

New Zealand Local Government Elections: Participation and Voting Procedures

by

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I. INTRODUCTION

In this paper I intend to examine voting and participation in local government elections, looking first at the record of voting in New Zealand and then at the various alternatives in conducting elections, looking at the law, the effects and the likely advantages and disadvantages of each of these. I intend to follow this up by examining the importance of voting and public participation in voting in local government elections. Finally I will deal with the methods by which the Local Elections and Polls Act 1976 assists would-be voters to vote and several problems in this area, and offer some thoughts on the future of local government elections, and of participation in them.

II. LOCAL BODY VOTING IN NEW ZEALAND

I do not intend examining in detail the provisions and functioning of the standard voting process, except briefly when drawing comparisons with the experimental processes. However, I first wish to examine the record of traditional forms of voting, as evidenced by voting turnouts, in an attempt to establish why it was thought necessary to turn to more unorthodox means of soliciting the vote.

Voting is held in high esteem by the local authorities as an indicator of democracy at work in local government, and hence high voting figures are desired. Coupled with this is the fact that voting is one of the few ways a person can participate in local government, and the only way that many do. Local government appears to be the domain of a tiny proportion of the population, and the broad majority is con-

tent to leave to these people any responsibilities regarding local government. This is possibly due to people feeling that little they could do would make any difference. This proposition is suggested by a study by Kornhauser in Detroit¹ in which a representative sample of persons were asked the question. "Do you feel that there is anything you can do to improve the way the city is run?" More than half the people declared that they could do nothing. One-third could suggest only voting. Only one person in twelve believed that he could exert influence by more positive and direct action, either by means of personal criticism or by joining in group action.

In view of the considerable emphasis placed upon voting, what do the results tell us? Voting turnouts in New Zealand local government elections vary from poor to abysmal, varying both over the years, and between the various authorities. Thus between 1959 and 1977, the highest turnouts in cities and boroughs has been 49.3% (in 1971) and the lowest 45.4% (in 1965), the average being 46.8% over the seven local body elections in the period. The comparable figures for voting turnouts in the counties have been a high of 67.7% (in 1974) and a low of 40% (in 1959), the average being 49.1% over the period. Not only are the voting turnouts subject to massive fluctuations between the years, but also when comparing various types of local bodies and, within each type of local body, between individual councils.

Of particular contrast are the turnouts achieved by town districts compared to those of the suburban municipalities. The term 'town council' is becoming an anachronism in New Zealand as they are being replaced by other forms of territorial authorities, but they have consistently achieved better results than the suburban councils. Between 1959 and 1965 town districts achieved an average turnout of 59%, compared with that of the cities and boroughs of 46.3%.² This appears to suggest that something inherent in the smaller isolated urban areas is lacking in the larger urban areas, some form of community consciousness or community spirit which encourages people to participate in community affairs.

This inclination would be encouraged by the fact that candidates would, in general, be known to the electors. This is in stark contrast to elections in the larger urban units in which the elector is confronted by a large list of candidates between whom he is supposed to choose and of whom he knows very few, even by reputation. For example, Auckland in 1977 had 44 candidates for 21 seats, Christchurch 52 candidates for 19 seats and Wellington 50 candidates for 18 seats,³ and while the pro-

¹ Contained in Adrian, C.R. *State and Local Governments*, (1960), 135.

² Bush, G. W., "Local Body Elections". New Zealand Local Government. July 1968.

³ Local Authority Election Statistics 1977, Department of Internal Affairs.

portions were not so high for the smaller urban units, there were approximately twice as many candidates as seats. Present trends of amalgamating urban units must aggravate this situation, for despite the obvious advantages of amalgamation with regard to efficiency and economy, people will be even less likely to know the candidates, and similarly, community consciousness would likely decline. Thus, to cite a glaring illustration: before the adoption of postal voting, Manukau City recorded a string of dismal figures relating to turnouts. In its first elections of 1965 it achieved a turnout of 29%, in 1968 31% and in 1971 28.3%.⁴ Its percentage has been saved somewhat by postal voting which will be discussed later.

Another trend which appears to affect voting turnouts is that of urbanisation, the encroachment of urban housing into predominantly rural counties. Although little research has been done in this area I would suggest that urbanisation has the effect of producing two relatively distinct interests in the same electoral area; that of the urban dweller with his interests city-orientated, and that of the established rural dweller with rural inclinations. This, I would suggest, would not be conducive towards a strong community spirit, and neither would the newness of the area. An example of this type of community is Waitemata City which until recently was a county, despite the fact that it has a predominantly urban population, leading Dr Bush to describe it in 1972 as 'that overgrown misfit among genuine counties'.⁵ In 1968 it attained the lowest absolute turnout of any territorial society authority with 23.5%⁶ and in 1974 as a city it attained a scarcely better result of 29%.⁷

There are also wide fluctuations between each type of local authority. Thus with regard to suburban boroughs in 1977 Mt Roskill attained 20% and Mt Wellington 22% and yet Devonport attained 55% and Eastbourne 51%.⁸ These differences need not be dwelled upon for the purposes of this paper, but factors accounting for the difference include the kind of weather, the number of popular candidates and whether or not a mayoral contest has been held.

It must also be mentioned that low voting figures in local government elections are not a new phenomena but have always been prevalent. The turnouts for the Auckland City Council elections in 1933 were 49.5% and in 1956 43.7%,⁹ figures which compare very closely with those attained today.

⁴ See Local Authority Election Statistics and the articles cited by Dr G. W. Bush in N.Z.L.G.

⁵ Bush, G. W., "Local Election Trends", N.Z.L.G. November 1972.

⁶ *Ibid.*

⁷ Local Authority Election Statistics 1974.

⁸ Local Authority Election Statistics 1977.

⁹ Bush, G. W., N.Z.L.G. September 1971, 333.

Similarly despite the comments made by Mr R. J. O'Dea (Secretary of Internal Affairs in 1968), that New Zealand local government voting figures compare unfavourably with overseas,¹⁰ low turnouts in local government elections are a world-wide phenomena that have been commented upon by a number of authorities. For example, T. R. Dye,¹¹ in commenting upon the United States, said that only 25-50% of the nation's eligible voters can be expected to vote. Likewise P. Fletcher indicates that turnouts of under 40% are common in Great Britain.¹² Thus it can be seen that voting in local government elections in New Zealand, and throughout the world, is an activity which a large proportion of the population declines to participate in.

III. EXPERIMENTAL VOTING PROCEDURES

A. Introduction

It is with reference to the above that the experimental methods of voting can be seen; they were drafted as a direct consequence of the concern held by people in responsible positions at the low voting levels. For example, Mr O'Dea stated that one wondered whether¹³ “. . . democracy . . . is working as it should be. Some local authorities are, in fact, elected by the express wish of less than half those eligible to express an opinion”. Thus the measures introduced can be viewed as an attempt to encourage more people to vote, by making it easier for people to participate. The three measures introduced are those of postal voting, voting over consecutive days, and the introduction of mobile polling booths.

The three procedures are contained in Parts III, IV and V of the Local Elections and Polls Act 1976, after being first inserted in the Act by the 1970 Amendment to the 1966 Local Elections and Polls Act. The new procedures are used not only by territorial authorities; but as the elections for territorial authorities are often combined with those of ad hoc bodies, such bodies also use them. This is provided for by section (2) of the 1977 Amendment to the Local Elections and Polls Act 1976. Subsection (1) allows returning officers of borough councils, county councils, town councils and district councils to conduct any other elections within the local government area for which they are also returning officers. Subsection (2) provides for the resolution of disputes, as to the form an election is to take, between the various authorities for which the officer is acting; in the event of conciliation

¹⁰ See Bush, G. W., N.Z.L.G. July 1968.

¹¹ Dye, T. R., *Politics in States & Communities*, (1969), 272.

¹² Fletcher, P., *Voting in Cities*, Sharp, L. J. (Ed.), (1967), 298.

¹³ Contained in Bush, G. W., N.Z.L.G. July 1968.

failing, the subsection provides for the returning officer to conduct the elections by the method by which the immediately preceding general election was conducted. However, it appears that the territorial authorities have the final say as to the form the election is to take.¹⁴ Section 118(2) provides for the costs of elections held on behalf of other local authorities, to be borne by all authorities involved, as agreed between them and section 118 (3) provides for the settlement of disputes as to costs to be determined by the Audit Office.

B. *Postal Voting*

The provisions for postal voting are contained in Part III of the Act. Section 66 gives local authorities the right to hold elections and polls by postal vote:

Any local authority may, by resolution, determine that any specified election for a member or members of that local authority or any poll on any issue to be taken by that local authority shall be conducted by postal vote, and the Returning Officer shall conduct that election or poll by postal vote accordingly.

It is noticeable that no date is set by which authorities must have decided upon postal voting, although one assumes this decision must be made soon enough for all preparations to be made. Voting by post is still subject to Part II of the Act but the Act is modified in accordance with section 67 and with the Third Schedule to the Act to account for any discrepancies.

The conducting of elections by postal vote is set out in sections 68 to 78 of the Act. Voting papers are forwarded by post to each elector by the Returning Officer as soon as practicable after the sixteenth day before the date on which the election is to be held, and not later than the eighth day before the election.¹⁵ The elector has to exercise his vote in accordance with the instructions on the voting paper alone and in secret¹⁶ and then must enclose the voting papers in the envelope provided and return the envelope to the Returning Officer, either by hand or by post.

A provision which conflicts with the conduct of standard elections is contained in section 65. In this provision the "close of voting" is defined as being twelve noon if the election is on a Saturday and 5p.m. if the election is held on a week day ('election day' for the purposes of postal voting is the last day upon which votes can be returned). This provision is likely to coincide with postal deliveries but its effect would be to exclude the votes of persons who hand deliver their votes after the stated time, but before the normal close of voting (7p.m.). Votes

¹⁴ This is suggested by statements made by territorial councils as to the method they will use in future elections contained in N.Z.L.G. 1968, 218.

¹⁵ Local Elections and Polls Act 1976, s. 68.

¹⁶ *Ibid.*, s. 69.

delivered after the stated time are declared not valid¹⁷ and are to be marked "Delivered after the close of voting" and set aside.

Several provisions contained in Part III are analogous to sections in Part II; for example section 68(3)(b) which allows the Returning Officer to include with the voting paper a translation in whatever language he considers necessary of the "directions to voter" section of the voting paper, is similar to section 24(c). Likewise section 69(2) which provides for assistance to blind or illiterate voters and voters not sufficiently versed in the English language is similar to section 36 in Part II. In addition section 73 sets out the rights of electors to vote as special voters who, while their names were on the role for the elections, did not receive voting papers or did receive them but spoilt or destroyed them, in addition to the categories contained in section 37.

One provision which does not appear in the provisions for standard elections but does for postal voting (and for voting on consecutive days) is contained in section 76 by which Returning Officers may announce the number of voting papers sent and returned from time to time up to, and including the day preceding the election. This could have the effect of encouraging and reminding people to send their vote in. The procedure after the close of voting is similar in scope and nature to the standard method of voting and will not be gone into here.¹⁸

Thus it can be seen that the provisions of Part II contain room for a substantial impact on voting in local government elections, but have these possibilities been acted upon? In general one can conclude that they have. The use of postal voting appears to result in a substantial upsurge in voting turnout; this increase usually being of the magnitude of 10% to 20%, but cases of 40% increases have been noted. Te Awamutu for example used postal voting first in 1974 and attained an 84% turnout of potential voters, a substantial increase over the 1971 figure of 39%, (when the standard voting procedure was used).¹⁹ Similarly Hokitika adopted postal voting for the first time in 1971 and attained an 83.5% poll, an increase of 45.3% over the 1968 figure.²⁰ In 1971 sixty-nine local body areas used postal voting and they achieved an average turnout of 73% in the boroughs and 76.9% in the counties. By contrast the results for boroughs and counties using the standard method of voting vary: 44.3% and 49%²¹ respectively, which indicates the gains to be made by postal voting.

A trend which has been running concurrently with the increase in

¹⁷ *Ibid.*, s. 71.

¹⁸ *Ibid.*, s. 72.

¹⁹ N.Z.L.G. December 1974, 7.

²⁰ Local Authority Election Statistics, 1974.

²¹ Bush, G. W., "Local Election Trends", N.Z.L.G. November 1972, 550.

turnouts (and has no doubt been influenced by this fact) has been the increase in the number of local authorities using postal voting. It was first used in 1962 when two counties used it, in 1965 nine used it and in 1968 twenty-seven counties used it.²² In 1971 it was first used by boroughs when five used it, in addition to thirty-eight counties and in 1974 the trend continued as one city used it (Manukau City) and ten boroughs and sixty-six counties.²³ In the last election (1977) postal voting was used by six cities, twenty-four boroughs and sixty-five counties.²⁴ Thus it appears that postal voting will continue to be used by an increasing number of local authorities (although very few counties have now not adopted it) and that evidently they consider the advantages of postal voting to outweigh the disadvantages.

The advantages of postal voting are varied. The obvious one is that of increased turnouts which has been considered above. This is the reason local authorities have adopted postal voting but there are also several other positive features. Another advantage is that postal voting appears to cost less. This factor is subject to dispute however. In 1968 the county clerk for Whangarei City Council cited the "fact" that expenses were less for postal voting, yet in the same year the town clerk for Whangarei City Council stated that expenses were higher, as part of his argument in a report recommending rejecting postal voting. On balance it appears that at least a slight saving can be made by the use of postal voting. A report in the *New Zealand Local Government periodical* of December 1968²⁵ indicated that, in general, the cost of conducting the elections dropped—in one case, by over 30%. It reported that in only a few cases had costs risen and that this was partly the result of an increase in the number of ridings in which an election was necessary. It concluded that if the cost was calculated on a per capita vote basis, in every case the cost was down. This view is echoed by the town clerk for East Coast Bays²⁶ who stated that the increase in postal costs was compensated for by the reductions in staff combined with the fact that voting can be coincided with the updating of the electoral rolls.

Another advantage is the reduction in informal votes. One county for example had an informal vote of 5.2% in 1962 and only 0.5% in 1968 when postal voting was introduced.²⁷ This suggests the proposition that in their own homes people have more time to think about what they are doing, and if necessary can consult newspapers and

²² N.Z.L.G. 1968, 524.

²³ Local Authority Election Statistics 1974.

²⁴ Local Authority Election Statistics 1977.

²⁵ N.Z.L.G. December 1968, 524.

²⁶ Mr Bell, interviewed on 14th August, 1979.

²⁷ N.Z.L.G. December 1968, 524.

other paraphernalia before coming to a decision. This supposition is supported by the fact that the report stated²⁸ that many informal postal votes were deliberate (and thus leading one to the conclusion that very few votes were rendered invalid by accidental mistakes).

A minor advantage is the time for the calculation and announcement of results has been sped up, but only by a matter of hours. Thus in 1977 the mayor and council of East Coast Bays City were known by 7p.m., the time at which counting starts in standard elections.²⁹

The major disadvantage is the fact that it is impossible to police the secrecy in which people vote. Section 69 states that "the elector shall alone and secretly on each voting paper exercise his vote" but the extent to which this is observed cannot be ascertained, nor policed. Thus it is possible that very few people are exercising their votes in postal elections in the spirit that they were intended to. This proposition was suggested to Mr McCullough, Mayor of East Coast Bays City³⁰ who replied that he was not concerned with the secrecy of the vote being maintained; that it would not upset him to learn that families voted together.

In addition a number of people appear to lose their vote by not handing in their vote until after twelve noon.³¹ This would appear to be the case despite how many times it is emphasised that all votes must be delivered by mid-day. In 1977, 250 votes³² were returned to the Returning Officer after the deadline and he stated that some were not returned for months.

A similar disadvantage is that postal voting requires a reasonably accurate and up-to-date electoral roll for it to be effective, for only those on the electoral roll receive voting forms,³³ (although persons without their name on the rolls can vote as special voters under section 37, the numbers doing so are likely to be slight). This would suggest postal voting would be better suited to counties than to boroughs and cities, for the electoral rolls are more stable and less subject to change. The Local Authority Election Statistics of 1977, prepared by the Department of Internal Affairs, specifically states³⁴ "any council for a large urban area, particularly one with any noticeable transient population" should approach postal voting with an appreciation of the danger of an inaccurate electoral roll.

One final disadvantage, which has been suggested by Dr Bush³⁵ is

²⁸ *Idem.*

²⁹ McGowan, N. and Mr McCullough, Mayor of East Coast Bays.

³⁰ Mr McCullough, Mayor of East Coast Bays, interviewed on 14th August 1979.

³¹ *Ante.*

³² Mr Bell, Town Clerk, East Coast Bays City Council. Mr Bell also stated that the number of votes returned late was even higher on the two previous occasions.

³³ Local Elections and Polls Act 1976, s. 68(1).

³⁴ Local Authority Election Statistics 1977 1.

³⁵ Bush, G. W., N.Z.L.G. July 1978, 30.

that the law of diminishing returns may apply once the novelty wears off and that eventually turnouts may decline. This aspect has not been discernible to any noticeable extent yet, but is always possible.

Thus there are both advantages and disadvantages connected with using postal voting and the decision about whether to adopt it or not would appear to depend upon how much emphasis is placed upon a high turnout by the various councils. Doubtless different decisions will be reached, even on identical considerations. For example, as already noted, in 1968 the Town Clerk for the Whangarei City Council rejected the possibility of postal voting by stating that it would be more expensive, secrecy of the ballot would be lost and there would be more invalid votes. Alternatively the County Clerk, in his report to the Whangarei County Council recommended its adoption, stating that it cost less, secrecy of the ballot was preserved and difficulties encountered were only minor.³⁶

In conclusion it appears that the advantages of postal voting outweigh the disadvantages, but only if one places a strong emphasis on high voting turnouts in local government elections. If one does not then the possibility of widespread irregularities occurring would appear to wipe out its advantages.

C. *Spread Voting*

The position of spread voting, or voting over consecutive days, would appear to be different. It is not beset with the controversy which has plagued postal voting and it appears to have been adopted by local authorities that wish to increase their turnout, but are not prepared to risk the irregularities postal voting may bring with it.

The provisions for voting over consecutive days are contained in Part IV of the Local Elections and Polls Act. Section 80(1) gives local authorities the power to hold elections over consecutive days. It stipulates that when the provisions of Part IV are adopted the voting must be over consecutive days (excluding Sundays, public holidays and Saturdays other than the final day of the period) and that the number of days cannot exceed eleven. The hours of voting each day cannot number less than seven consecutive hours and must be between the hours of 8a.m. and 5pm, with the exception of the final day upon which voting must commence at 9a.m. and end at 7p.m.³⁷ Note that the provision that applies to the final Saturday is the same as that contained in section 28 which applies to the standard voting procedure. Section 82³⁸ also contains a provision to the effect that voting may be

³⁶ N.Z.L.G. December 1968, 524.

³⁷ Local Elections and Polls Act 1976, s. 82.

³⁸ *Ibid.*, s. 82(b).

extended on two of the days during the period (but not closing later than 9p.m.).

As with postal voting, the Returning Officer may at any time during the polling period publicly announce the number of voting papers that have been issued.³⁹ Part IV does not provide for all booths to be open on consecutive days but the number of booths to be kept open is up to the discretion of the Returning Officer who can also have different booths open on different days.⁴⁰ One final point of interest with regard to Part IV is that section 113 only applies on the final day of the polling period, and hence a worker cannot leave work early any day in order to vote, but only on the last day. The Act is open to the possibility that he might not even be able to do this if he had had an opportunity of voting at some earlier time, for example, the local authority had extended the time for voting to 9p.m. at some date. (This is open to doubt, however, and the worker may be entitled to leave work at 3p.m. regardless.)

Consecutive voting has an advantage over postal voting for it is not subject to the abuse and irregularities of postal voting with regard to voting in secret. It is possibly for this reason that voting over consecutive days has been adopted by a large number of cities and boroughs: in 33 of the 53 cities, boroughs and suburban counties. By contrast, only two non-suburban boroughs used it and only one county.⁴¹

The results of consecutive voting, however, have probably not vindicated its use. For example, with regard to the four major cities, Auckland and Christchurch used voting over consecutive days and attained 40% and 45% respectively of the turnout, and Dunedin and Wellington did not use it and attained 54% and 45% respectively of the turnout. The results are just as ambivalent in the smaller centres. In the provincial centres in 1977 ten cities (out of 13) used consecutive voting and attained an average turnout of 39.9% of the vote and two cities used the traditional method of voting and attained an average of 48%.⁴² The result appears to suggest that consecutive voting made no difference to turnouts and although the 1974 figures do not contain the type of voting procedures used, the cities that did not adopt consecutive voting were the ones with the highest turnouts, (and hence their higher average in 1974). Thus it would appear that the adoption of consecutive voting does not contain the disadvantages inherent in postal voting, but that it does not contain the rewards either, in the form of increased turnouts.

³⁹ *Ibid.*, s. 85.

⁴⁰ *Ibid.*, s. 83.

⁴¹ Local Authority Election Statistics 1977.

⁴² *Ibid.*

D. *Mobile Polling Booths*

The results of mobile polling booths are even more ambivalent. The procedure for mobile polling booths is contained in Part V of the Act. Section 88(1) allows for mobile polling booths, but states that they cannot be used in conjunction with postal voting. The scheme basically provides for mobile polling booths to be used in addition to the traditional system of voting and states they must be open at the same times as the other polling booths.⁴³ The Returning Officer is required to give notice of the places that the polling booths will be situated as well as the time at each.⁴⁴ In addition, section 92(1) provides that a mobile polling booth is not to depart from any such place before the time advertised for its departure but adds that the failure to station it for the entire period shall not affect the results of the election.

It is difficult to ascertain the effectiveness of mobile polling booths as they have only been used by one local authority (Palmerston North) and only in two elections (1965 and 1968), although the fact that it is no longer used probably indicates its effectiveness. It appears that it is unlikely to be used in the future so that Part V of the Local Elections and Polls Act 1976 may already be obsolete.

IV. THE WARD SYSTEM

A feature of local government elections which tends to offset the effect of the various voting alternatives set out above, is the provision for the establishment of ward systems of voting, contained in the Local Government Act 1974. This is provided for in section 56 of the Local Government Amendment Act 1977 which states that in the year preceding the year in which a general election of the council is to be held, and not later than 15 months before that election, the council shall by special order determine the format by which that election is to be conducted. This can take three forms: the standard procedure by which each elector votes for the whole of the council, the ward system by which each elector in a ward votes for his ward representative to go on the council, or a combination of the above two methods.

The ward system is not a recent innovation to New Zealand local government elections as it was in wide-spread use in the 19th century. However, with the advent of the 20th century its use declined and it is only in very recent times that there has been an upsurge in its use. In addition, the provisions governing the establishment of a ward system have not varied much over the past 20 years, for the 1954 provisions,⁴⁵

⁴³ Local Elections and Polls Act, s. 90.

⁴⁴ *Ibid.*, s. 92.

⁴⁵ In the case of municipalities contained in the Municipal Corporations Act, 1954, ss. 23-25.

although by no means corresponding word for word with the 1977 legislation, are very similar.

Section 56 of the 1977 Amendment states that when a ward system (or partial ward system) is chosen by the council, the council shall, by the 30th day of September in the year preceding the general election determine the names and boundaries of the wards and either the number of members to be elected to each ward or in the case of a mixed ward and general system the number of members to be elected by the electors of the district as a whole and the number to be elected by each ward.

Section 56(3) directs the council to have regard to a number of factors for the purpose of giving due representation to the wards, including the population, rateable value and area of each ward (or riding in the case of counties) and other such factors as the council considers relevant. This section closely parallels one of the sections it superseded, section 35 of the Counties Act 1956, but a similar provision was not contained in earlier provisions pertaining to wards under the Municipal Corporations Act. It is also apparent that there are no provisions for appeal if one wishes to challenge any feature of the wards set-up although it appears that the Supreme Court could review a decision to ensure that the wards were reasonably evenly apportioned.⁴⁶ Thus in *Attorney-General v. Cook County*,⁴⁷ Hutchison J. accepted that a mandamus could be issued against the council if it did not appear that the factors governing the representation of ridings had been adhered to. However, he declined to issue such a writ in this case, but only because he was not satisfied such an order could be complied with before the elections. Similarly in *Waikouaiti County Ratepayers and Householders Association Incorporated v. Waikouaiti County*⁴⁸ the plaintiff complained that the distribution of representation recently drawn up by the county council was unfair and the court had no hesitation in granting orders declaring invalid and setting aside special orders made by the council with regard to the new system of riding. White J. considered that the council, in exercising its statutory powers under section 35 of the Counties Act 1956, had omitted to consider matters which were of direct importance to its decision, and accordingly granted the plaintiff the remedy sought.

Subsection 4 of section 56 states that if a ward system is set up, or boundaries of existing wards are altered by special order, the special order is to contain a description of every ward and that description must be sent to the Chief Surveyor of the land district in which the

⁴⁶ Palmer, K. A., *Local Government Law in New Zealand*, (1978), 33.

⁴⁷ *Attorney-General ex rel. Smith v. Cook County*, [1953] N.Z.L.R. 1001.

⁴⁸ *Waikouaiti County Ratepayers and Householders Association Inc. v. Waikouaiti County*, [1975] 1 N.Z.L.R. 610.

district is situated, together with a plan showing the boundaries of the ward or wards affected by the change. The Chief Surveyor, or a person appointed by him, must certify that the description is sufficient to identify the boundaries of the wards. (Under the old provisions in the Municipal Corporations Act special orders also had to be sent to the Secretary of Internal Affairs but this is no longer necessary.) One final point concerning section 56 is that a copy of each special order must be kept at the offices of the council and be available for inspection, without fee, by any elector.

The advantages of a ward system over the at-large system are varied. The use of a ward system would eliminate the long list of candidates which confront the voters in some electorates upon entering the polling booths on election day. In 1977 the most glaring examples of this were Christchurch, with 52 candidates, and Wellington with 40.⁴⁹ In addition, the voters have representatives on the council who are more attuned to the problems and needs facing that particular voter and area. To state this in a different way, much criticism has been directed at the Auckland City Council in which the overwhelming proportion of councillors come from the eastern suburbs, and who are, it is claimed, not representative of, nor equipped to deal with, the problems of the west and central city areas.

Similarly, having councillors from wards would make them more accountable to the electors for any actions they may take while in office, in contrast to the at-large system, in which it is difficult to hold a councillor to account for, or even to perceive, any individual actions. Similarly the ward system could enable people to identify more closely with one or two councillors. This point was advanced by Dr Morris Taylor, in advocating the adoption of the ward system by the Birkenhead City Council. He stated⁵⁰ that the ward system would allow the electors to know one or two councillors to whom they could go and who would represent their view. However, it is possibly a sign for the future that only one other councillor supported his view, all others carrying a motion for the retention of the status quo. Another advantage of the ward system, and one which is certain to attain more prominence in the future if the present trends to amalgamation are continued, is that the ward system allows districts to retain some sense of individuality and ensures each district representation on the larger council, and thus makes amalgamation more palatable to the smaller boroughs. Hence Takapuna City, when it amalgamated with Albany and Glenfield, adopted a ward system by which each of the three areas is a ward with varying numbers of representatives. Recently, disputes

⁴⁹ Local Authority Election Statistics 1977.

⁵⁰ *North Shore Times Advertiser*, April 3, 1979.

have arisen within the Takapuna City Council as to the number of representatives each ward ought to have, and this tends to be a disadvantage in areas incorporating wards. In this case each ward stressed a different factor, as the population of Glenfield is rapidly expanding, Albany has the largest area and yet Takapuna has the largest rateable value. The dispute has not yet been resolved although it appears that Albany may get at least one more representative. It must also be obvious that matters cannot ever be resolved finally, for factors can always change, particularly populations, but also rateable values.

There are several other disadvantages which must be overcome before the ward system can be widely accepted; that of people committed to the status quo, and the fact that the ward system of voting would appear to decrease voting turnouts.

The argument that the status quo ought to be retained presents possibly the largest stumbling block. The present at-large system is seen to work reasonably well by most voters and thus there is no urgency to institute changes. In addition, most councils (at least in urban areas) are controlled by Citizens and Ratepayers Groups who are in control by at-large elections and for whom any changes would result in incumbents losing seats and possibly the Citizens and Ratepayers losing their majorities. Auckland provides an excellent example of the conflict which has emerged between the proponents of the two systems of voting.⁵¹ Auckland had a ward system of voting for a number of years in the 19th century, but it was finally dropped at the turn of the 20th century.⁵² Since then a number of attempts have been made to revive it, culminating in the 1974 ward referendum which came closest to succeeding. In the early 1970's a combination of factors forced the Council to take a close look at either a ward, or a mixed ward and at-large system, being set up. These factors included: a number of members on the council accepting a ward (or a mixed ward and at-large) system as being viable; the fact that Christchurch changed to a ward system in 1974; that a ward system was being mooted for Auckland by the Local Government Commission; and possibly most importantly, that a number of disgruntled and articulate groups within the community⁵³ undertook a determined campaign to secure some sort of ward system for Auckland. These pressures eventually resulted in the court acceding to requests that a referendum be conducted, but the results of this poll were inconclusive of any definite trend, largely as a result of the form in which the referendum, was set out, in which three alternatives confronted the

⁵¹ Bush, G. W., "Managing Change in the Interests of the Status Quo Politics", N.Z.L.G. May 1977.

⁵² Bush, G. W., *Decency and In Order*, (1971).

⁵³ Bush, G. W., *loc. cit.*, 153.

voter. Thus while the poll indicated that most voters favoured some form of system based along the lines of a ward system (only 28.8% preferred the at-large system)⁵⁴ the council used the referendum in support of the status quo and took no action, other than the setting up of community councils. These community councils are relatively powerless and appear to be the result of the pressure the council has been under by various groups. Thus it can be seen that the incumbents are clearly committed to the status quo and any change will be gradual, unless action is forced upon the councils by the Local Government Commission.

The second stumbling block mentioned is that the ward system would appear to have a depressing effect on voting turnouts. This can have serious consequences, given the previously mentioned emphasis on turnouts. Unfortunately for advocates of the ward system, the results returned by boroughs and counties employing the ward system rank among the lowest returns attained. This is not a new phenomenon; in the 1960's three local bodies consistently used the ward system, (Manukau City, Mt Albert and Eastbourne boroughs) and the results were scarcely encouraging. To illustrate this, in 1965 Manukau City's turnout was 29%, in 1968 31% and in 1971 28.3%. In 1962 Takapuna and Cambridge adopted the ward system and in 1965 reverted to the at-large system, and recorded increases of voting over 1964 of 5%.⁵⁵ In 1974 Manukau City's total shot up to 57.8%,⁵⁶ a 20% increase, but this can be attributed to the adoption of the postal voting method and Manukau City attained the lowest percentage of voters in the eleven local bodies using the postal vote. This sad record was continued in 1977 when only 43%⁵⁷ of the electorate voted. It must be stated that other factors also come into play in determining voting turnouts, especially in the case of a new and diverse city such as Manukau, but it can still be concluded that the ward system tends to depress turnouts by approximately 10% when compared with the at-large system.

Thus, in spite of the obvious advantages of the ward system, it is unlikely to be used widely while there is such an emphasis on voting turnouts, unless amalgamation of local bodies increases.

V. VOTING

In view of the effect possible turnouts would have on the adoption or non-adoption of the ward system of voting it would be of value to examine the value of voting and of high voting turnouts.

⁵⁴ Bush, G. W., *loc. cit.*, 149.

⁵⁵ Bush, G. W., "Local Body Elections", N.Z.L.G. July 1968, 293.

⁵⁶ Local Authority Election Statistics 1974.

⁵⁷ Local Authority Election Statistics 1977.

Voting is a 'pillar of democracy' and is usually the first factor pointed to and used in demonstrating democracy at work. However, when referring to voting it is not sufficient to show the provisions which have been made allowing all adults to participate; these adults must be shown to be participating. Thus in 1968 Mr O'Dea (Secretary for Internal Affairs), after looking at comparative local government voting figures in New Zealand and overseas, asked⁵⁸ whether "democracy is working as it should be?" But why is such a high emphasis placed upon voting when considering the functioning of democracy? I would suggest a primary reason is the ease with which one can obtain and interpret voting statistics and the fact that it is the one democratic right in which a large proportion of the population participates (compared with, for example, standing for office or speaking at public meetings, or even attending council meetings).

Thus accepting that voting is seen to be important in a democracy, what are the advantages of voting? The following list is not exhaustive, but does contain, it is hoped, the principal advantages of voting. First and foremost, voting is the method by which most of the leaders of society as well as a number of bureaucrats are selected, and this can be contrasted with, for example, elitist systems of selection. The other advantages of voting contain elements of symbolism. Voting suggests the voter has placed his allegiance with the political system he is in and that he continues to support it. It also allows a person to express his/her opinions and preferences without slowing down or cluttering up the political decision-making process. Similarly voting also means the voter is participating in the political process and hence can feel involved, albeit in a minor way, with the political system which he is subjected to.⁵⁹ This final point was stressed by Mr McCullough, Mayor of East Coast Bays.⁶⁰ He stated that postal voting was an advantage because it encourages more people to vote and thereby to participate in the political processes of the city. He said that the promotion of the feeling of being part of a city more than compensates for the weaknesses and dangers of postal voting. He went as far as to state that it did not matter if, for example, whole families voted together around the kitchen table so long as they all participated.

What reasons can be advanced then for the low turnouts in local government elections, given that voting occupies a central position in the democratic processes, and continuing on from this, should in-

⁵⁸ Mr P. J. O'Dea contained in Bush, G. W., "Local Body Elections", N.Z.L.G. July 1968.

⁵⁹ For further discussion on voting see J. R. Lucas, *Democracy and Participation*, (1976).

⁶⁰ Interviewed on 14th August 1979.

creases in turnout be stressed at the expense of losing the advantages gained by ward system, accepting as it would the inherent disadvantages of postal voting?

The lack of interest evident in local government elections is caused predominantly, I feel, by an attitude voters have that their vote will have no effect. Thus even where there are full tickets contesting the elections, election planks are very similar and little choice is offered. This is possibly the result of the lack of power possessed by local bodies; most important decisions are retained by central government and even areas such as social welfare, a domain of local government in many countries, are controlled by central government. This feeling of little change, aroused by local body elections was expressed very well by Dr Bush when he stated that⁶¹:

rubbish bins will still be emptied, regulations enforced or not, water still spurts out of the faucet regardless . . .

Thus issues do not dominate local government elections and personalities come to the fore. The dominant question before voting appears to be "who would make the best mayor, or the best councillors, who is the most able/dedicated/diligent and who possesses the necessary skills?" However, this question is also difficult to answer for few voters know many of the candidates; local figures are seldom mentioned in newspapers and most contacts are personal. Thus it is suggested most people vote for candidates they know and possibly a familiar name in a list of candidates is sufficient to earn that candidate a vote. The above leads one to the tentative supposition that those who vote are those knowing the most candidates, or most interested in local affairs and are, therefore, better equipped to exercise their vote than those not interested in local affairs, or those who have recently moved into the area.

In addition to the lack of issues, it is suggested that when an unpopular decision is made it is difficult to find anyone accountable to whom you can indicate your displeasure or upon whom the electorate can vent its rage. An exception to the above generalisation however is provided by the experiences of the Devonport Borough Council; only two members of the Council which agreed to the development of Ngataranga Bay were re-elected at the 1977 elections after the issue became public, and the two re-elected members had dissented from the Council's decision. Thus it appears the electorate will only become aroused enough to censure the council when an issue has received wide-spread publicity and is sufficiently emotive.

One final factor accounting for the lack of interest in local government elections, not only in New Zealand but throughout the world, is

⁶¹ Bush, G. W. "Cogitating on the 1974 Local Body Election Results", N.Z.L.G. December 1974.

the increasing emphasis upon national and even international politics at the expense of local government politics and news. This not only means an increasing emphasis upon decisions being made nationally but the media is also nationally orientated and, therefore, local events and issues receive little publicity (other than in local newspapers, if any) unless of national importance.

Thus what can be concluded from the above? It appears that local government is seen by much of the population as of limited importance and that nothing they can do is likely to affect it. The low turnouts suggest a large proportion share little empathy with local government. However, I do not consider this to be a state of affairs one needs to be concerned about; undoubtedly the lack of participation in local government affairs is not the result of alienation but of ambivalence, that is to say many voters are not concerned with the manner in which local politics are being run.

I would conclude, with regard to encouraging more people to vote, that those disinterested in voting ought not be persuaded to vote by easier voting methods, especially if these contain defects, for low voting turnouts in local government elections do not endanger the local government system of government. (This is not meant to suggest the same is true of national elections). It would possibly be of more benefit to further assist those interested in voting to participate in the elections, and this is the subject of the next section.

VI. ASSISTING VOTING

The Local Elections and Polls Act contains a number of provisions which were designed to assist the elector exercise his vote. Of particular importance are sections 24(1), 36, 37 and 113.

Section 24(1) enables the Returning Officer to include translations of the "Directions to Vote" section of the voting paper in polling booths. It is noticeable that the Returning Officer is given the discretion to place these translations in the booths; it is a power, not a duty and he cannot be compelled to do so, at least formally, even by the council. Similarly, it is likely that such Directions will only be included in areas where there is a preponderance of persons not sufficiently conversant with the English language. This means many persons in whose interests section 24(1) was drafted will not receive the benefit of it. These people are, however, catered for in section 36.

Section 36 provides for blind, disabled and illiterate voters. It states that where an elector is blind (wholly or partially), unable to read or write, or not sufficiently familiar with the English language to vote without assistance, (and section 24(1) has not been applied) the voter may be assisted to vote. Subsection 2 states that a blind voter may be

assisted by a person nominated by the blind person or, if no-one is nominated, by the Returning Officer. For persons other than blind persons, subsection 3 applies and although the person must be assisted by the Returning Officer the voter can have a poll clerk or some other person nominated by the voter present when the voting paper is marked and this person may also inspect the paper before it is deposited in the voting box.

Of more importance in numerical terms is section 37 which provides for special voters. This section provides for two instances: where the voter's name is not contained in the copy of the roll used for the election, and where the voter is incapable of attending a polling booth on the day of the election. In the first instance it appears that the voter will not have his special vote counted unless he can supply proof that it ought not to have been deleted or can offer a suggestion as to why it has been. In the second instance it appears that the special vote must be applied for before the day of the election, except in the instance of being "ill and infirm". The second instance in section 37 covers a number of circumstances, including being out of the polling area on election day because of imminent or recent maternity and for the group of people having religious objections to voting on the day the election falls on. Finally section 37(1) is a wrapping-up section which includes all circumstances not expressly provided for.

The importance of special votes is indicated by the fact that in 1974 special votes made up 9% of the total votes cast.⁶² These varied considerably depending upon the type of local authority. Thus special votes incorporated 12.3% of the vote of major cities and yet only 2.5% of the vote of county boroughs and county towns; this difference possibly being accounted for by more people moving into the areas incorporated in the latter categories. Seventy-eight percent of special votes were accepted in the total vote in 1974. This percentage again varied between the various types of local body areas, town districts allowed 98.7% of special votes and yet county boroughs allowed only 69.6% and county towns only 68.3%. This leads one to the unhappy conclusion that different standards were being used for the acceptance of special votes and I am sure there would also be wide variations between individual local bodies in each category if these figures were available. However, it is difficult to offer a feasible solution without removing the discretion of the Returning Officer, which would cause the system to become too rigid.

One final section which assists would-be electors is section 113 by which employers must allow their employees time off work if they are

⁶² 1974 Local Authority Election Statistics. Figures for 1977 were not available.

working on the day of the election for the entire day. Under this section the worker must finish work at 3p.m. if he has not had a reasonable opportunity of voting before commencing work⁶³ and, if requested to do essential work after 3p.m., the employer must allow the employee up to two hours off before 3p.m. in which to vote.⁶⁴ Note that under both these subsections the employer is not permitted to deduct any wages from the employee's pay during the period he is off work voting.

Thus there are provisions which are incorporated in the Act for the purpose of aiding would-be voters to exercise their vote. However, there are some aspects of voting in local government elections which must be of concern to persons involved in this area and which ought to be acted upon in the future.

VII. PROBLEMS ASSOCIATED WITH LOCAL GOVERNMENT VOTING

A. *Invalid Votes*

The first problem is that of invalid votes. This area is difficult to analyse because councils appear to have differing ideas as to what constitutes invalid and informal votes, and because invalid votes are not separated from informal votes in the statistics. The distinction between the two is simple; invalid votes are those in which the voter has in some way invalidated his vote, for example, by voting for too many candidates, whereupon informal votes include all invalid votes and votes in which the voter has declined to exercise all his votes, for example, by only voting for two candidates. As a result of this confusion it is impossible to make any confident conclusions but it appears that Returning Officers frequently exercise the discretion given to them under the Local Elections and Polls Act, for the number of informal votes is very low. For example, in 1977 only 00.87% of the votes in provincial cities were informal. However, this situation may change with the decision in the *Hunua Election Petition* in 1979.⁶⁵ The discretion given to Returning Officers is contained in section 42(2)(a)(ii) of the Local Elections and Polls Act 1976 which states:

Provided that a voting paper shall not be deemed informal merely on the ground of some informality in the manner in which it has been dealt with by the elector if it is otherwise regular and if in the opinion of the Returning Officer it clearly indicates the candidate or candidates for whom the voter intended to vote, whether that indication is made in accordance with the instructions on the voting paper or otherwise . . .

This would appear to give Returning Officers a reasonably wide discretion but this may be limited in the future by the decision in the *Re Hunua Election Petition*. In this case the Full Court of the

⁶³ Section 113(1).

⁶⁴ Section 113(2).

⁶⁵ *Re Hunua Election Petition*, [1979] 1 N.Z.L.R. 251.

Supreme Court held, concerning a section similar in nature to that above, that the Returning Officer's discretion under the proviso to section 115(2)(a)(ii) of the Electoral Act is limited and narrow, and that he has no discretion to allow votes in which the voter has purported to vote by ticks or crosses against candidates' names or the name of the candidate's political party. In general elections, voting is conducted by striking out all the candidates' names except the one the voter wishes to vote for. The court held that "otherwise regular" meant the names had to be struck out and that it was not sufficient that the candidate for whom the voter intended to vote was indicated in some other way, which limited the discretion of the Returning Officer. This could limit the discretion of Returning Officers in local government elections, either by their determining independently that their discretion is more limited than they had previously considered, or by the court ruling to that effect. However, the discretion of local body returning officers may be wider than that given returning officers in national elections. The proposition is suggested by two factors. First the concluding section of the proviso in section 42(2)(a)(ii) states "whether that indication is made in accordance with the instructions on the voting paper or otherwise". Secondly, the provision requiring voters to vote with an "X" is only contained in the First Schedule and thus a court would not be concerned with two conflicting sections as was the Supreme Court. Incidentally, the exercise of voting in local government elections is probably more confused than it ought be as a result of the different methods of voting used in local and national government elections and standardisation of procedures would not go amiss.

B. *Lack of Candidates*

A second area of concern is candidates, or lack of them. The Local Authority Election Statistics indicate that 40% of the members of local authorities were elected unopposed. This percentage varied considerably between different types of local bodies. Thus, when considering local government areas, all members of the councils of provincial cities, county boroughs and county towns had to face the rigours of an election campaign and yet 36.7% of the members of town district councils and 56.4% of the members of counties attained office without an election. Likewise more members of *ad hoc* councils were elected unopposed than of territorial local bodies; an average of 47.3% of *ad hoc* council members were elected unopposed, compared with an average of 13% of the members of territorial authorities. Similarly some *ad hoc* bodies had more candidates elected unopposed than others: only 12.2% of the members of Drainage and River Boards and 19.4% of the members of Pest Destruction Boards needed

to participate in elections, compared with 85.3% of the members of the Auckland Regional Authority and 63.8% of the members of Harbour Boards.

The reasons for the lack of candidates is probably similar to those explaining the low turnout to elections—local government fails to generate sufficient enthusiasm to encourage large numbers of persons to stand for office. Of course, this is not true for all councils (for example,⁶⁶ in 1977 Christchurch attracted 52 candidates for 19 seats and Wellington 50 candidates for 18 seats) as positions on councils which wield proportionately greater power than the average are sought after. However, the fact remains that in many cases the rewards attained from devoting long hours to council business are not sufficient, especially as the job of councillor is often a thankless task and is subject to more criticism than praise.

Nonetheless, despite the reasons for the lack of candidates, the effects are still the same: a substantial proportion of the electorate is very effectively disenfranchised. In some cases this means very little, as for example, one may only be prevented from exercising one's vote for the power board, but in some rural areas this may mean the loss of all votes. The long-term effects of this disenfranchisement cannot be measured but it is possible that it could cause a further disillusionment with the local government system among those who had been prepared to vote and a consequent decline of voting at subsequent elections.

Solutions to this problem are not easy. However, this problem seems to add ammunition to those advocates of amalgamation for at least two reasons. First, as two boards or councils are combined, enough candidates to at least fill all seats may be found, and secondly, the increased powers and responsibilities may persuade more people to attempt to gain office. One further solution would be the amalgamation in areas where it is possible, of different types of local bodies, for example, catchment boards and harbour boards, or the acceptance of responsibility of the functions of some of the *ad hoc* bodies by the territorial local authorities. However, these are only suggestions and the fact remains that the lack of candidates ought to be regarded as a very serious problem.

VIII. THE FUTURE

Finally, what of the future?

It appears that if present trends continue, the present lack of interest in local government and consequently in local government elections, is likely to continue. This does not mean to say, however,

⁶⁶ 1977 Local Authority Election Statistics.

that turnouts are also likely to remain low, for the system of postal voting is gaining a widespread popularity and although its increase in use in the counties has halted (as postal voting is used in most counties) its use in boroughs and cities is likely to continue, given the emphasis placed upon voting turnouts and the results achieved by postal voting.

Similarly, the use of the ward system of voting is also likely to be used more widely in the future, especially if the Local Government Commission succeeds in its aim of further amalgamation of local bodies. It is in these conditions that wards are very effective, if not essential, not only once the new area is constituted but also in pre-amalgamation negotiations as a method of appeasing smaller local bodies. Finally, an indication that the ward system does work is provided by Takapuna and Manukau Cities, although squabbles as to the amount of representation each ward ought to have, especially in developing areas such as Takapuna, seem certain to continue for some time.

One aspect I have not dwelled upon in this paper is the relationship between parties and local government. The premise that members of local bodies believe parties should not be involved in local politics is probably an understatement, but there is a great deal of evidence for the proposition that the influence of parties in local government elections increases turnouts, possibly by as much as 20%.⁶⁷ Most investigations in this field have been conducted in the United States and their conclusions indicate that political parties act as catalysts "in arousing the enthusiasm and focusing the support of the electorate".⁶⁸ Another benefit provided by parties is that they divide policy-making into various issues and give the voter a choice in exercising his vote. It is unlikely that party politics will ever play a great part in New Zealand local government elections, but the possibility should be borne in mind if local authorities continue to be concerned with voting turnouts.

IX. CONCLUSION

Thus, in conclusion, it can be seen that variations in systems of voting can have significant effects on voting turnouts. The outstanding example is that of postal voting which has had a dramatic effect on voting turnouts since its inception, effects which are likely to continue as it is adopted by more local authorities. However, possibly not enough attention has been devoted to examining the disadvantages of postal voting, particularly its lack of secrecy, as secret ballots are one

⁶⁷ Dye, T. R., *op. cit.*, 272.

⁶⁸ See for example, Adrian, *op. cit.*, and Dye, T. R. *op. cit.*

of the fundamental tenets of democracy. The other two experimental systems appear to have largely been failures in their aim of increasing turnouts, particularly the provision for mobile polling booths. Nonetheless it is likely that spread voting will continue to be used by local authorities who fear the weaknesses of postal voting but who are concerned with their low turnouts. It is possible that in attempting to increase turnouts, not enough thought has been devoted to questioning the need for large turnouts; that in the widespread desire to cure the "problem" of low turnouts too few people have questioned whether a problem really exists. This question may be discussed to a greater extent in the future as cries for amalgamation become louder, for it is likely that close on the heels of amalgamation will come a wider use of the ward system, which unfortunately has a depressing effect on voting turnouts.

Finally, the importance of local government elections ought not be under-estimated, for they provide an invaluable method of allowing people who wish to participate in community affairs to do so, whether by voting, assisting in election campaigns, or in fact by standing for office, as well as in providing for the benefit of the community a pool of (for the most part) experienced and dedicated civic leaders and administrators.