

CHAPTER 5 : BOUNDARY DETERMINATION

Term of reference 4: Whether the existing formulae and procedures for determining the number and boundaries of electoral districts should be changed, and, in particular,

- (a) whether the redistribution of electoral districts should be based on total population or adult population;*
- (b) whether the allowance of 5% by which the population of an electoral district may vary from the quota should be changed;*
- (c) whether the membership and functions of the Representation Commission and the time limits and procedures governing its functions should be changed;*
- (d) the feasibility of some form of appeal from decisions of the Representation Commission.*

Introduction

5.1 This chapter begins with a brief description of the present method of drawing the boundaries of electoral districts or constituencies, followed by a historical account of the creation and role of the Representation Commission. (Except in recommendations the Representation Commission is referred to throughout this chapter simply as "the Commission".) We then consider and make proposals relating to:

- (a) the membership of the Commission (paras. 5.9 to 5.14);
- (b) the early decisions of the Commission (paras. 5.15 to 5.16);
- (c) objections, counter-objections and appeals (paras. 5.17 to 5.21);
- (d) the use of adult population or total population (paras. 5.22 to 5.24);
- (e) population figures used by the Commission (paras. 5.25 to 5.33);
- (f) the allowance for departure from the electoral quota (paras. 5.34 to 5.40);
- (g) the South Island seats (paras. 5.41 to 5.44);
- (h) the Maori seats (paras. 5.45 to 5.49);
- (i) the status of gazetted boundaries (para. 5.50) and
- (j) the timetable of the Commission (paras. 5.51 to 5.52).

The discussion to that point assumes that the plurality system is still in place. Much of the discussion will apply to other systems with little or no change. Special boundary drawing problems for MMP are considered in paras. 5.53 to 5.57.

Present membership and functions

5.2 The present membership and functions of the Commission are set out in ss.15 to 24 of the Electoral Act 1956. The "official" membership consists of the Surveyor-General, the Government Statistician, the Chief Electoral Officer, the Director-General of the Post Office, and the Chairperson of the Local Government Commission. To

these are added 2 "unofficial" members appointed by the Governor-General on the nomination of the House of Representatives, 1 to represent the Government and 1 to represent the Opposition. Finally, a Chairperson is appointed by the Governor-General on the nomination of the official and unofficial members of the Commission. The Chairperson and the unofficial members may not be members of Parliament or public servants directly concerned with the administration of the Electoral Act.

5.3 The purpose of the Commission is "to provide for the periodical readjustment of the representation of the people of New Zealand in the House of Representatives" (s.15). How this readjustment is to be carried out is described in ss. 16, 17, 18, 19, 23 and 24. These sections state that after each quinquennial census New Zealand is divided into General electoral districts or constituencies on the following basis:

- (a) The South Island is divided into 25 General constituencies, and the General electoral population¹ of the Island is divided by 25 to produce a South Island quota.
- (b) The General electoral population of the North Island is divided by this quota and the result rounded to the nearest integer, which becomes the number of General constituencies for the North Island; the General electoral population of the North Island divided by this number is the North Island quota.
- (c) The extent of each constituency in each Island is to be such that its General electoral population may depart by no more than 5% from the quota for that Island. This maximum permitted departure from the quota is known as the "tolerance".
- (d) In forming the districts the Commission is required to give due consideration to the existing boundaries of the constituencies, to community of interest, to facilities of communications and to topographical features.
- (e) The Maori electoral population is divided by 4 to give a Maori quota, and the extent of each of the Northern, Eastern, Western and Southern Maori constituencies is to be so determined that the Maori electoral population of each differs by no more than 5% from this quota.
- (f) In forming these 4 districts the Commission is required to give due consideration to the existing boundaries of the Maori constituencies, to community of interest among the Maori people generally and members of Maori tribes, to facilities of communications, and to topographical features.

5.4 After each census the Chief Registrar of Electors gives the Government Statistician the total number of persons registered as electors of the Maori constituencies following the end of the period in which Maori may opt to change the roll on which they were registered.

¹ "General electoral population" comprises the total population with the exception of the Maori electoral population and other persons described in s.2. "Maori electoral population" comprises those who have opted to go on the Maori roll together with an estimate of the number of dependants to be associated with them.

The Government Statistician estimates the Maori electoral population as described in para. 5.46 and for each of about 34,000 small areas of New Zealand known as "meshblocks", gives the General and Maori electoral populations to the Surveyor-General. Using these figures, the Surveyor-General prepares maps showing provisional boundaries for the General and Maori constituencies, based on (a) to (f) in para. 5.3. These boundaries are discussed and modified where thought appropriate by the Commission, which then publishes its proposed boundaries in the Gazette. Objections to these boundaries, and counter-objections, are considered before final boundaries are reported to the Governor-General who is then obliged to proclaim them in the Gazette. The electoral districts so proclaimed are those to be used for the next general election and for all subsequent elections until the next boundary revision takes effect.

Brief history of the Commission

5.5 Prior to the setting up of the Commission in 1887, boundary adjustments had been made by the House of Representatives. However, this process had not been free from criticism. The Premier, Sir Robert Stout, when supporting the introduction of the Commission, wondered "whether it is possible for this House, without each member of the House taking an enormous amount of trouble, to deal with this question [of boundary adjustment] fairly and satisfactorily". He added: "I know that on various occasions the result has been very unfortunate. Districts have been so altered and cut about that the wishes of the inhabitants have been quite ignored and in one or two instances it was charged — I do not say that the charge was true — that the district had been altered in certain directions so that the interests of certain persons should be served".² The principal appeal of the Commission to parliamentarians was that they could relinquish a time-consuming chore that sometimes earned them the disfavour of the electorate. The change, made mainly for reasons of expediency, was nonetheless a change in principle. Boundary decisions were now to be made by an independent body and these decisions were to be binding on Parliament. The boundary revision system instituted at this time was later taken as a model in Australia and Canada.

5.6 The first Commission had as its members the Surveyor-General, the Property Tax Commissioner and 3 unofficial members, who were not members of the General Assembly or Civil Service, and who were nominated by the House of Representatives. The task of the Commission was essentially the same as that described in para. 5.3. The basis of the European seats was to be total population. A maximum figure was set for the departure of the total population of an electoral district from a given quota. This was expressed as an exact number (500) and not as a percentage. An addition of 18% (known as the "country quota") was made to the population of some predominantly rural areas in recognition of the need for adequate representation for

²New Zealand Parliamentary Debates, Vol. LVII, 1887, p.30.

country areas. The Commission was required to consider communities of interest and the ease of communication within an electoral district. Although there were some later attempts to re-establish parliamentary control of boundary setting, the independence of the Commission was quickly accepted by the public and these attempts did not succeed.

5.7 The essential elements of the original Commission's function were the use of total population and the principle that all electoral districts should have nearly the same population, subject to there being some regard for communities of interest. The combination of territorial representation and equal representation for nearly equal numbers of people makes it necessary to decide what constitutes a reasonable departure from equality. Decisions of this kind have varied from time to time. In particular, both the tolerance and the country quota have changed at various times since 1887. The country quota was abolished in 1945 and the present tolerance of 5% was set in 1956. Other changes that have occurred have been in the membership of the Commission and in determining the boundaries of Maori constituencies.

5.8 Before we consider the functions and membership of the Commission in detail, we set out the important principles embodied in the establishment of the first Commission:

Independence: The process of drawing the boundaries was made free of direct political intervention, and the Commission's conclusions were binding on Parliament.

Membership: The members represented a balance between politically neutral officials with special knowledge and members nominated by Parliament.

Representation: Apart from special arrangements for particular parts of the country, tight limits were set on the departure of electoral populations from equality.

Revision: Boundaries were to be revised at regular intervals.

The first of these matters is the most basic and it has seen no significant change since 1887. There have been some trends in respect of the next two matters. The balance of membership has swung in favour of the official membership, and there is now no country quota. Revisions continue to be undertaken following each quinquennial census. We consider that the fact that the basic philosophy and procedures laid down for the first Commission have persisted with so little significant alteration in an area of such great political interest and potential for controversy is a testament to their worth in the eyes of Parliament and of political parties. We think, too, that the independence of the boundary adjustment process from political interference, coupled with the tightly-timed and meticulous nature of the process itself, have earned the confidence of the public over the last 100 years. We have borne in mind this confidence when coming to decisions about possible changes to the Commission's membership and functions.

The membership of the Commission

5.9 We first note that while the legislation employs the term "unofficial member", we regard the word "unofficial" as confusing and suggest that it be removed from the Act. However, to avoid any confusion caused by our introducing a new term into this discussion we continue to use the present term. The functions of the official and unofficial members during the course of the Commission's deliberations are outwardly the same. Both have to consider the Surveyor-General's provisional boundaries and possible amendments to them in the light of the requirements set out in para. 5.3, (c) to (f). The official members bring to this task their own expertise and the wide experience of their departments in describing or serving communities of interest. The evidence of recent Commissions is that the number of official members has been about right and that they have performed their functions in an independent and efficient manner. As previously indicated, we believe this independence to have been of critical importance in the maintenance of public confidence in the Commission even when its proposals did not find favour in all quarters. For this reason we do not recommend any change in the official membership of the Commission, except when it is determining the boundaries of Maori constituencies (see para. 5.45). We note, however, that the impending changes in the management structures of the Post Office will require the removal of the position of Director-General of the Post Office from the Commission. Other changes may be needed should our proposal in para. 9.131 relating to an Electoral Commission be accepted, or should MMP be implemented (para. 5.56).

5.10 The unofficial members pose a different issue. They too bring their personal experience to the matching of the requirements in paras. 5.3, (c) to (f), to any amendments to the provisional boundaries. But as representatives of political parties they have a duty to ensure that cogent arguments are produced in support of changes that help their parties and against those that do not. Their advocacy of politically favourable solutions is neither dominant in the Commission's deliberations nor wholly muted. We recognise that there is value, in terms of fairness to the supporters of political parties, in the Commission's taking *some* cognisance of the distribution of political support. The attention directed to this distribution through the activities of the unofficial members has not been obtrusive and in our view could scarcely be less than at present without some loss of confidence in the boundary setting process by the political parties. Indeed it has been contended in some other countries that procedures for boundary determination should be directed towards *ensuring* that parties can expect to gain seats in proportion to the votes they receive. We now examine this possibility, recapitulating some of the discussion of paras. 2.76 and 2.77.

5.11 The practical consequences of an attempt to introduce proportionality into a plurality system through suitable boundary adjustments taking account of well established patterns of political

support have been the subject of many investigations. Research indicates that the probable result would be that the number of seats that are safe for one or other of the major parties would increase and the number of marginal seats would decrease. The number of seats for minor parties would not be in proportion to their support unless this support was very concentrated. Thus, while this form of boundary revision would more nearly achieve proportionality for the major parties, there would be a greatly diminished role for voters and continuing unfairness to minor parties. Moreover public suspicion of what would then be the overtly political nature of the process would undoubtedly grow. Such a radical change appears to offer no significant advantage to the current system. We do not recommend any move in this direction. In saying this we do not overlook the gross unfairness to parties that is inherent in the plurality system and which has been described in paras. 2.4 to 2.10. This basic unfairness may on occasions be reduced by the activities of the unofficial members but can only be eliminated if the plurality system itself is replaced. If, however, the plurality system is to continue, we believe it should be recognised that the present mode of incorporating political representation into the boundary setting process has proved successful in retaining a high degree of public confidence.

5.12 The arrangement under which 1 unofficial member represents the Government and 1 the Opposition was made in 1956 at a time when there were no minor parties in Parliament. Any third party that is part of the Opposition suffers 2 major difficulties when it is represented in this way. The more serious difficulty is that the unofficial member representing 2 or more opposition parties is placed in an intolerable position in any defence of conflicting arguments brought forward by the parties he or she represents. We think that the opportunity under s. 15A of The Act for a third party to make prior submissions to the Commission is unlikely to avert these later clashes between its interests and those of the major opposition party. The second difficulty for a third party is the low level of consultation it has with the unofficial member during breaks in the Commission's deliberations. Some day-to-day consultation with the parties is necessary, in our opinion, if an unofficial member is to be an efficient advocate. However, this kind of consultation has normally been limited and private, since parties have not wanted to risk a charge of politically inspired public pressure on the Commission in respect of boundary changes that the Commission is discussing. It is inevitable that most of this restricted consultation by an unofficial member representing both a major party and a third party will be with the major party which has the greater number of concerns in boundary adjustment. In the interests of fairness to unofficial members and to the parties they represent, we consider that any party in the House of Representatives should have its own representative on the Commission. This would include representation for any party in a coalition. We recognise that this is still unfair to parties with no MPs but which intend to field candidates in a large number of constituencies at the next election. However, we believe that modifications to the Commission should be made sparingly and that our proposal goes just far enough to

remove the major difficulty that parties and unofficial members have experienced in recent Commissions.

5.13 Possible disadvantages of our proposal are that 2 unofficial members could combine to help outvote another, and that the tight timetable of the Commission might be upset by a prolongation of discussion. To meet the first point we recommend that unofficial members should not vote. This recommendation is not as harsh as it appears to be. The importance of the vote should not be over-estimated. Some Commissions have called for few votes as a way of reaching decisions and have relied instead on reaching a consensus. Other Commissions have used the mechanism of a vote to achieve nearly all their decisions. In practice, however, when a vote has been taken and the unofficial members have disagreed, the official members who constitute a majority, have in effect decided which of the proposals by the unofficial members is most in accord with the criteria. In so doing they may be considered to have acted on behalf of the voters. Under our proposal this role is strengthened and retained, while the unofficial members are still able to propose amendments when it is in their interest to do so. We note that the recommendation is consistent with the present stipulation that the Chairperson of the Local Government Commission has no vote (such a vote could be construed as giving an extra vote to the Government as the Chairperson is a Government appointee).

5.14 Whether the length of Commission discussions will increase because of the enlarged membership is uncertain. The prior preparation of Commissioners for their task and the rules of procedure each Commission adopts are the main factors affecting the rate of progress of the Commission. We touch on the former in para. 5.15. The latter is a matter for each Commission and we only make the comment that we see the role of the Chairperson as crucial.

Recommendation:

- 10. Each of the parties in the House of Representatives should have its own representative on the Representation Commission to be appointed by the Governor-General on the nomination of the House. Such representatives should not be members of the House and should not have the right to vote at meetings of the Commission.

The early decisions of the Commission

5.15 The work of the Representation Commission calls for considerable skill in the handling of both maps and numbers so that the significance of changes proposed during discussions can be readily grasped. Perhaps the most important phase of the operation from the point of view of the impact individual Commissioners can make on the revision of the boundaries of General electoral districts is the very early stage at which the Surveyor-General draws the provisional boundaries as described briefly in para. 5.4. These initial maps are correct to the

finest numerical detail. While later discussions can introduce quite large local variations to some electorates, the general pattern of the provisional boundaries has a dominating influence on the boundaries the Commission finally settles. This is because it would be very difficult for a member to divert the discussion to a consideration of, for instance, a totally different way of introducing new constituencies. A radically new idea would have consequences that affected so many constituencies that a fresh start would have to be made if the alternative were to be seriously examined. It can thus be said that, in drawing the provisional boundaries, the Surveyor-General has chosen between basic broad brush boundary patterns and that the other Commissioners have not taken part in this early and most important decision-making stage.

5.16 It is understandable that this early preparation should have been left entirely to the expertise of the Surveyor-General and his staff when it was clearly impossible for any individual Commissioner to assimilate and analyse population figures for 34,000 meshblocks. However, it is now possible for the initial computer analysis of the population figures that is given to the Commissioners to contain more relevant and helpful summaries of the meshblock data. The Department of Statistics stated in its submission that it is prepared to undertake a feasibility study of the possibility of using larger units of area than meshblocks (for example, the Department's area units in cities and those same units or ridings in the country) to construct sets of electoral districts. Each of the sets could be developed into a complete solution of the boundary problem through relatively minor boundary adjustments. If, say, 4 or 5 such sets could be produced and given to members of the Commission at about the same time as numerical material is now sent to them, the Commission as a whole could decide which of the general patterns best conformed to the criteria the Commission uses. In this way the onus for producing the set of boundaries would rest, as it should, on the whole Commission. We note that a system of this kind is used by the Ontario Electoral Boundaries Commission. We recommend that the Department of Statistics carry out its feasibility study.

Recommendation:

- 11. The Department of Statistics should investigate the presentation of its meshblock population data in the form of basically different sets of approximate constituencies. If such data summaries can be produced:
 - (a) several sets of approximate constituencies should be part of the initial data sent to members of the Representation Commission.
 - (b) the Surveyor-General should base the provisional boundaries on the set of approximate constituencies chosen by the Representation Commission.

Objections, counter-objections and appeals

5.17 Information available to objectors and counter-objectors.

Boundary revision should ultimately be accepted as fair by the public. The number of those objecting to the Commission's proposed boundaries provides an estimate of the degree of acceptance. In theory, a series of objection phases could follow until there were no further objections. In practice, there are currently 2 limitations. First, objections need not be sustained by the Commission, a recognition that not all objections are valid. Second, there are only 2 phases, an objection phase and a counter-objection phase. In fact this represents a recent extension of the powers of the public in that before the boundary revision of 1982-83 there was only an objection phase. Now, objections are gazetted and counter-objections to them are called for. The set of objections and counter-objections is then examined before final boundaries are settled.

5.18 In the consideration of counter-objections, the original decision of the Commission, or indeed the whole set of solutions the Commission considered initially for a particular boundary problem, may be re-examined if the counter-objection is upheld. This phase is thus potentially as powerful as the objection phase. However, it is not wholly satisfactory because there is no opportunity for the public to become aware of the new solution the Commission chooses when it accepts the validity of an objection to its original boundaries. For instance, if Wanganui city has a General electoral population that is beyond the tolerance for a constituency, an area of the city has to be excluded to bring the constituency population within bounds. An objection to the chosen area shown in the proposed boundaries could be upheld and a new area chosen by the Commission. This new area would not be known to anyone who wished to counter the original objection. For the counter-objection phase to cater for possibilities of this kind, a whole range of information on other solutions to a host of potential boundary problems would need to be available to the public at the time the objections are gazetted. The provision of this information in a manner that was detailed enough to be helpful and yet not so detailed as to provide too many solutions for anyone to contemplate, may, we think, be too large a task for the Commission.

5.19 On the other hand we think that the key to an improvement in the objection/counter—objection phases is the greater provision of information to the public. The obvious time for this to take place is when the proposed boundaries are first gazetted. We consider that the broad reasoning that led to the proposed boundaries should be made available to the public so that both the objection phase and the counter-objection phase can be better informed. Some of those who might have been eager to object may see the validity of the reasoning and so not make an objection. Similarly some who might be upset by an objection, might realise that no alternative might be better from their point of view. The information and reasoning that in our view should be available need not be extensive. The numerical and geographical imperatives that

shape many of the Commission's decisions could be the basis of much of the published material. We envisage a brief account of the way the general pattern of boundaries was settled. For each constituency there need only be a few lines indicating the conditions imposed on it by neighbouring constituencies, together with any special local features. Much of this material could be assembled as a summary of the Commission's thinking when each constituency is settled. The information should be available in at least 1 place in each constituency.

5.20 Our general view of the objection phase is that it is a necessary and desirable feature of boundary revision in that it involves the public for the first time in a matter that is important to them. We believe that the counter-objection phase has not yet proved its worth. Insofar as this is because counter-objectors do not always have the necessary information to be sure they are making a valid case, our proposal should help.

Recommendation:

- **12.** Brief reasons for the choice of the proposed boundaries, in terms of the criteria the Representation Commission must take into account, should be available at the office of the Registrar of Electors for each constituency.

5.21 **Appeals against the decisions of the Commission.** The High Court should continue to have the power to determine whether the requirements of the Act or of administrative fairness have been met and if they have not, to be able to refer decisions back to the Commission for further consideration. Whether there should also be a full right of appeal to the High Court (or a specialist electoral court) is another matter. There is in fact no unique set of perfect boundaries which the Commission may be considered to have missed. There are only boundaries of varying degrees of acceptability in relation to the criteria. Even a specialist court would be unlikely to have the skills and diverse experience of the Commission. It would have to set arbitrary or personal standards by which to judge the relative acceptability of the Commission's proposals and competing proposals. It is, in our view, unlikely that the court would have the expertise to form judgments of as high a quality as those of the Commission. Moreover, the Commission has a management task for all constituencies whereas complaints tend to be about particular constituencies. A change to 1 constituency frequently necessitates changes to several other constituencies if the Commission's criteria are to be satisfied. Thus a complaint about 1 or 2 constituencies would often demand of a court the inappropriate task of settling several boundaries.

Recommendation:

- **13.** There should continue to be no right of appeal from the decisions of the Representation Commission.

Adult population base or total population base

5.22 In speaking to the Representation Bill in 1887, Sir Robert Stout strongly supported the use of a total population base, stating, "The principle is simply this: that this House is supposed to represent people".³ The only alteration to the use of this base occurred in 1945 when legislation was introduced to change to an adult base. This legislation was repealed in 1950. There have been no further attempts to change to an adult population base. Both the Labour and National Party submissions to us argued for the retention of the total population base, while the Democratic Party desired a change to an adult population base to ensure a greater equality in the value of a vote.

5.23 Before we consider the principles relevant to a change of base we indicate some consequences of a change to an adult base:

- (a) When rural birth rates were significantly higher than urban birth rates there could have been 1 or 2 fewer predominantly rural constituencies if an adult base had been used instead of a total base. Because some urban constituencies now have a high ratio of children to adults, and because the rural birth rate has now declined, this rural-urban effect is not so marked. There are still some large differences, however. For instance, in the Wallace electorate in 1981, 35% of the population was under 18, while the corresponding figure in Christchurch Central was only 21%. Similar comparisons suggest that if an adult population base were used there could be a variation between constituencies of over 20% in total population. Conversely, for the present total population base there are variations between constituencies of the same order in the numbers of voters.
- (b) An important practical consequence of a switch of base is that the adult population figures needed for boundary revision would not become available from the Department of Statistics until March of the year following a census. Such a late date would make it impossible to base an election on new boundaries produced by the Commission when the census is taken in the year before an election year. For the present total population base there is some difficulty in these circumstances but it is not so great that the election would need to be based on the old boundaries.
- (c) On the other hand, an adult base allows meshblock populations to be provided from the electoral rolls which are available at any time. However, the only suitable time to use the rolls is the period after the Maori option, which is also the period when census figures are available. A direct comparison of the best adult base and total base meshblock figure is thus possible, and we note that even following a combined roll revision and Maori option the electoral roll meshblock information is almost certainly not of as high an accuracy as the census meshblock counts.

³New Zealand Parliamentary Debates, Vol. LVII, 1887, p.32.

In our view nothing in these matters confers an advantage on the use of an adult population base rather than a total population base.

5.24 The general argument for the population quota for a constituency being set in terms of the total electoral population is that everyone is affected by the decisions of Government and therefore everyone should be equally represented in the body that makes those decisions. From this point of view the question of the use of an adult population base would not even be raised if all people were considered capable of voting. However, some limitations on the scope of voting have always been imposed, primarily because various groups of people have been thought incapable of making a reasonable voting decision (paras. 9.3 to 9.22). But incapacity to vote does not imply that the individuals concerned should be ignored. We accept the tenor of this argument and recommend that there be no change of population base.

Recommendation:

- 14. The determination of constituency boundaries should continue to be based on total population.

Population figures used by the Commission

5.25 The principal task of the Commission is to combine meshblocks into suitable constituencies with approximately equal populations. To accord with the principle of equality of representation, the population numbers required are of those living in these meshblocks at the times of elections based on the boundaries the Commission settles. However, the figures that are available to the Commission differ from those required in 2 significant respects. They are meshblock counts taken on census night, and they include people who normally reside in meshblocks other than those in which they were counted.

5.26 The problem for boundary drawing is how best to relate the population figures that are available to the population figures the Commission would like to have. Two processes appear to be necessary for a solution to this problem:

- (a) The available census figures need to be adjusted in some manner to give estimates of the numbers of people who are usually resident in each of the meshblocks at the time of the census.
- (b) Population projections, based on these estimates, need to be developed, to provide estimates of election day populations.

The matters raised in (a) are discussed in paras. 5.27 to 5.30. The development of projection methods is treated in paras. 5.31 to 5.33.

5.27 Meshblock counts on census night are called "de facto" populations. They are usually available in August of the year of the census. About April of the following year there become available estimates of the usually resident or "de jure" populations of the meshblocks (apart from those who were overseas on census night). The de jure figures would be the natural ones to use as the basis of the population projections introduced in para. 5.26(b).

5.28 However, the de jure figures have a major disadvantage. The allocation of many people to their home meshblocks cannot be accurately done because the home addresses given on census night are often not adequate for the purpose. Exact de jure meshblock figures are thus not always available, although there is high accuracy in de jure figures at least for local authority populations. The use of de jure figures thus requires the development of methods that take into account the uncertainties of these figures.

5.29 The de facto populations are those currently used, after adjustment, in the boundary revision. The populations resulting from the adjustments are called electoral populations. The adjustment is an implied recognition that proper de jure figures are those that should be used. In fact, the adjustments described in s. 2 of the Electoral Act are intended, by the exclusion of large numbers of people identifiably away from their home meshblocks, to produce figures that are more likely to be proportional to the true de jure figures. The reason for seeking proportionality is that a boundary-setting problem is the same, both in respect of the numbers of seats in each of the Islands and in respect of the boundaries of those seats, when either de jure meshblock populations or numbers proportional to these populations, are used.

5.30 It has been an assumption of the boundary drawing process that the adjustments made to the de facto figures result in a satisfactory relationship between de facto and de jure populations, at least for constituencies. In our opinion this relationship needs testing. For instance, the large adjustments made to the high de facto populations of tourist areas need analysing in relation to the de jure populations of these areas. It has not been practicable for this analysis to be completed within the period of our deliberations and our recommendation is that it be undertaken by the Department of Statistics. If the analysis indicates that the use of electoral populations introduces a bias, the use of de jure figures will need investigation, and we recommend that this be done. The suggested analyses are necessary preliminaries to the more important development of projections. Before these are considered we note that the present de facto method with adjustments has proved to be easy to operate. It should, we consider, continue to be used as in the past at least until analysis of its qualities and of those of any competing system have been completed.

Recommendation:

- 15. (a) The Department of Statistics should analyse the relationship between the electoral and usually resident populations of the constituencies determined by the boundary revisions of 1982/83 and 1986/87.
- (b) If this analysis indicates that the electoral population basis produces a significant bias in boundary revisions, a means of using usually resident meshblock populations in these revisions should be devised.

5.31 **Projection of population.** Even if the electoral populations of constituencies are proportional to the de jure populations at the time of a census, it is unlikely that they will remain in the same relationship to each other by the time of the next election. In fact about 40% of New Zealanders change their addresses between censuses, and these changes are not uniform across the country. There are pronounced rural/urban, city centre/suburban and south/north movements. These movements can result in sharp differential growths in constituency populations. For instance, at the 1982/83 boundary revision, while some constituency populations had declined since their boundaries were settled, the population of Helensville was over 30% above the quota set for the boundary revision. While few constituencies will increase by that amount, there are some marked differences in population change in the period between a census and the first election using boundaries based on census figures. This period is on average 32 months for a de facto base and, since a de jure base cannot in all cases be used for the next election, 44 months for a de jure base. Some differential population growth of over 5% is almost certain to occur in times as long as these. It is desirable that these differential effects be reduced by a consideration of likely population changes.

5.32 Projections of meshblock populations would be too inaccurate for the Commission to use. However, reasonably accurate projections of the populations of local authority areas may be feasible. The devising and testing of such projections involves the use of 1986 census data which has only recently become available, and it has not been practicable for us to do the necessary work. However, the Department of Statistics has experience in this field. It already issues projections of de facto populations of local authority areas. We recommend that it develops similar projections for de jure and electoral populations.

Recommendation:

- 16. The Department of Statistics should devise and test projections of the usually resident and electoral populations of local authorities.

5.33 The way in which projections would be used by the Commission is considered in para. 5.39 in association with the tolerance. Here we indicate 2 general matters of some importance.

- (a) With a 3-year parliamentary term, for 2 out of 3 boundary revisions, 2 elections will be held on the boundaries determined by the revision. This does not negate the usefulness of projections. It in fact suggests they are the more necessary and should be used to achieve a balance of accuracy at the relevant elections.
- (b) If good projections can be achieved for de jure and electoral populations, boundary revision need not take place as soon after a census as it does. It could for instance be undertaken in the year following a census, when the de jure figures become available. This consideration gives added weight to the recommendation in para. 5.30.

Departures from quota

5.34 The maximum permitted departure of the electoral population of an electoral district from the quota is normally referred to as a "tolerance". As stated in para. 5.3(c) and (e) the tolerance for all constituencies is 5% (no tolerance was fixed for Maori seats until 1982, when the Commission was given the power to determine the boundaries of these seats). A strict application of the principle of equality of representation would demand a tolerance of zero. However, the application of this principle, if the plurality system is continued, may be affected by:

- (a) a decision to give special consideration to particular areas of the country; and
- (b) the desirability of keeping distinct communities in 1 constituency; and
- (c) the use of projected populations.

These matters must be discussed in any consideration of the tolerance level appropriate for New Zealand. The discussion is in terms of electoral populations but it holds also for de jure populations.

5.35 **Special quotas.** In some other countries with plurality systems, there are marked regional differences of ethnic or historic significance which have had a profound effect on the tolerance level. For instance in Canada and in the United Kingdom the tolerance can be of the order of 25% and more to ensure a reasonable level of representation for sparsely populated regions or for regions with traditional interests that are, to a degree, distinct from those of the rest of the country. In Canada, Prince Edward Island and the Northwest Territories, and in the United Kingdom, Scotland, Wales and England, are separately treated in respect of quotas. The only differential treatment of different parts of New Zealand since the independent Commission was established has been through the use of a country quota, originally set at 18%. After some adjustments it was finally abolished in 1945. Since then the Commission has been required to determine boundaries without giving special consideration to any part of the country. We consider this should continue to be the rule for the Commission.

5.36 **Communities of interest.** The significance of communities of interest has been recognised by their inclusion in the Electoral Act as a factor that has to be considered by the Commission when setting boundaries. A tolerance level of say 2% or 3% would, on present quotas, allow communities of 600 to 1,000 to be moved into or out of a constituency. A 5% tolerance allows a small suburb to be added to or subtracted from an urban or semi-urban constituency. A 10% tolerance would permit the movement of quite sizeable communities from one constituency to another. The higher the tolerance the easier it is to avoid unsatisfactory handling of communities of interest or difficulties of communication, but the greater is the departure from equality of representation and the greater the potential for charges of distortion and bias. We believe that the present low tolerance level plays an important role in enhancing public appreciation of the fairness of

boundary revision. We recommend that the level of 5% continue to be used as long as electoral populations, as presently defined, are the basis of boundary revisions. However, in view of our proposals for the use of population projection, it is necessary to consider the use of tolerance in the more realistic circumstances in which an attempt is made to use estimates of election day populations.

5.37 The use of projections. Projections, whether of de jure or electoral populations, would be used in practice in the following manner. For any local authority area the ratio of projected to present population would be calculated. This ratio, divided by the corresponding ratio for the whole country, gives a "weight" which is a measure of whether the population growth of that area has been faster than average or slower than average. Areas of higher than average population growth would have a weight greater than 1, while those of lower than average population growth would have a weight less than 1. The essence of projection is then the assignment of weights. While we think that the best way to assign weights is through the use of properly developed projections, we note that it is possible to carry through a boundary revision using weights established in a less formal manner.

5.38 There is a residual problem in the use of weights. If, for instance, a proposed constituency contains only a part of a local authority, a projected population for that part is needed. We consider that the natural assumption should be made, that the weight for the part should be the same as the weight for the whole authority. If this assumption is made the population figures used in boundary revision could be given the same form as now if each meshblock population were multiplied by the weight of the local authority in which the meshblock is located.

5.39 All that is then needed for boundary revision to be identical in structure to the present revision is a measure which, like tolerance, establishes bounds for the permissible variation in constituency populations. Such a measure will differ from tolerance in that its success can only be gauged later when the populations of the constituencies at election time become available. If, for instance, the rule were that no projected constituency population could differ by more than 5% from a quota of projected populations, the test of whether any actual constituency populations at election time fell outside the prescribed limits, would only come later. However, some working tolerance needs to be assigned if communities of interest are to be respected. We recommend a level of 5%, noting that the arguments in para. 5.36 in favour of this level have greater force and relevance for projected populations.

5.40 We conclude the discussion of projections and tolerance with a reiteration of the need for a change to present methods. The electoral populations of the constituencies used in the 1981 election give an indication of the potential importance of projection methods. Over 45% of those constituencies had electoral populations that departed by more than 5% from a quota based on the 1981 census. That is to say, if an election had been held on the day of the census, nearly half the

constituency populations would have been outside the limits set by the tolerance, 1 of them departing from quota by over 17%. The inequalities would almost certainly have become worse by the time of the actual election in 1981. Even if population projections were only to determine correctly if a weight were greater than 1 or less than 1, a judicious use of projection methods would almost certainly produce less variation in constituency populations than that exhibited in 1981. We are thus confident that there can be very substantial reductions in the range of electoral populations of constituencies at election times if sound projection methods are used in determining constituency boundaries.

Recommendation:

- 17. (a) If suitable projections of usually resident or electoral populations have been devised, they should be used in conjunction with a 5% tolerance in the determination of constituency boundaries.
- (b) If no such projections have been devised, the present tolerance level of 5% should be maintained.

The South Island seats

5.41 In 1965 the number of South Island General constituencies was fixed at 25. The number of North Island General constituencies was to be determined at each boundary revision by the ratio of North and South Island General electoral populations. Before 1965 there had been a progressive decline in the number of South Island seats to a point where it was thought by both major political parties that the decline should be halted in the interests of fairness to the South Island. It is our impression that this reason for the original decision to stabilise the level of South Island representation is as strongly affirmed by South Island residents and by MPs today as it was in 1965. We have accordingly accepted that 25 is a minimum number of constituencies for the South Island under the existing voting system. The consequences for boundary revision of a change to a House of fixed size are now described.

5.42 Since the number of South Island seats was fixed, 2 or more extra constituencies have had to be incorporated into the North Island at each boundary revision. This has resulted in major disruption to many existing constituencies, the occasional splitting of cities of less than constituency size, and the creation of ungainly constituencies with poor internal communication and community of interest, especially in the centre of the Island. In the South Island there have usually been only minor changes that principally reflected a drift of population within the Island.

5.43 If the total number of seats were fixed but the number in the South Island allowed to find its own level, there would, on present population trends, be a change of 1 or 2 seats in each Island at each revision. The degree of disruption to North Island constituency boundaries would be noticeably less than at present. Conversely the relative stability of South Island constituencies would disappear.

5.44 We are of the opinion that under the plurality system with 120 seats and no minimum for the South Island (as recommended in Chapter 4), the overall level of difficulty in boundary revision would be of the same order as it is now. The number of South Island seats would rise to about 31 initially and if present demographic trends continue, would fall to 25 in about 20 to 25 years. If this were to happen it would then again be necessary to allow the number of MPs to increase if the minimum level of 25 for the South Island were to be maintained. We discuss the issue of South Island seats under MMP in paras. 5.54 and 5.55.

The Maori seats

5.45 At present the Commission reviews the boundaries of the 4 Maori electoral districts without specific Maori assistance, despite the fact that these boundaries are the concern of Maori alone. If Maori seats are to be retained we think that revision of their boundaries should be done by a body able to bring a proper Maori perspective to the consideration of community of interest among the Maori people generally and members of Maori tribes as required by the Electoral Act s.23. To this end we propose that when Maori seats are being discussed, the membership of the Commission should be altered in such a way as to give a voting majority to representatives of Maori interests. Changes would also be necessary in the event of a change to a common roll.

Recommendation:

- 18. (a) When the boundaries of Maori seats are to be defined, the Representation Commission should consist of the Chairperson, the Surveyor-General, the Secretary of Maori Affairs, the unofficial members and 2 further voting members appointed by the Governor-General by Order-in-Council on the nomination of the Minister of Maori Affairs following consultation with appropriate Maori organisations.
- (b) If there is a common roll under plurality, the Representation Commission should be required to take into account community of interest among the members of Maori tribes. The Commission's membership should be changed to give it a Maori perspective.

5.46 **Calculation of Maori electoral population.** A secondary but important function of the Maori option (see Chapter 3) is to facilitate the calculation of the General electoral population on which is based the number of General electoral seats. This calculation requires the Maori electoral population to be subtracted from the total electoral population. The Maori electoral population is calculated as the total number on the Maori roll following a Maori option multiplied by a factor representing the ratio of total Maori descent population to the Maori descent population of those of at least 18 years of age. We emphasise that the primary reason for calculating the Maori electoral population is to enable an estimate of the General electoral population to be made. The calculation

has a limited significance for the voter of Maori descent through the subsequent determination of the number of General electoral districts and the boundaries of all constituencies. But as long as the Maori seats remain fixed in number there is little significance in terms of voting power for voters of Maori descent. Yet the calculation contains a complication that has caused concern to some members of the Maori community and a comment on it is needed.

5.47 The complication is the manner in which children of a union between a Maori descendant on the Maori roll and a spouse on the General roll enter into the calculation of the factor introduced above. The principle adopted in the Act for such a union is that each parent is equally a representative of the children of the union and that these children should then contribute equally to both the General electoral population and the Maori electoral population. The only alternative to a calculation of the present sort would be for sufficient information to be collected during the Maori option for there to be an allocation of the children agreed to by the partners in these unions. Collecting such information would thus demand personal decisions by Maori voters that are not demanded of other voters. There is no justification in making the registration process more difficult for those of Maori descent when the greater difficulty is irrelevant to their own voting rights. The present calculation of the number of dependants, although complex, is based on a fair principle and requires no extra registration effort from the Maori descent population. We therefore do not recommend any change to it. However, we suggest that any future publicity concerning the option should explain to Maori people that the calculation is made for the purposes of setting the number of General constituencies and settling constituency boundaries, and has no bearing on the number of Maori seats.

5.48 **The under-registration of people of Maori descent.** A factor of some importance to the electoral system is the number of people of Maori descent aged 18 or more who were not on any roll before the present revision. This number is not known, but statistically based estimates place it in the range 40,000 to 60,000. These people and their dependants are currently included in the General electoral population. We think that the best adjustment to make is to allocate to the Maori electoral population a proportion of all unregistered Maori descendants equal to the proportion of registered Maori descendants who are on the Maori roll. While this latter proportion is not known with any precision at the moment, we think that the adjustment would result in a reduction of the General electoral population by between 35,000 and 50,000. In other words, the number of General electoral districts could be too high by between 1 and 1.5.

5.49 We note that the only figures needed to make the adjustment are the numbers of registered Maori descendants who have opted for each of the types of roll and a census figure for the total number of Maori descendants aged at least 18. One of the first 2 of these 3 figures is now known, and the other should also be known as it is a significant and relatively easily obtained feature of the registration system. The

required information could most easily be obtained by the addition of a single question on the roll revision card, asking the person responding to the card to signify if he or she is of Maori descent. Although we have phrased our recommendation on the assumption that this information will be forthcoming, we recognise that there may be objections to providing it. If the information cannot be obtained, a reasonable estimate of the number of Maori descendants who are not on any roll can be obtained from electoral register information together with the census based estimates of the Maori descendant populations and the total populations of the constituencies without making the assumption that Maori descendants have the same enrolment rates as others.

Recommendation:

- 19. (a) The numbers of people of Maori descent who opt to go on the Maori and General rolls should be obtained as a matter of course in any future Maori option/roll revision so that the information can be used to estimate the numbers of unregistered people of Maori descent who are to be counted in the General electoral and Maori electoral populations.
- (b) If the number of people of Maori descent cannot be so obtained, a statistical estimate of this number should be made from census population data and registration data for the different constituencies.

The status of gazetted boundaries

5.50 The Electoral Act s.19 stipulates that the names and boundaries of the electoral districts fixed by the Commission are to be reported to the Governor-General who is obliged to proclaim them in the Gazette. From the date of this proclamation the electoral districts become those to be used at the next general election and later elections until the next boundary revision takes effect. This section ensures that the boundaries the Commission determines are not subject to approval by any other body. In our view, the independence of the Commission's determinations should be reinforced by their being automatically accepted without there being a need to refer them to the Governor-General. We also think that the significance of s.19(2) should be recognised by its entrenchment. This is discussed in paras. 9.174 to 9.188.

Recommendation:

- 20. The final boundaries of the electoral districts when gazetted by the Representation Commission should have effect for the next general election and for later elections until the next boundary revision takes effect.

The timetable of the Commission

5.51 Using present procedures, the Commission has its tightest timetable when a census is held in the year before an election.

Boundaries are then gazetted in April of the election year, normally leaving a short period of about 7 months for new rolls to be produced, for a roll revision, and for political parties to select candidates and establish their organisations in the new constituencies. This timetable could be under pressure if some of our recommendations were implemented. Those that could have an effect are in essence:

- (a) there should be 1 unofficial member of the Commission for each party represented in the House of Representatives (para. 5.14);
- (b) the starting point of the Commission's work should be the selection by all Commissioners of the most suitable of a restricted set of constituencies sent to them by the Government Statistician (para. 5.16);
- (c) reasons for the choice of the proposed boundaries should be made available to the public (para. 5.20).

5.52 We previously pointed out (para. 5.13) that the Commission may take longer to reach decisions if (a) is implemented. We think any extra time taken would not be great. The extent of any delay should be kept within bounds by the Chairperson. It could also be affected by an implementation of (b). If the basic outline of the constituencies were determined by all Commissioners before the fine detail of the provisional boundaries was worked out, some of the differences of view that now occur in the Commission's deliberations may be raised at the early stage and not later. It is thus uncertain if (b) would delay proceedings at all. The implementation of (c) may delay the start of the objection/counter-objection phase, but the delay should not be significant if the Commission keeps a record of the reasons for decisions as it makes them. In sum, while we cannot be certain of the combined effect of (a), (b) and (c) or of other recommendations on the timetable we believe it to be small. We note, however, that it is a matter to be kept in mind. We further note that any extra delay would have no serious effect if there were a switch to a *de jure* base provided the recommendation in the use of population projections (para. 5.40) were implemented. We have no specific recommendations on the timetable of the Commission. Indeed it would be premature for any to be made before there has been an assessment of the use of projections of *de jure* and electoral populations.

Boundary drawing under MMP

5.53 Under the MMP system as described in Chapter 2, the list vote determines the party or parties that constitute the Government. In this respect the constituency vote loses some of the significance it has under plurality. There are 2 consequences of the changed status of constituency seats. First, there need no longer be as strict an adherence to equality of the electoral populations of the constituencies as is necessary in the plurality system. Tolerance can be increased without affecting the ultimate fairness or proportionality of representation in the House. An increased tolerance would allow better treatment of communities of interest in a boundary revision. Second voters in constituencies need no longer consider the party affiliation of

the constituency candidates as the matter of primary concern. A constituency contest may more truly become a matter of choosing the best individual to represent local interests. We conclude from a consideration of these 2 factors that the tolerance should be raised to facilitate boundary revision. However, any increase in tolerance should not diminish the significance of constituency seats in the eyes of voters, nor introduce a large differential in the workload of constituency MPs. For these reasons we have recommended in para. 2.116 that the tolerance be set at 10% under MMP. Because the approximate equality of constituency populations at the time of elections is still part of the rationale of constituency seats under MMP, we think projection methods should be developed as for plurality.

5.54 We have recommended in Chapter 2 that when there are 120 seats all told there should be a minimum of 15 constituency seats in the South Island under MMP. If the total number of constituency seats in the House and the total number of South Island constituency seats were both fixed, and if existing demographic trends were to continue, there would be a rapid rise in the ratio of average constituency populations for the North and South Islands. Within a period of 20 to 25 years the pressure on a tolerance of 10% would probably make it necessary for the total size of the House to be allowed to rise again (see also Chapter 4).

5.55 Subject to the proposed change in tolerance and to any changes in the number of South Island constituency seats occasioned by electoral population changes, boundary revision under MMP should proceed in much the same way as now. The revision should occupy less time than at present because there are fewer boundaries to be adjusted and the larger tolerance makes it easier to accommodate population changes. The recommendations in paras 5.14 and 5.20 are appropriate for MMP.

5.56 Because there is a common roll under MMP, it is appropriate that there be a Maori point of view on the Commission. As recommended in para. 5.45 for plurality, the Commission should also be required to take account of community of interest among the members of Maori tribes.

5.57 So that there can be some appreciation of the size and general nature of constituencies, Figures 5.1 and 5.2 illustrate 60 constituencies based on provisional 1986 census figures of total population. The location of these constituencies is of no particular significance.

Figure 5.1
44 Illustrative MMP Constituencies

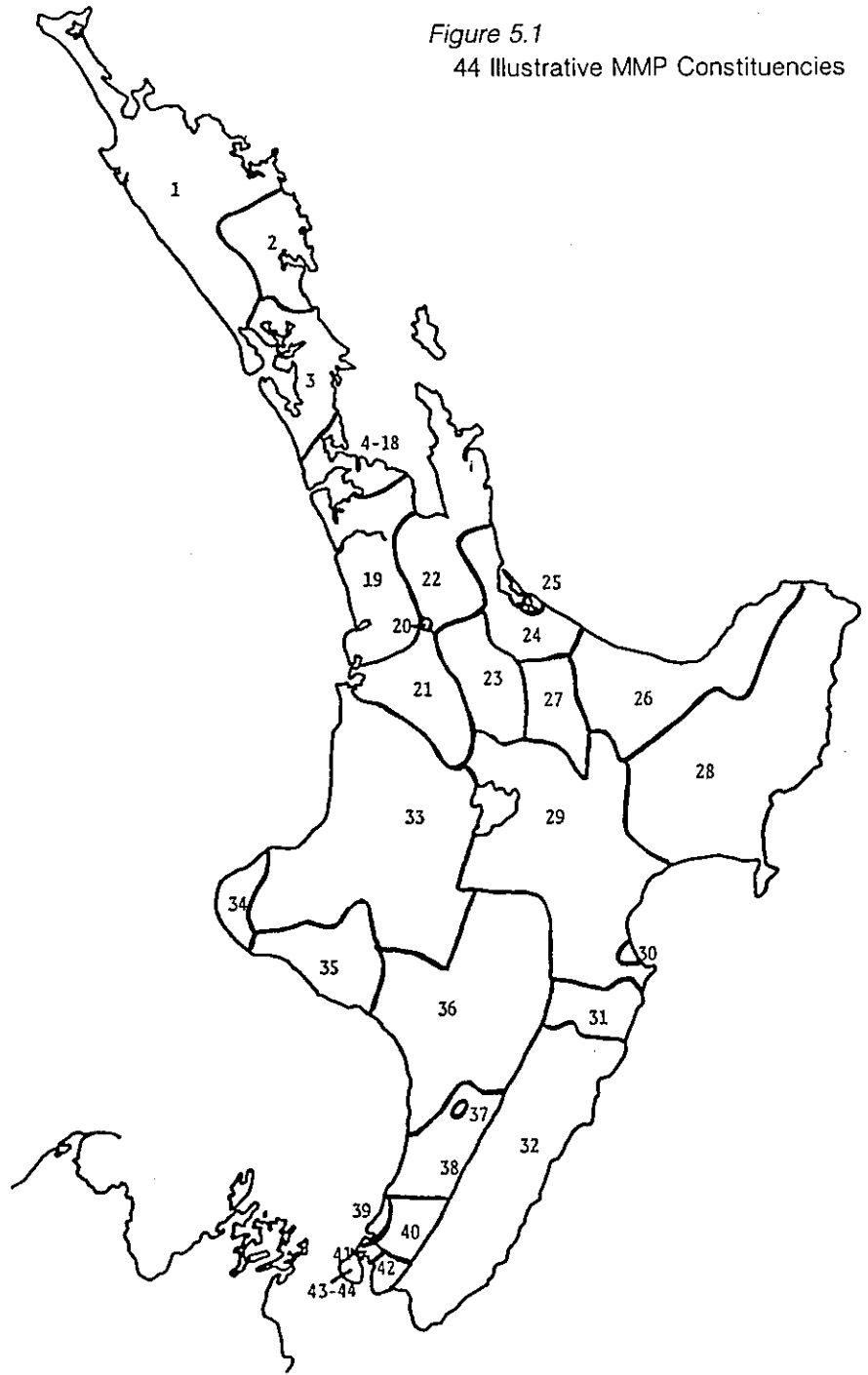


Figure 5.2
16 Illustrative MMP Constituencies

