature with a weak upper chamber, strong central government, and a fragmented constitution. Under MMP the first cluster of characteristics has become redundant.

[2] J. Anderton (1998), *Committees in Commonwealth Parliaments: an Overview*, Office of the Deputy Prime Minister, Wellington; J. Boston and S. Church (2002), 'The Budget Process in New Zealand: Has Proportional Representation Made a Difference?, *Political Science*, 54(2): 21–45; J. Boston, S. Levine, E. McLeay and N.S. Robert (1996), *New Zealand under MMP: A New Politics?*, Auckland University Press/Bridget Williams Books, Auckland; J. Boston, S. Church, S. Levine, E. McLeay and N.S. (1997), Roberts, *From Campaign to Coalition: The 1996 MMP Election*, Dunmore Press, Palmerston North; J. Boston, S. Church, S. Levine, E. McLeay and N.S. Roberts (2000), *Left Turn: The New Zealand General Election of 1999*, Victoria University Press, Wellington; J. Boston, S. Church, S. Levine, E. McLeay and N.S. Roberts (eds) (2003), *New Zealand Votes. The General*

detailed attention has thus far been paid to the bearing which the new electoral arrangements have had on the day-to-day work of parliamentarians. This article examines trends in the activities undertaken within New Zealand's unicameral legislature between 1984–2002, and on that basis offers a series of observations regarding the impact proportional representation has had on the nature of the work undertaken within the House of Representatives, and on the relationship between the executive and legislative branches.

Many of the data used in the paper are drawn from the Schedules of Business in the Journal of the New Zealand House of Representatives, and from the Annual Reports of the Office of the Clerk of the House. Bear in mind that the data are not strictly comparable, for the Schedules of Business report data by parliamentary session, while the Clerk's Annual Reports cover the year to June, and thus tend to cut across parliamentary sessions.

The article begins with a brief reprise of the process of electoral law reform, following which it examines recent trends in the legislative and non-legislative activities of the House and its select committees. It concludes that while the new voting system has enhanced the scrutinisation function of the legislature, this has not occurred at the expense of the effectiveness of the political executive.

A Little Background

MMP was adopted at a time of — and was arguably in large measure a consequence of — unprecedented public dissatisfaction with all things political in New Zealand. There had long been concerns with the simple plurality or first past the post (FPP) system, but historically they had been the preserve of a small group of electoral reform enthusiasts, and it was not until the late 1970s and early 1980s that the state of the electoral system became a matter of wider public interest. In part, that development was triggered by the elections of 1978 and 1981, both of which the opposition Labour Party lost despite having won a greater percentage of the vote than the National Party. Dissatisfaction grew throughout the 1980s as the vagaries

Election of 2002, Victoria University Press, Wellington; M. Ganley (2002), *Making Unicameral Parliaments Work: The New Zealand Exception?*, Research paper submitted for LLB (Hons), Victoria University, Wellington; D. McGee (2001), *Parliamentarism and MMP*, paper presented at the NZPSA Annual Conference, Massey University, Palmerston North, December; D. Quigley (2000), 'Seeking consensus: Select committees and multi-party policy-making', *The Parliamentarian*, April, pp. 132–34; J. Vowles, P. Aimer, S. Banducci and J. Karp (1998), *Voters' Victory? New Zealand's First Election Under Proportional Representation*, Auckland University Press, Auckland; J. Vowles, P. Aimer, H. Catt, J. Lamare and R. Miller (eds) (1995), *Towards Consensus? The 1993 Election in New Zealand and the transition to Proportional Representation*, Auckland University Press, Auckland; J. Vowles, P. Aimer, J. Karp, S. Banducci, R. Miller and A. Sullivan (eds) (2002), *Proportional Representation on Trial: New Zealand's Second MMP Election and After*, Auckland University Press, Auckland; J. Vowles, P. Aimer, S. Banducci, J. Karp, and R. Miller (eds) (2004), *Voters' Veto. The 2002 General Election and the Consolidation of Minority Government*, Auckland University Press, Auckland.

of FPP stymied the electoral fortunes of the smaller parties to whom voters were increasingly turning.

More than anything else, however, the case for electoral reform was boosted by the conduct of the reforming administrations of the 1980s and early 1990s. Executive domination of the legislature was a defining feature of plurality in New Zealand (as it is in other countries with parliamentary executives and plurality electoral systems), and between 1984–1993 successive governments of both the centre-left and centre-right took full advantage of that leverage to drive through extensive economic and social reform, often in the face of vehement (but largely ineffectual) public and parliamentary opposition.

The fourth Labour Government (1984–1990) generated particular outrage. Labour's pursuit of unpopular economic reforms, and its willingness to ignore its manifesto commitments, convinced growing numbers of voters of the need for a remedy to rampant executive power. Ironically, the Royal Commission on the Electoral System (RCES) which Labour had established in early 1985 had recommended just such a remedy, but the government banished the RCES's report to the Siberia of the Electoral Law select committee, where it was to languish until rescued by the pro-MMP movement in the early 1990s.[3]

The ranks of the disaffected grew after the 1990 election when, having campaigned on a promise to 'create a decent society', the incoming National administration set about privatising public health, housing and education services, and funding tax cuts for middle- and high-income earners by cutting welfare benefits.

By the early 1990s the clamour for electoral reform had become very loud indeed. Unable to ignore it, the incumbent National Government staged an indicative referendum in September 1992, at which an overwhelming majority of those who voted indicated a preference for a new system, and specifically for MMP.[4] The gap between supporters and opponents of change had closed considerably by the time a second and binding referendum was held in conjunction with the 1993 General election, but the former prevailed by a margin of 54 per cent to 46 per cent, and MMP was formally adopted.[5] At the same time, the size of the House of Representatives was increased from 99 to 120 Members.

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[3] Royal Commission on the Electoral System, *Report of the Royal Commission on the Electoral System: Towards a Better Democracy*, RCES, Wellington, 1986.

[4] The referendum was the first occasion in a Westminster-style democracy on which a government offered voters the chance not only to change the electoral system, but in addition to indicate which of a range of systems they would most like to see implemented in the event of change. Just over 55 per cent of all registered voters voted, 85 per cent of whom expressed a preference for a shift to MMP.

[5] The nature of the electoral system is one of the few reserved provisions in the New Zealand constitution, and can only be altered with the support of at least 75 per cent of all members of Parliament or through an affirmative vote in a nation wide poll of all eligible voters. The passage of the *Electoral Act* 1993, which brought about electoral system change, was triggered by the result of the second and binding referendum.

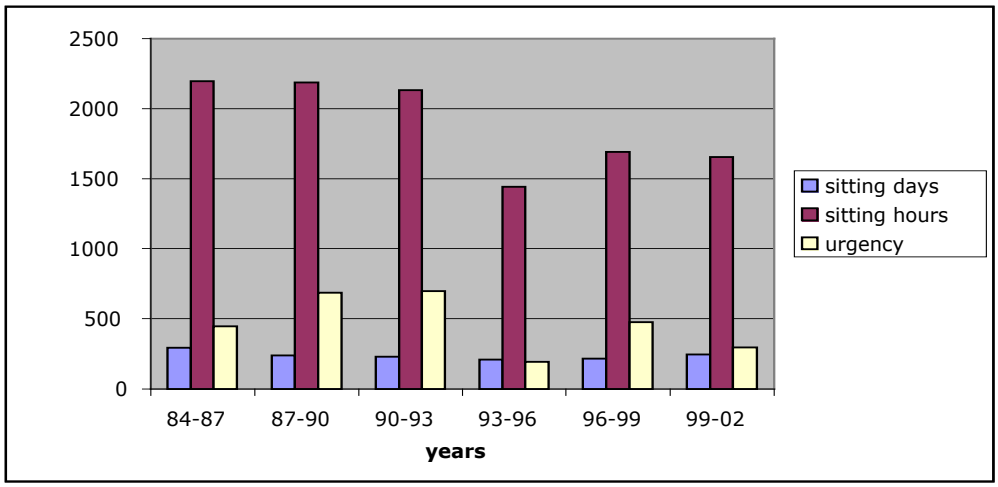
Three elections have since been held under MMP. For the purposes of this discussion, there are two points worth noting about the outcomes of these elections. First, each has produced a genuinely multi-party parliament: six parties cleared the electoral threshold in 1996, and seven did so in both 1999 and 2002. Secondly, the processes of government formation which followed each election resulted in coalition governments. In 1996 the National/New Zealand First administration had a parliamentary majority of one, while in 1999 and 2002 the Labour Party formed minority coalitions with the Alliance (59 of 120 seats) and the Progressive Coalition Party (54 of 120 seats) respectively.[6]

Parliamentary Business

Proponents of reform hoped that MMP would loosen the grip the political executive had long had on the legislature, freeing it to perform its various functions with greater independence and to better effect. The growing support for parties other than Labour and National would likely lead to the demise of single party majority governments, as a consequence of which:

- executive domination of the legislative programme would diminish;
- select committees would assume a greater role in policy-making;
- Parliament would more effectively scrutinise the executive.[7]

Figure 1: The House in Session



[6] The latter number has since fallen to 53 with the resignation from the Labour Party in mid-2004 of a former junior Minister, Tariana Turia.

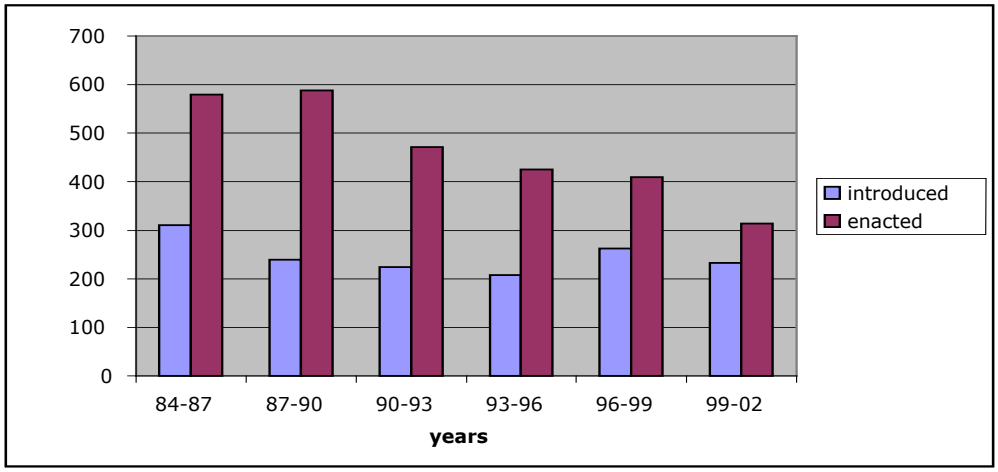
[7] RCES, *op. cit.*; J. Boston (1998), *Governing Under Proportional Representation: Lessons From Europe*, Institute of Policy Studies/Victoria University, Wellington, Boston *et al.*, 1996, *op. cit.*

Parliament at Work

MMP parliaments are sitting for roughly as many days as did their FPP predecessors. But they are spending fewer hours in session, which trend corresponds with the advent of multi-party and minority governments (the National government formed after the 1993 election lost its one seat majority early in its term). The parliaments between 1984–1993 were controlled by single party majority Labour or National governments which pursued significant reform, much of it via legislation. However, the pace of change and the amount of legislation being enacted (see Figure 2 below) have dropped since the mid-1990s, and fewer sitting hours are currently being taken.

Increasingly, too, the House is showing an unwillingness to grant the executive leave to take urgency. The first MMP Parliament was an exception to a rule which appears to have been emerging since New Zealanders voted for electoral reform in 1993. However, the initial 20 months of that Parliament was the only period since late 1994 during which the executive has controlled a parliamentary majority; not surprisingly, non-majority governments have more difficulty convincing the House to grant urgency.

Figure 2: All Legislation



The number of bills being assented to has been steadily falling since the frenetic days of the fourth Labour Government. With the advent of MMP, the gap between the amount of legislation introduced and enacted has closed markedly. To some degree, this reflects restrictions placed on the introduction of omnibus bills in the mid 1990s, since when fewer bills have been split at the committee of the whole

House stage.[8] For this reason, and as many bills take more than one year to pass, caution must be taken when comparing the numbers of bills introduced and enacted each year.

After falling through the late 1980s and early 1990s, the amount of legislation being introduced under MMP has climbed (albeit not steeply). The two parliaments controlled by Labour (1984–1987; 1987–1990) were amongst the busiest in New Zealand's history. The pace of legislative activity fell under the fourth National Government (1990–1993), and dropped again during the 1993–1996 Parliament, which marked the transition to the implementation of MMP. Given the demise of single party majority governments, the flow of legislation might have been expected to dry up still further following the first MMP election in 1996, but in both of the completed MMP parliaments more legislation has been introduced than was the case in either of the last two FPP parliaments. Theoretically, minority and/or coalition administrations are more vulnerable in the House than single party majority governments, but since 1998 (when the National/New Zealand First coalition majority government imploded) stable legislative coalitions with support parties have enabled governments to maintain a reasonable legislative pace.

Whose Legislation?

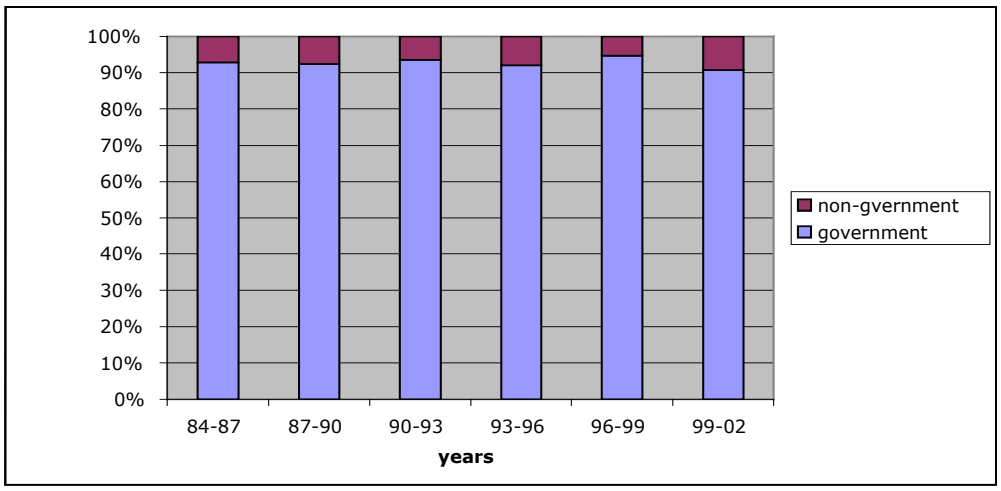
The Standing Orders of the New Zealand Parliament provide for Government bills (a bill dealing with a matter of public policy which is introduced by a Minister), Members' bills (which also deal with public policy, but which are introduced by a Member who is not a Minister), local bills (a bill promoted by a local authority) and private bills (the provisions of which concern a particular person or body of persons). Government bills have traditionally dominated the legislative programme, but there was an expectation that under proportional representation more space would be found for non-government legislation.

Those hopes have not yet been realised: both before and after the introduction of MMP between 90–95 per cent of all bills enacted have been government measures. Indeed, in the first MMP Parliament non-government legislation accounted for a smaller proportion of all bills passed than was the case in the mid to late 1980s, which period is still popularly regarded as the heyday of executive arrogance in New Zealand. Even under coalition and/or minority government conditions, while the total amount of legislation being passed is falling, the political executive continues to sponsor at least 90 per cent of all bills enacted.

The data reported in Figure 3 may provide little comfort to those who hoped the legislature might slip the shackles of the executive under MMP, but they also mask interesting trends in the type of non-government legislation finding its way into and through the House.

[8] Clerk of the House, *Annual Report*, Office of the Clerk of the House, Wellington, 1997.

Figure 3: Source of Legislation Enacted



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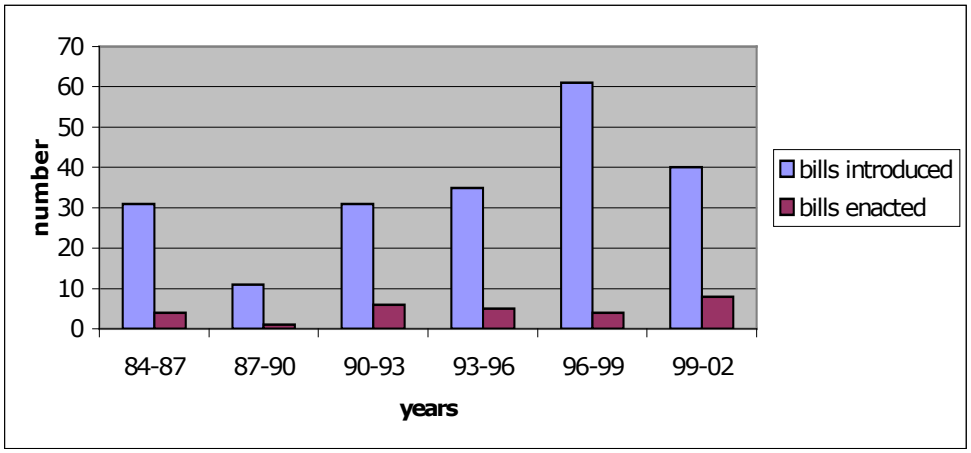
In particular, the total number of Members' bills being introduced has climbed, both in absolute terms and as a percentage of all legislation. Thirty five such bills were introduced in the last FPP parliament, whereas 61 and 40 Members' bills found their way into the first and second MMP parliaments respectively

Figure 4: Members' Legislation



That said, the amount of this legislation which is being referred to select committees under MMP does *not* appear to grown markedly. As far back as 1975, half of all Private Members' bills went to one or other of parliament's

committees.[9] That is broadly consistent with what has thus far happened under MMP; in the two parliamentary terms completed since the 1996 election, 43 and 48 per cent of those Members' bills introduced found their way to a select committee. (Moreover, those figures do not compare favourably with the experience of the last two FPP parliaments, during which over 80 per cent of Members' legislation went to committee.)

When they emerge from select committees, however, Members' bills do seem to stand a slightly better chance of proceeding under MMP than was previously so. One in five such bills introduced between 1999–2002 became law (most of which, interestingly, were sponsored by opposition MPs), and 30 per cent of those introduced during the current parliamentary term (scheduled to end in late 2005) have been passed. Conversely, 19 and 14 per cent of Members' bills were enacted in the 1990–1993 and 1993–1996 parliaments.

For all that, Members' bills continue to account for a minute proportion of all legislation. In the first MMP parliament and the preceding two parliaments, around 1 per cent of all bills passed were Members' initiatives. (During the second MMP parliament, however, fully 3 per cent of all bills passed were Members' bills.)

Several of these bills have been of significant policy moment. Through Members' legislation the sale of liquor in certain public places has been prohibited, smoking inside workplaces has been banned, and prostitution has been decriminalised. But other initiatives have failed, including a highly controversial effort to introduce voluntary euthanasia.

One or two determinants of the success or failure of a Member's bill might be proposed. Arguably, the first is luck, insofar as a Member's proposal has to be drawn from a ballot by the Clerk of the House. On this, the effect of MMP is arguably limited to having increased competition in the ballot (although strictly speaking, the increase in the number of MPs is not a function of MMP *per se*).

More substantively, the parliamentary strength of the executive may have a bearing on the progress or otherwise of Members' bills. Specifically, it might be assumed that minority governments exercise a weaker chokehold over the progress of legislation than do majority administrations, and are therefore less able to block the progress of non-government legislation which is supported by sufficient numbers of opposition MPs. However, thus far, at least, the evidence does not support that supposition. For instance, whereas the single party majority government of 1990–1993 allowed virtually all Members' bills to go to select committee, the corresponding figure for the minority administration in office between 1999–2002 was less than 50 per cent.

[9] K. Jackson (1978), 'A political scientist looks at Parliament', in J. Marshall (ed.), *The Reform of Parliament: contributions by Dr Alan Robinson and papers presented in his memory concerning the New Zealand Parliament*, Institute of Public Administration, Wellington, cited in Ganley, *op. cit.*, p. 44.

Perhaps the slow increase in the percentage of Members' bills being passed indicates that minority governments (which have been in office since late-1998) are being forced to cede ground? That trend, however (if indeed it is a trend), needs to be set against the patterns of support for and opposition to individual measures. Thus, 19 Members' bills were passed between 1996 and mid-2004, fully eight of which were sponsored by opposition MPs.[10] But the executive supported each of those bills at the third reading stage. Moreover, it did so because it agreed with the policy substance of each measure, rather than for the purposes of saving face when confronted with imminent legislative defeat.

And in cases where minority governments *have* opposed an opposition MP's bill, they have been able to defeat them comfortably with the support of a non-government party. To the extent that conclusions can be drawn at this point, then, a government's parliamentary strength may not be the over-riding determinant of its leverage over the passage of legislation. Rather, the nature and durability of legislative coalitions with other parties may be the more important variable in this respect.

Parliament's Committees at Work

New Zealand's select committees, which have functioned for a century and a half, are unusual by international standards: they scrutinise virtually all legislation, routinely review the finances and performance of public bodies, instigate independent inquiries, review petitions and (since 1999) report on all multilateral and most bilateral international treaties. In many respects the committees are the centre-piece of New Zealand's parliamentary arrangements, and have been described as 'the best means, consistent with our constitutional tradition, of providing a parliamentary check on executive and administrative power'.[11]

Since changes to Standing Orders in 1985 all legislation (with the exception of money bills and those for which urgency is taken) stands referred to one of parliament's 13 subject select committees.[12] Public submissions are called for as a matter of course (and oral submissions are heard from those able to attend committee meetings, which are often held away from the capital), and the majority of committee meetings are open to the public and the media.

Under FPP select committees were invariably dominated by the governing caucus, and committee chairs would frequently receive riding instructions from Ministers.

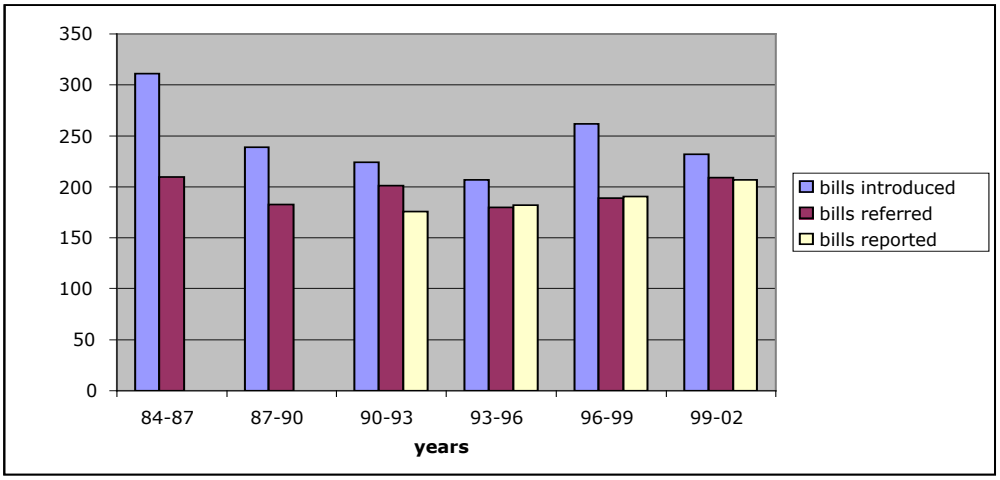
[10] Of the remainder, 10 were instigated by MPs from a government caucus, and one by a Member from a government-aligned party.

[11] RCES, *op. cit*., p. 20; cited in Ganley, *op. cit*., p. 8.

[12] There are 13 permanent subject committees and five permanent committees (Business, Standing Orders, Regulations Review, Officers of Parliament and Privileges). In addition, *ad hoc* committees may be created to examine a specific issue or bill. One such, the MMP Review Committee, was established under statute in 2000 to review the operations of the new electoral system.

However, several features of the post-MMP landscape have diluted the executive's power to direct committees. The advent of multi-party parliaments and non-majority governments has reduced the numerical control which the executive has historically had over committees. The current government has an outright majority on only one of the 13 subject committees, and controls 10 others only with the support of other parties. This loss of control has been amplified by the increase in the number of MPs to 120, enabling the membership of each committee to grow from five, to between eight to 12.

Figure 5: Committees' Legislative Workload



The number of select committee meetings has been steadily increasing since the early 1990s. Much of that committee time has been spent scrutinising legislation. In the mid-1980s only two thirds of all legislation introduced was referred to a select committee. Since the 1985 changes to Standing Orders, however, almost all legislation has found its way into a committee, although between 1996–1999 there was some slippage in that regard, largely because of the frequency with which the National/New Zealand First government took urgency.

Of equal interest is the slow but steady increase in the number of select committee reports on legislation which are being tabled in the House. Select committees receive legislation after the First Reading, are required to report back to the House within six months, and almost always recommend amendments (technical and/or substantive) which are drafted into a bill as reported back.[13] Given that the parliament now regularly contains six or seven political parties, legislation is being

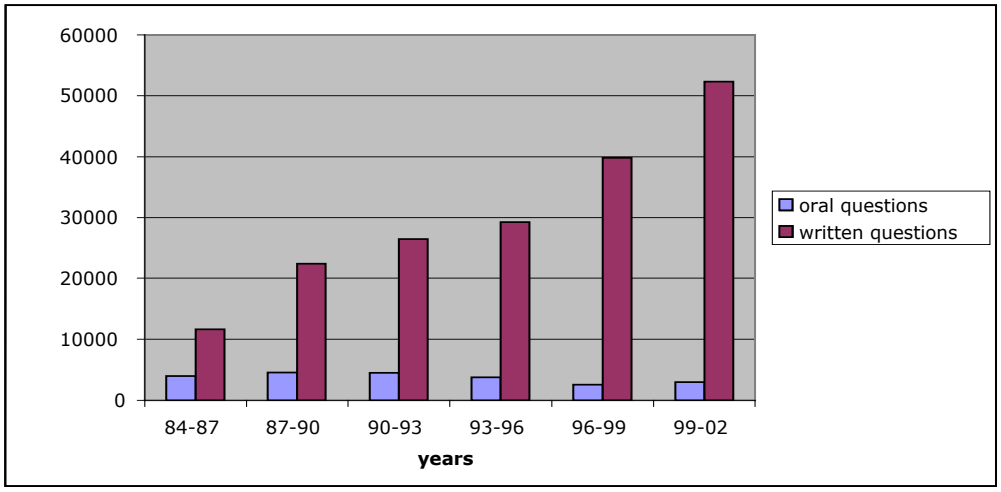
[13] A report will distinguish between those recommended amendments adopted unanimously, and those adopted by a majority of committee members.

exposed to many more points of view than has previously been the case, and these days committees typically provide both majority and minority reports on bills.

Scrutinising the Executive

The ability of the legislature to scrutinise the executive was significantly constrained under FPP. Given the increasing disaggregation of voters' preferences over the 1980s and 1990s (due in no small part to the actions of governments which marginalised the legislature), MMP held out the promise of a House which was not dominated by members of a single party, and which would therefore be able to carry out its scrutiny function more searchingly and effectively.

Figure 6: Questions to Ministers

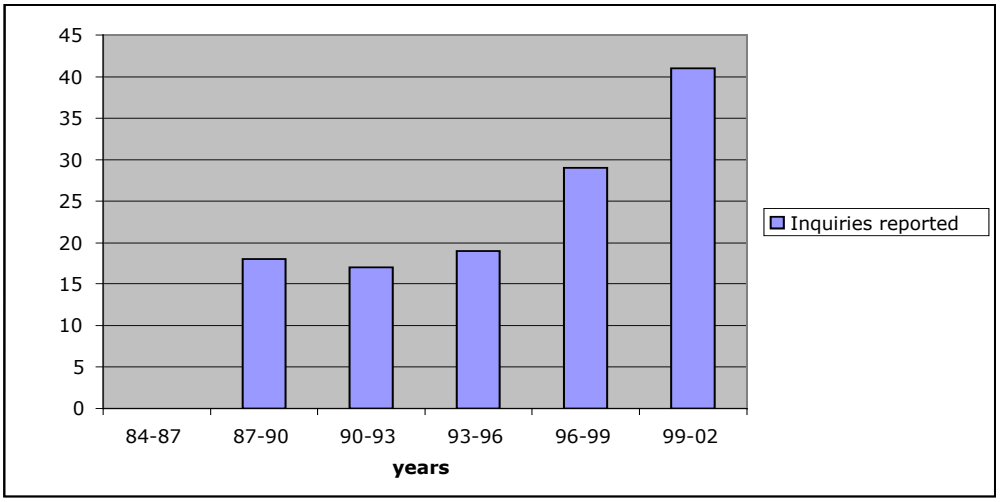


There are some indications that this is occurring. For instance, the number of questions to Ministers which require a written response has soared. Of course, given the spurious nature of some questions (and the tendentious nature of some questioners) that in itself cannot safely be read as evidence of a more probing legislature. But with between four and five non-governing parties now routinely sitting in the House, most seeking to embarrass the government and each vigorously pursuing a public profile, individual legislators are certainly taking advantage of this particular procedural means of unearthing information on the executive's performance.

But it is in the select committees that the clearest indications of a more vigorous legislative branch are to be found. Figure 5 suggested a rise in the committees' legislative workload, but there are other signs that they are increasingly functioning as committees of the legislature rather than as adjuncts of the executive branch. For

instance, committees are undertaking many more financial reviews of publicly funded agencies than they once did: 418 were completed in the 1999–2002 Parliament, compared with 352 in the 1993–1996 Parliament (the first year for which data are reported). In addition, since May 1998 committees have been examining and reporting on all multilateral and most bilateral international treaties (17 such treaties were examined in 1998, rising to 22 in 2002).[14]

Figure 7: Committees' Inquiries



Perhaps the best evidence of committees' independence is the marked increase in the number of inquiries they are completing. A subject committee is able to instigate independent inquiries into the policy, administration and expenditure of government departments and Crown entities whose functions lie within the committee's subject area. There are no data prior to 1988, but since that time, and particularly since the mid-1990s, the carrying out of inquiries has become an increasingly prominent area of committee work. There are several possible explanations for this. One is that the increase in their size has meant that committees can devote more resources to their non-legislative functions. In addition, with fewer MPs sitting on more than one committee, individuals are developing greater expertise in particular subject areas, which they are then able to apply to the minutiae of policy administration.[15]

[14] Clerk of the House, *Annual Report*, Office of the Clerk of the House, Wellington, 1998. The negotiation and ratification of international treaties and agreements remain an executive prerogative, but governments do not formally enter a treaty until the House has had at least 35 days to examine a proposed treaty and its associated national interest analysis.

[15] Clerk of the House, 1997, *op cit.*

Another is that the multi-party composition of committees, which reflects that of the House and which has reduced governments' majorities on some committees, is encouraging a bipartisan approach to committee work. Minority governments, in particular, may be unable to dissuade committees from launching inquiries into the administration of government policy.

A third possibility is that with the increase in competition for Cabinet places which characterises coalition governments, more MPs are seeking to make their mark through select committee work. Responsibility for chairing committees has become a more attractive proposition for parliamentarians, and committees are showing a willingness to pursue policy issues regardless of the preferences of the political executive.

In recent years committee inquiries into the funding of tertiary education, system failures in the national cervical screening programme, and the legal status of marijuana have attracted significant public attention. Some inquiries have had a major bearing on the implementation of government policy. In 1999, for instance, a Foreign Affairs, Defence and Trade select committee inquiry was strongly critical of aspects of the incumbent centre-right government's defence policy, notwithstanding that a majority of the committee's members were government or government-aligned MPs.[16] Moreover, the committee's recommendations influenced the defence policy settings of a new centre-left government formed in late 1999.

Final Thoughts

When asked to comment on the consequences of the French Revolution, Mao Tse Tung is reputed to have responded: It's too early to tell. The same can be said of the ramifications of electoral law reform for the nature and patterns of the routine work undertaken within the New Zealand Parliament. There have been only three MMP elections, and two complete parliamentary terms, so it is a little soon to be drawing firm conclusions. Moreover, this article has not incorporated qualitative assessments of the impact of MMP, and the quantitative data which are presented convey little of the political and normative flavour of parliamentarians' work.

Those caveats notwithstanding, one or two observations can be offered on the basis of the available evidence. The indications are that parliament has gained a measure of independence from the political executive, principally through the demise of 'strong' governments. On at least one occasion the consequences of this have been profound: the demise of the National/New Zealand First coalition in August 1998 represented the first time the legislature had effectively unmade a government since 1912.

[16] Quigley, *op. cit.*

More frequently, the ramifications of this new found independence are rather less dramatic, although that does not diminish their importance. The House is gradually building its capacity to promote non-government policy. The overwhelming majority of legislation is still promoted by the government, which is perhaps as it should be given the fusion of the executive and legislative branches, but the total number of Members' bills being introduced and passed is gradually climbing.

The greater independence now enjoyed by parliament has also enhanced its ability to scrutinise the government of the day. Arguably the most effective scrutinisation is taking place within the enlarged select committees, which are investing more time and energy than they did under FPP in scrutinising legislation and in investigating the performance of public agencies.

Correlation need not indicate causation, however, and while MMP has had a bearing on parliament's activities, other factors have also been at work. For instance, changes to Standing Orders in 1996 strengthened the scrutiny function by granting select committees the right to inquire into the activities of Crown entities, and further changes in 1999 institutionalised the examination of international treaties as a permanent feature of committee work.[17] Neither development was directly a function of MMP, but reflected instead new thinking about the appropriate scope of legislative inquiry. Plainly, too, the increase in the size of the House has facilitated the work of select committees by reducing the proportion of all MPs who are also members of the executive.[18]

Finally, it is important not to overstate the extent to which the executive has ceded control to the legislature in New Zealand's new environment. Governments have not been neutered by MMP: parliament continues to grant supply and government bills continue to account for the overwhelming majority of all legislation passing through the House. In addition, governments continue to implement policy via regulation.[19] In short, while MMP has rejuvenated the legislature, it has not done so at the expense of the executive. Bagehot's 'efficient secret' still applies in New Zealand: parliament remains sovereign, but providing it maintains the confidence of the House it is the government of the day which rules. ▲

[17] Crown entities employ nearly two thirds of all public officials, and account for roughly 50 per cent of all government expenditure.

[18] There are currently 69 constituency MPs (representing general and Maori seats) and 51 MPs drawn from political parties' lists. Since 1867 statutory provision has been made for separate Maori representation. Maori are able to enroll on either the general Roll or the Maori Roll (and are given this choice at each five-yearly census). The number of Maori seats was set at four between 1867–1993, but under the *Electoral Act* 1993 that number can either increase or decrease, depending on the numbers enrolled on the Maori roll. Since the first MMP election in 1996, the number of Maori seats has increased to seven. If all Maori enrolled on the Maori Roll, that number would stand at approximately 15.

[19] Regulations Review Committee, *Activities of the Regulations Review Committee during 2001*, the Committee, Wellington, 2001. Governments do not appear to be making markedly more use of regulations under MMP than they did previously.