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IMPROVING NEW ZEALAND'S DEMOCRACY



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**IMPROVING
NEW ZEALAND'S
DEMOCRACY**

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J. Stephen Hoadley

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Democracy As An Approach To The Future

J. Stephen Hoadley

THE CHALLENGE OF THE FUTURE

NEW ZEALANDERS moving into the decade of the 1980s bear the responsibility of shaping their own political future if they wish to escape becoming the subjects of someone else's. It is of little use to decry the political decline allegedly afflicting New Zealand at present unless one is willing to propose alternatives and means of setting those alternatives in motion.

Moreover, institutional and political self-examination is inherently healthy not only because it stimulates needed reforms but also because it reveals the worth of existing institutions and practices, thereby renewing their legitimacy and enhancing their effectiveness. The activity of questioning, altering, and reaffirming public institutions is integral to democracy, for democracy is a process of working towards realization of public aspirations as much as it is a set of governmental structures evolved by experience and entrenched in a constitution.

An open political system such as New Zealand's is vulnerable to forces external to it. However, openness permits not only vulnerability but also receptivity to new solutions and the flexibility to adapt them to local needs. New Zealanders are not alone but rather have much in common with other small democracies and may learn much by becoming aware of overseas precedents.

DEMOCRACY DEFINED

Democracy is a collection of aspirations, a set of governmental

J. STEPHEN HOADLEY is Associate Professor of Political Studies at the University of Auckland. He has edited *New Zealand and the Search for Peace* (1974) and *The Meaning and Study of Peace* (1975) and written articles on New Zealand's foreign policy.

institutions, a system of public participation in state affairs, a body of safeguards of individual rights, a distribution of power, and a style of collective decision making with implications for the manner in which the decision makers face the future. It is of course all these and more, for the concept of democracy nourishes a profusion of nuances, many of which will be encountered in the references cited at the end of this and other essays, but the cardinal connotations listed above will suffice for the purposes of this book on New Zealand's democracy and the future. Each draws attention to a particular facet of the democratic diadem; each relates to a slightly different aspect of New Zealand's democratic heritage, practice, and institutions; and each is illuminated by one or more of the contributions that follow.

ASPIRATIONS

Democrats aspire to life, liberty, and the pursuit of happiness, to recall Thomas Jefferson's words in the American Declaration of Independence, and to liberty, equality and fraternity according to the memorable catchcry of the French Revolution. In a negative sense democrats wish to avoid tyranny, concentration of power, and arbitrary government; and in a positive sense they advocate responsive government, inalienable rights of individuals, political and legal equality of citizens, and widespread public participation in the choosing and monitoring of their leaders. Implicit in the formulations of some writers who would export the British and American experience to the Third World is the expectation that political democracy will bring in its wake social order, economic prosperity, and individual happiness, that is, democracy is sought for its concomitants. And a relatively new notion has emerged, that democracy ought to characterize all the political, social, economic, and cultural institutions that compose the democratic state, including the family, church, schools, bureaucracy, police, and armed forces. Whatever the emphasis, New Zealanders turn first to Britain and to the United States for historical guidance on the fundamental goals and practices of democratic peoples, and it is in that spirit that Keith Ovenden reviews and reaffirms democratic aspirations and obligations while at the same time pointing out where New Zealand's accomplishments have fallen short, thus sketching an agenda for reform in the future.

GOVERNMENTAL INSTITUTIONS

The governing institutions of a democracy should be limited, balanced, responsible, representative, and open. Ultimately popu-

lar choice should underpin the procedures for selection of the major officers of government and guide the activity of governmental institutions, within broad limits. Central to New Zealand's democracy is Parliament, at once popular and sovereign, but also disputatious, querulous, inefficient, and cited as needful of reform. With this in mind, Peter Aimer draws upon his academic study of Scandinavian legislatures to point out effective practices potentially applicable to New Zealand; he finds much abroad worthy of emulation but also much at home worthy of reaffirmation.

Other institutions, too, can become ossified, isolated, and unbalanced. The hierarchy of parties, Parliament, caucus, cabinet, and prime minister may become politically arid the greater its elevation from popular wellsprings and the bureaucracy may go awry when collective precedents render it rigid or individual deviations render it corrupt. Recently alleged departures from the democratic norm in New Zealand have stimulated Marilyn Waring to analyse our Parliamentary system from her vantage point as a participant and to propose selected reforms to forestall their recurrence in future and to increase the working effectiveness of these vital institutions.

Modern governments are creators, collectors, and dispensers of information on an unprecedented scale and New Zealand is no exception. This role is expanding inexorably and becomes pernicious if cloaked in secrecy. While a reasonable balance must be struck between confidentiality and accountability, David Baragwanath argues that the former weighs increasingly heavily when at the same time the classical democratic controls postulated by Dicey in the last century appear decreasingly effective. At the very least, he warns, the burden of proof must rest on the law, agency or leader who would restrict Parliamentary and public access to governmental information or obstruct the flow of opinion if New Zealand is to retain its open and democratic character. Read together, these three essays constitute a selective assessment of strengths and weakness in New Zealand's governmental institutions and an inventory of changes the future may see in them.

PUBLIC PARTICIPATION

It follows logically that public participation is a component without which no governmental institutions may be called democratic no matter how popular or benevolent they are. "Peoples' democracies" are sometimes conceded to be democratic to the extent that the populace are mobilized to discuss and carry out the decisions of the Communist party but not insofar as pre-decisional

debate of issues and choice of leaders is strictly limited and guided. Essential to democratic participation are four vital elements: political literacy, presentation of alternatives, valid expression of opinion, and clarity of outcomes. The first requires not only an open government and active and accurate public media, but also a modicum of political literacy as defined by Bernard Crick, that is the information, attitudes and skills necessary to learn how one's individual interests may be affected by government and the disposition and ability to do something appropriate about it. The second requires autonomous political parties to lead debate, winnow out, elaborate and express the most important issues, and recruit and support the most widely acceptable candidates for leadership. The third requires an electoral mechanism whereby the choices made by citizens are registered and tabulated so that the outcome in electoral victories reliably reflects the state of public opinion on voting day. The fourth requires a clear and legitimate winner, typically a political party whose candidates win a clear majority of the legislative seats at issue and whose leader can govern credibly and creditably.

Below Leslie C. Clements offers his impressions of Swiss political participation. In so doing he illustrates what it means for a people to be politically literate, our first element of public participation, and recommends a few changes for New Zealanders to consider. Nigel S. Roberts focusses on the third element, finds New Zealand's present electoral system deficient in accurately translating votes into Parliamentary seats, and calls attention to the several proportional representation (PR) systems that are practised in a variety of countries abroad. Robert Chapman centres his attention on the second and fourth elements, argues that PR voting would reduce rather than increase the representativeness of the resulting cabinets and the predictability of their policies, and reaffirms the soundness of the first-past-the-post system, given the reforms that he then proposes. Whether New Zealanders should opt for marginal reforms of the present voting system or choose to move to the PR option is certain to be a matter for debate during the 1980s.

INDIVIDUAL RIGHTS

Public participation, particularly the acceptance by the election's losers of the leaders and policies of the winners, depends in turn on the security of the losers from reprisals by the winners and on the hope offered by a subsequent election when the losers may aspire to become winners. Here "minority rights" appears as the

vital companion of "majority rule", without which democracy degenerates into tyranny of the majority or mobocracy. The eternal tension between majorities and minorities — ethnic, social, and economic as well as narrowly electoral — must be moderated by laws, courts, and other agencies and associations to give practical meaning to our historic commitment to civil liberties, equity and fairness. Below Tim McBride considers the question of whether existing safeguards should be supplemented by a Bill of Rights and concludes that the cure might be either irrelevant to or more problematic than the malady, and therefore reform in other areas seems more promising. Sandra Coney finds existing institutions discriminatory against minorities in general and women in particular and prescribes three fundamental reforms to give women the rights they require as preconditions for equal political participation. Rangi Walker considers the situation of ethnic minorities, especially Maoris in the light of historical experience, public attitudes, and specific legislation, and suggests two innovations: a deliberate Maori input into existing agencies, and a separate Maori political decision-making body parallel to existing governmental institutions.

DISTRIBUTION OF POWER

At a higher level of abstraction democracy connotes a relatively uniform distribution of power so that leaders will not be tempted by a monopoly of power to exercise it illegitimately to oppress the powerless. Ideally power should rest in the hands of the whole people. In practice, however, power rests legally in the hands only of sane lawabiding citizens over eighteen years of age, and in New Zealand it rests practically in the hands of a small number of elected representatives and appointed civil servants. Concentration of power is justified by its holders and beneficiaries as necessary to carry out the purposes of the state; defenders of this concentration argue that power is vested in offices, not individuals, and the exercise of power by office-holders is still subject to laws, checks, balances, public scrutiny, and termination upon evidence of abuse.

Critics of this point of view call attention instead to the growing size and complexity of governments and the concentrations of power and information in the hands of officers who appear to have escaped public control in one way or another. Mabel Hetherington, applying criteria derived from non-violent radicalism to New Zealand's political institutions, below describes why existing power sharing mechanisms such as elections and legislatures are inadequate, concludes that mere reform is insufficient, and proposes

a sweeping redistribution and decentralization of power so as to reconstruct New Zealand's democracy from the bottom up.

Neither Eighteenth Century republicans nor Nineteenth Century anarchists fully anticipated the rise of the industrial state with its consequences for concentration of power in industrial corporations, sometimes in competition with the state, sometimes in collusion with it. The extension of the norms of democratic power sharing to the relations between owners, managers, technologists, and workers of the limited liability company is a necessity not sufficiently appreciated by New Zealanders even as they advocate state assistance to the industrial sector of the economy. Industrial democracy, Margaret A. Wilson shows, is a nostrum much prescribed, little understood, and less practised but, with careful definition and application to distinguish the realistic (collective bargaining) from the grandiose (worker directors), one which offers modest hope of significant power sharing in a growing sector of public life.

DEMOCRACY AS AN ORIENTATION TO THE FUTURE

Democracy, then, is a system of procedures, laws, and institutions of government embodying a set of aspirations stressing liberty, equality, equity, fair play, participation, and power-sharing. And here the relevance of the study of democracy to the study of the future of New Zealand emerges clearly in the space between the aspirations of democrats on the one hand and the quality of the institutions of New Zealand government and politics on the other. The width of the space is a matter for debate; whereas Chapman and McBride conclude that the institutions about which they write are insufficiently imperfect to warrant the bridging remedies proposed by others such as Roberts, Aimer, Waring and Clements, a less sanguine view is taken by Coney and Hetherington, who find the space almost unbridgeable. To ask where the truth lies among these divergent views is to ask a question more philosophical than political.

The question that should engage the reader concerned about the future of New Zealand democracy is how proponents of varying views can be encouraged to test their views against those of their rivals while continuing to live with them in a condition of civil harmony, collectively adapting to the challenges of the future. Democracy as a style of collective decision making may be oriented to the past insofar as it embodies traditional aspirations and historically evolved procedures, and to the present insofar as it makes possible pragmatic marginal adjustments between claim-

ants in such a manner that political community is preserved for yet another day. But it is profoundly oriented to the future insofar as its fundamental canon prescribes tolerance of existing contentions and acceptance of new ones as legitimate within the framework of traditional commitments and present adaptations. To jail irritating individuals, suppress unorthodox parties, or outlaw critical doctrines is not only undemocratic but also a closing of a door to the future. To put it in the idiom of ecological studies, it is analogous to the driving of certain species of flora and fauna into extinction to the detriment of the gene pool of the biosphere with the consequent narrowing of the options and resources for man's future.

TOWARDS A LOGIC OF DEMOCRACY

It may be argued that ultimately faith and optimism must underpin a commitment to democracy as the best system for collectively making decisions in a future-oriented society, since evidence of its innate superiority is spotty, ambiguous, and inaccessible until the future becomes the present. That democratic governments have occasionally displayed indecisiveness, lost wars, allowed corruption, and tolerated irritating, perverse, immoral and shortsighted behaviour among some of their citizens and even their leaders are not reasons for eschewing democratic ideals but rather for striving to bring practices closer to the ideals.

Evidence aside, logic suggests that any system of choice that closes off avenues to the future by foreclosing social options, imposing institutional rigidity, hampering the acquisition of knowledge, restricting public initiative, or inhibiting individual freedoms must be less conducive to humane, non-violent adaptation to future challenges than a democratic system of choice. A closed system of choice finds the future in the present and fears alternatives; an open system of choice sees the present in the future and adapts to change with courage and creativity. The twelve essays that follow differ widely in their assumptions, diagnosis, and prescriptions, but all accept an open future for New Zealand and thereby collectively exemplify the tolerance of diversity and change that is a fundamental procedural ethic in our civil, humane, and equitable growth towards the Twenty-first Century.

SELECTED REFERENCES

- Crick, Bernard and Alex Porter, eds. *Political Education and Political Literacy* (Longman, 1978).
 Dahl, Robert A. *A Preface to Democratic Theory* (University of Chicago, 1956).

An Agenda for Reform

The Editor

BELOW, thirty-one recommendations for changes in New Zealand's political institutions and practices are abstracted from the text of this book and presented as an agenda for reform in the 1980s. The reader is cautioned that these prescriptions are consolidated for brevity and stripped of all context and qualifications, so the full articles by the authors cited in brackets should be consulted before passing judgement on the appropriateness of the suggested change.

REFORM OF CABINET

- Allow the prime minister to appoint a limited number of ministers from outside Parliament to gain specialist expertise. [*Waring*]
- Restrict the abuse of Orders in Council by requiring their immediate referral to the Statutes Revision Committee. [*Waring*]
- Reduce the workload of ministers, particularly the number of committees they sit on, the number and grouping of portfolios they administer, the time spent on the floor of Parliament, and the time spent in trivial "ribbon-cutting" functions. [*Aimer, Waring, Chapman*]
- Reduce the confidentiality surrounding deliberations of Cabinet. [*Ovenden, Waring, Baragwanath*]

REFORM OF PARLIAMENT

- Raise the public image of Parliament by reducing archaic pomp and ceremony, streamlining procedures, promoting a more businesslike approach to governing, and raising the quality of debate. [*Ovenden, Aimer, Waring, Clements*]
- Ease public access to information on issues to be debated; allow

debate to be televised. [*Aimer, Waring*]

- Increase the number of parliamentarians. [*Aimer, Chapman*]
- Strengthen the select committee system; utilise more commissions of inquiry. [*Aimer, Chapman*]
- Lengthen the Parliamentary year and schedule regular monthly business cycles. [*Aimer, Waring, Chapman*]
- Require review or automatic expiry of acts of Parliament after a given period and generally reduce the volume, scope, and pervasiveness of legislation. [*Waring*]
- Curtail the power of the governor-general to dissolve Parliament. [*Aimer*]

REFORM OF POLITICAL PARTIES

- Reduce the domination of party leaders over candidate and ministerial selection and allow backbenchers more freedom of expression. [*Ovenden, Waring*]
- Provide public funding for party and electoral activity. [*Chapman*]
- Tolerate a greater number and variety of political parties. [*Clements*]

REFORM OF THE ELECTORAL SYSTEM

- Introduce some form of proportional representation for general elections. [*Ovenden, Roberts. Waring sceptical. Chapman argues at length against.*]
- Introduce the referendum for specific issues. [*Clements. Aimer sceptical.*]
- Revise criteria and procedures for equitable electoral district redistributions. [*Chapman*]
- Improve compulsory voter registration to obtain regularly issued and accurate rolls. [*Chapman*]
- Schedule elections at set intervals; remove from the prime minister the power to call a snap election. [*Aimer*]

REFORM OF GOVERNMENT AND POLITICS GENERALLY

- Reduce official secrecy; pass a Freedom of Information Act. [*Ovenden, Waring, and especially Baragwanath*]
- Provide for specific Maori input into existing government, political, and social agencies. [*Walker*]
- Increase the autonomy and scope of activity of local government. [*Clements, Hetherington*]
- Introduce new forms of local organization for "direct democracy," for example co-operatives and spontaneous political self-

help groupings and movements. [*Hetherington*]

- Raise the political awareness and capacity to participate of citizens; enhance the sense of duty, order, and obligation among citizens — and especially among leaders. [*Ovenden, Clements, Hetherington*]

REFORM OF SAFEGUARDS OF MINORITY AND INDIVIDUAL RIGHTS

- Pass a Bill of Rights. [*McBride presents the arguments both for and against and concludes in favour of the latter*].
- Strengthen the Office of the Ombudsman and encourage the Human Rights Commission to play an active role. [*McBride*]
- Encourage greater activism by the courts in reviewing administrative decisions. [*McBride*]
- Acknowledge the right of women to control over their own bodies, access to child care, and economic power. [*Coney*]
- Create a separate Maori non-partisan decision-making body with responsibility for formulating Maori policy and making recommendations to Parliament. [*Walker*]

REFORM OF INDUSTRIAL RELATIONS

- Reduce governmental controls over and intervention in industrial relations. [*Wilson*]
- Introduce a system of collective bargaining as a necessary first step towards true industrial democracy. [*Wilson*]