Caroline Morris · Jonathan Boston
Petra Butler *Editors*

Reconstituting the Constitution

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So should New Zealand now undertake the research into the implications of enacting supreme law, when there is no crisis, so the executive and parliamentary branches of government and the public have the analysis to take the decision in future, if they wish? Would New Zealanders benefit from a systematic analysis of how our constitutional system is operating and a more sophisticated and nuanced discussion of the full range of options for constitutional reform, than from ad hoc discussions of constitutional issues as they arise and if they grab the public's attention?

8.6.3 Pandora's Box[39]

The Constitutional Review noted that "embarking on a discussion of possible constitutional change may itself irretrievably unsettle the status quo without any widely agreed resolution being achievable."[40] As Lord Cooke of Thorndon submitted:

> . . . there is an arguable case on different grounds for constitutional change in two major respects . . .
>
> First, New Zealand does lag behind international standards and suffers by comparison with other developed democracies in the absence of a fully enforceable Bill of human rights. As against this, it may be said that the present partially enforceable Bill of Rights works tolerably well, and that in practice human rights are not in the main in serious jeopardy. Secondly, the principles of the founding document, the Treaty of Waitangi, are not incorporated and entrenched as part of a formal constitution. Against this it may be said that in about the last quarter of a century much greater public sensitivity to the importance of the Treaty has developed and that an attempt to constitutionalise it further would create (exploitable) discord and confusion. So, in both these two major respects, the status quo may be the wiser option at the present time.[41]

Considering a supreme constitution would also require New Zealanders and the government to confront head-on some very difficult and politically charged issues, including:

(a) The status of the Treaty of Waitangi;
(b) Māori sovereignty;
(c) Republicanism;
(d) Whether we should be protecting the right to property and against takings by the state;

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or (ii) received it, at any time after 1840, through a customary transfer in accordance with subsection (3).

[39] See Watkins (2007): "Sure, it would open a Pandora's box of issues – republicanism, the flag, Māori sovereignty, the three-year parliamentary term and, most of all, the Treaty of Waitangi. There is risk. But there are also rewards."

[40] Constitutional Arrangements Committee (2005), p. 8.

[41] Cited in ibid (2005), p. 17 (emphasis added).

(e) Whether the current NZBORA should protect social rights like health, housing and education, in addition to civil and political rights; and
(f) Whether the rights protected under the NZBORA should have the protection of supreme law.

This may explain why the government has moved so cautiously and slowly on implementing the Relationship and Confidence and Supply Agreement between the National Party and the Māori Party (Māori Party/National Party Confidence and Supply Agreement), which provides for the "establishment (including its composition and terms of reference) by no later than early 2010 of a group to consider constitutional issues including Māori representation."[42] The constitutional review was announced on 8 December 2010 and will be led by Minister English and Minster Sharples in consultation with a cross-party reference group of MPs. As at time of writing, membership of the cross-party reference group is yet to be announced.[43] The Māori Party's intention is to use this review to increase the status of the Treaty of Waitangi and promote constitutional changes that recognise Māori custom.[44]

The majority non-Māori population may feel that they only stand to lose power by moving to a supreme constitution that includes the Treaty of Waitangi. However, the protests and civil unrest that occurred following the enactment of the Foreshore and Seabed Act in 2004, for example, suggest that a failure to include the Treaty in any supreme constitution will likely result in significant racial tension.[45]

The Constitutional Review said:

> Most of us think it is difficult to identify significant constitutional questions that **do not touch on the Treaty to a material extent**, and that would not have social and political importance. The issues surrounding the constitutional impact of the Treaty are so unclear, contested, and socially significant, that it seems likely that anything but the most minor and technical constitutional change would require deliberate effort to engage with hapū and iwi as part of the process of public debate.[46]

[42] National Party and Māori Party (2008).

[43] English and Sharples (2010).

[44] Sharples (2010) which makes the first two points, but not the third.

[45] Even debate about the entrenchment of Māori seats in central government and also in the new Auckland Super City, has generated significant controversy: Swann (2009); Anderson (2010), commenting on a report by Australian-based think tank, the Centre for Independent Studies; Tahana (2008), commenting on a paper by Philip Joseph (Joseph 2008) and a commentary on it from the New Zealand Centre for Political Research (Newman 2008a); Roughan (2008). See also Newman (2008c). The Māori Party/National Party Relationship and Confidence and Supply Agreement says that "The National Party agrees it will not seek to remove the Māori seats without the consent of the Māori People. Accordingly, the Māori Party and the National Party will not be pursuing the entrenchment of the Māori seats in the current parliamentary term." (National Party and Māori Party 2008, p. 2).

[46] Constitutional Arrangements Committee (2005), p. 23 (emphasis added).

Indeed, the National Party's refusal to participate in the Constitutional Review was because the terms of reference did not expressly include "the place of the Treaty of Waitangi in contemporary New Zealand."[47]

In contrast, political accommodations that impact the status of the Treaty of Waitangi, other than through the vehicle of a major constitutional review, are happening. For example:

(a) The adoption of the Declaration on the Rights of Indigenous Peoples in April 2010. Hon Pita Sharples addressed the United Nations' Permanent Forum on Indigenous Issues on 19 April, stating "the Declaration contains principles that are consistent with the duties and principles inherent in the Treaty, such as operating in the spirit of partnership and mutual respect. New Zealand had initially rejected the Declaration in 2007 on the grounds that it declares (at Article 26) that "indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired." The previous Minister of Maori Affairs the Hon Parekura Horomia stated that this "covers potentially the entire country".[48]
(b) The repeal of the Foreshore and Seabed Act 2004 and its replacement with the Marine and Coastal Area (Takutai Moana) Act 2011, the impact of which is discussed above.
(c) The flying of the Māori flag on Waitangi Day on 6 February 2010.
(d) Individual settlements with particular tribes, including co-management and co-governance of lands and rivers such as the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, which put in place a "vision and strategy" for the Waikato River, allow the Trusts to prepare an integrated management plan, and allow each Trust to prepare an environmental plan that gives iwi greater influence over the environmental management of the Waikato

[47] Brownlee (2004). Virtually every other speech during this debate about the Constitutional Review referred to the Treaty of Waitangi and its constitutional status, or lack of it.

[48] New Zealand Government (2007). In his statement to the United Nations General Assembly on 19 April 2010, Minister of Maori Affairs, Hon Pita Sharples, qualified New Zealand's support for the Declaration and defined the basis on which the Government was signing on to the Declaration: "The Declaration is an affirmation of accepted international human rights and also expresses new, and non-binding, aspirations. In moving to support the Declaration, New Zealand both affirms those rights and reaffirms the legal and constitutional frameworks that underpin New Zealand's legal system. Those existing frameworks, while they will continue to evolve in accordance with New Zealand's domestic circumstances, define the bounds of New Zealand's engagement with the aspirational elements of the Declaration. In particular, where the Declaration sets out aspirations for rights to and restitution of traditionally held land and resources, New Zealand has, through its well-established processes for resolving Treaty claims, developed its own distinct approach. That approach respects the important relationship Māori, as tangata whenua, have with their lands and resources both currently and historically, and the complementary principles of rangatiratanga and kaitiakitanga that underpin that relationship. It also maintains, and will continue to maintain, the existing legal regimes for the ownership and management of land and natural resources." The Minister's statement is available at: http://www.mfat.govt.nz/Media-and-publications/Media/MFAT-speeches/2010/0-19-April-2010.php.

River compared to the general public. Instead of local government authorities taking sole responsibility for the environmental protection of the Waikato River, iwi will be given special management rights due to "the significance of the Waikato River to Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi".[49] Similarly, negotiations with Tuhoe over the return of ownership of Te Uruwera National Park will have an impact on the development of the Treaty partnership between iwi and the Crown.

In summary, while Māori would likely approve of a government expending time and resources researching the implications of a constitutional change to a supreme constitution to further protect Treaty of Waitangi rights, this may not be the case for other New Zealanders. Thus, it is more likely that the examples of incremental changes with constitutional implications will continue.

8.6.4 Greater Judicial Power

The contentious debate during the passage of the Supreme Court Act 2003 on whether the New Zealand judiciary was even competent enough to sit as our final court of appeal[50] means that some will view the greater powers given to courts by a supreme constitution as a disadvantage. Even though the Justice Bill Wilson case concerned a specific conflict of interest, the damage to public confidence in the judiciary will not have helped.[51]

If the supreme constitution was also to include social and economic rights, such as the right to housing, and education and health, questions of the courts' competence to decide whether such rights have been breached would be raised as the executive branch of government usually determines the scope and availability of health and education services through the political process.

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[49] Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, section 4(a).

[50] See for example, the Institute of Chartered Accountants of New Zealand's submission to the Justice and Electoral Committee on the Supreme Court Bill, which recommended that "the bill be withdrawn because of the considerable risks it poses to the quality of New Zealand's judicial decision-making at the highest levels …" (Institute of Chartered Accountants of New Zealand 2003, p.3) The Report of the Justice and Electoral Committee on the Supreme Court Bill also summarised the legal profession's opposition to the bill as "A number of submitters argued that New Zealand lacks the judicial talent to maintain a full Supreme Court of quality equivalent to the current standard of the Privy Council." (Justice and Electoral Committee 2003, p. 10).

[51] There will never be a definitive finding now on whether the Hon Justice Bill Wilson acted under a conflict of interest given the settlement which resulted in his resignation as of 5 November 2010, but regardless of whether there was an actual conflict of interest, the perception that there might have been damaged confidence in the judiciary. In announcing the settlement, the Acting Attorney-General said that "[t]o proceed with this case would have caused incalculable damage to confidence in the judiciary."

Finally, in contrast to the sporadic public consultation described below that Parliament undertakes with the electorate before constitutional reform, there will be none at all from judges before interpreting any supreme constitution in a way that may fundamentally change its nature and effect.

8.7 The Advantages of a Supreme Constitution

8.7.1 Constitutional Reform Is Properly Defined and Uses Legitimate Change Processes

I think the greatest advantage of a supreme constitution is that it would prevent significant constitutional changes being made in New Zealand without public debate and public agreement. However, that can also be achieved through greater use of entrenchment in ordinary statutes.

In the Constitutional Review:

> The committee notes that significant constitutional changes have been made in New Zealand in the past, without a great deal of public debate. Our current arrangements in fact give considerable latitude for transforming rights and powers relatively imperceptibly.
>
> Of course the danger in this approach is that the government of the day decides what approach to take. . . . the fluidity of our arrangements means that there will never be an unquestionably right or wrong process.
>
> . . .
>
> Across all of the topics canvassed in the public submissions made to us, there was a clear message on what people thought is appropriate in processes of constitutional change for New Zealand. That message is that major change should not be made hastily and should be made only with broad public support. There is a strong call for a major effort on public education as a first step, and wide and unhurried public discussion as any change is contemplated. Most submitters assume that major changes should be made only if supported by a referendum. Several suggest that constitutional change should require a "super-majority" of, say, 75 percent in a referendum or a parliamentary vote, or both. We note the strong assertion from some submitters that some changes would require the support of tangata whenua.[52]

Appendix C of the Constitutional Review sets out the special processes for constitutional reform followed in other countries, but proposals for constitutional reform in New Zealand generally proceed by the normal legislative process. The New Zealand government announces constitutional reform proposals in more or less their final form. Discussion is led and managed though ministerial and departmental processes and the same opportunities for public consultation are usually provided, as for the passage of any other law.[53]

[52] Constitutional Arrangements Committee (2005), pp. 17, 21 and 23–24.

[53] Ibid (2005), p. 91.

As noted above, with the exception of the reserved provisions in the Electoral Act, legislation having constitutional effect is ordinary legislation, and can be enacted or amended without public consent or special requirements in Parliament. The ability for the government to undertake significant changes very quickly is illustrated in the recent Employment Relations (Film Production Work) Amendment Act 2010. Although not necessarily constitutional law reform, that Act amended the Employment Relations Act 2000 to override existing employment law by clearly stating that workers engaged in film production work will be independent contractors rather than employees, unless they enter into an agreement that provides that they are employees.

The Act formed part of the government's response to the issue between the Australian-based union, Media, Entertainment and Arts Alliance and Warner Brothers over the actors involved in the Hobbit films. Warner Brothers, the production studio making the films, claimed that the industrial action had been so damaging and disruptive that it was considering filming the Hobbit films in other countries.[54] The government met with Warner Brothers' senior executives to try and persuade them to film the Hobbit films in New Zealand. The negotiations between the government and Warner Brothers focused on the government's ability to offer tax breaks and the amendment to the Employment Relations Act, which was enacted 2 days later.

More concerning, however, is when the government uses Parliamentary tools such as urgency or the ability to seek the leave of Parliament to pass legislation through all stages in a single day to undertake law reform with constitutional impact, such as the recent Canterbury Earthquake Response and Recovery Act 2010 (CERRA), passed on 14 September 2010. It substantively authorises Ministers to override any legislation (with the exception of five key constitutional statutes) and it was passed to the protestations of a few MPs in a single day. The earthquake made it politically difficult for the opposition not to vote for the passage of the legislation.[55]

A group of law academics warned in an open letter that "abandoning established constitutional values and principles in order to remove any inconvenient legal

[54] "No further Hobbit ban – Australian union," 26 October 2010, available at: http://tvnz.co.nz/entertainment-news/no-further-hobbit-ban-australian-union-3854391.

[55] See, for example: Press Release by the Green Party "Permanent Emergency Law must have checks and balances", 28 September 2010; and "Quake recovery changes on heritage sites questioned", Radio New Zealand, 27 September 2010.

roadblock ... to do 'everything we can' in the short term ... is a dangerous and misguided step."[56] The CERRA:

> represents an extraordinarily broad transfer of lawmaking power away from Parliament and to the executive branch, with minimal constraints on how that power may be used. In particular:
> - Individual government ministers, through "Orders in Council", may change virtually every part of NZ's statute book in order to achieve very broadly defined ends, thereby effectively handing the executive branch Parliament's power to make law;
> - The legislation forbids courts from examining the reasons a minister has for thinking an Order in Council is needed, as well as the process followed in reaching that decision;
> - Orders in Council are deemed to have full legislative force, such that they prevail over any inconsistent parliamentary enactment;
> - Persons acting under the authority of an Order in Council have protection from legal liability, with no right to compensation should their actions cause harm to another person.[57]

To date, there have been 18 Orders in Council made under the Act. Further changes to the Act and further orders are likely after the more devastating February 2011 earthquake suffered by Christchurch. Under section 8 of the CERRA, the Orders in Council are subject to the Regulations (Disallowance) Act 1989, and are considered by the Regulations Review Committee. Concerns have been raised by Labour members of this Committee about three of the 16 Orders in Council[58]:

(a) The Canterbury Earthquake (Resource Management Act) Order 2010, which extends the validity of resource consents held by local authorities and allows local authorities to extend time periods for compliance with obligations under the Resource Management Act 1991;
(b) The Canterbury Earthquake (Historic Places Act) Order 2010, which allows the Canterbury Archaeological Officer to grant emergency authorities and general emergency authorities, which allow archaeological sites to be destroyed with fewer regulatory compliance requirements than would otherwise be the case under the Historic Places Act 1993; and
(c) The Canterbury Earthquake (Local Government Official Information and Meetings Act) Order 2010, which temporarily exempts local authorities from information disclosure requirements in relation to land information memorandum reports.

This legislation was clearly designed to respond to an emergency in a way that properly reflected the extent of the damage in Canterbury, both physical and psychological. However, it illustrates the potential for extensive amendments

[56] "An open letter to New Zealand's people and their Parliament", 28 September 2010, signed by 27 legal scholars from overseas and New Zealand. Available at: http://static.stuff.co.nz/files/openletter.pdf. Note the dissenting view by Holderness (2010).
[57] Ibid.
[58] "Emergency Legislation Bulldozes Laws", *The New Zealand Herald*, 11 November 2010.

with constitutional effect to be made under New Zealand's existing constitutional arrangements of Parliamentary sovereignty with relatively few formal constraints. Central city business owners facing demolition of their premises without consultation or an opportunity to retrieve their belongings are now coming to grips with the extensive powers granted under the emergency legislation.[59]

Such constitutional change can also happen without an emergency. The Constitution Amendment Act 2005, for example, established the Crown's right to veto financial bills, the automatic lapsing of bills at the end of a Parliament, and the next Parliament's right to reinstate them. This was achieved through the normal law-making process,[60] and even included the introduction of a government supplementary order paper after the bill's second reading.[61]

8.7.1.1 Use of Referenda

The process the Hon Simon Power has announced for the electoral referenda on the future of MMP has therefore not always been the norm.[62] New Zealanders will vote at the 2011 general election on whether to keep the MMP voting system, and their preferred alternative voting system. If a majority vote for change from MMP, then there will be a second referendum at the 2014 general election for voters to choose between MMP and the alternative voting system that receives the most votes in the first referendum. The referendum outcome will be binding, as it was when MMP was first adopted by majority plebiscite, and any change will take effect at the 2017 general election.[63]

Table 8.1 on government-initiated referenda shows that there have only been seven government-initiated referenda, on compulsory superannuation, the voting system, the term of Parliament, compulsory military training and off-course betting.

Citizens-initiated referenda (CIRs) under the Citizens Initiated Referenda Act 1993 are not limited to constitutional issues. There have been 43 proposals for petition questions submitted to the Clerk of the House of the Representatives. Only four have met the requirement to be signed by not less than 10% of the eligible electors in accordance with section 18 of the Act. All have resulted in a referendum

[59] See also Carville (2011); Koubaridis (2011). Opposition leader Hon Phil Goff has stated that we gave the government "enormous powers . . . but we need those powers to be exercised responsibly and we need [them] to involve stakeholders and to be inclusive. . ." (Goff 2011).

[60] The changes arose from recommendations made by the Standing Orders Committee in 2003 and were included in the Statutes Amendment Bill (No 4), which gave rise to the Constitution Amendment Bill 2005. See Standing Orders Committee (2003).

[61] See Statutes Amendment Bill (No 4) 2003 (Supplementary Order Papers 2005 Nos 342 and 343 (Government)) (Bills Digest No 1235).

[62] Although the same process was used when New Zealand changed from First-Past-the-Post to the MMP electoral system. See the Electoral Referendum Act 1993.

[63] See the Electoral Referendum Bill 2010 (128–1).

Table 8.1 Government initiated referenda in New Zealand (non-liquor licensing referenda, 1949–2004)[a]

Date of referendum	Turnout (total votes cast as % of enrolled electors)	Topic and authorising Act	Result (% of valid votes)
9 March 1949	54.3	*Off-course betting* (Gaming Poll Act 1948)	In favour
		Proposal that provision be made for off-course betting on horse-races, through the Totalizator, by means to be provided by the New Zealand Racing Conference and the New Zealand Trotting Conference	68.0
		I vote for the proposal	Against 32.0
		I vote against the proposal	
3 August 1949	63.5	*Compulsory military training* (Military Training Poll Act 1949)	In favour
		I vote for compulsory military training	77.9
		I vote against compulsory military training	Against 22.1
23 September 1967	69.7	*Term of Parliament* (Electoral Poll Act 1967)	3 years 68.1
		I vote for a maximum of 3 years as at present	4 years 31.9
		I vote for a maximum of 4 years	
27 October 1990*	85.2	*Term of Parliament* (Term Poll Act 1990)	3 years 69.3
		I vote for 3 years as the term of Parliament as at present	4 years 30.7
		I vote for 4 years as the term of Parliament	
19 September 1992	55.2	*Voting system* (Electoral Referendum Act 1991)	Part A
		Part A	Retain 15.3
		I vote to retain the present First-Past-The-Post system	Change 84.7
		I vote for a change to the voting system	Part B
		Part B	SM 5.6
		I vote for the Supplementary Member system (SM)	STV 17.4
		I vote for the Single Transferable Vote system (STV)	MMP 70.5
		I vote for the Mixed Member Proportional system (MMP)	PV 6.6
		I vote for the Preferential Voting system (PV)	
6 November 1993*	85.2	*Voting system* (Electoral Referendum Act 1993)	FPP 46.1
		I vote for the present First-Past-The-Post system as provided in the Electoral Act 1956	MMP 53.9
		I vote for the proposed Mixed Member Proportional system as provided in the Electoral Act 1993	
5–26 September 1997	80.3	*Compulsory Retirement Savings Scheme* (Compulsory Retirement Savings Scheme Referendum Act 1997)	Yes 8.2
		Do you support the proposed Compulsory Retirement Savings Scheme?	No 91.8

[a]Elections New Zealand. Available at: http://www.elections.org.nz/elections/referendum/referendums.html (last accessed 22 March 2011)

Table 8.2 Citizens' initiated referenda in New Zealand

Date of referendum	Turnout (total votes cast as % of enrolled electors)	Question	Result (% of valid votes)
2 December 1995	27.0	"Should the number of professional firefighters employed full time in the New Zealand Fire Service be reduced below the number employed on 1 January 1995?"	Yes 12.2 No 87.8
27 November 1999*	84.8	"Should the size of the House of Representatives be reduced from 120 members to 99 members?"	Yes 81.5 No 18.5
27 November 1999*	84.8	"Should there be a reform of our justice system placing greater emphasis on the needs of victims, providing restitution and compensation for them and imposing minimum sentences and hard labour for all serious violent offences?"	Yes 91.8 No 8.2
31 July–21 August 2009	56.09	"Should a smack as part of good parental correction be a criminal offence in New Zealand?"	Yes 11.98% No 87.4%

being held, on firefighters, reducing the number of MPs, violent offences and victims' rights, and the recent postal referendum on smacking children (see Table 8.2).

Of these four CIRs, the government has only subsequently acted on one.[64] That was the referendum held on 27 November 1999 on whether there should "be a reform of our justice system placing greater emphasis on the needs of victims, providing restitution and compensation for them and imposing minimum sentences and hard labour for all serious violent offences?" An overwhelming 91.8% voted in favour of this question. Although it has taken some time, legislation has changed to provide for tougher sentencing and parole requirements[65] and a greater emphasis on

[64] On 2 December 1995 the first citizens-initiated referendum was held on whether the number of professional fire fighters should be reduced below the number employed on January 1 1995. Although the majority of voters voted against such a reduction, the number of fire fighters was cut before the referendum and was not increased to the pre-January 1 level. Since then numbers of fire fighters have remained low, but there were no further significant cuts. On 27 November 1999 (general election day) two citizens-initiated referendum were held. One was on whether the size of the House of Representatives should be reduced from 120 members to 99 members. The majority of voters were in favour of the reduction. However, no change was made to this number. The debate on this continued with a Member's bill being introduced on 23 February 2006 by Barbara Stewart (NZ First MP at the time). The Bill, Electoral (Reduction in Number of Members of Parliament) Amendment Bill, is still sitting at the Select Committee stage.

[65] The Sentencing and Parole Reform Bill (17–3) was introduced on 7 August 2001. Hon Phil Goff (Minister of Justice at the time) said the bill "reflects the concerns of the 92 percent of New Zealanders who voted in favour of the 1999 referendum on law and order" (New Zealand Government 2001).

the needs of victims, and the then-Government cited the CIR as support for the changes.[66]

The Government's refusal to act following the CIR in which 81.5% of New Zealanders agreed that "the size of the House of Representatives [should] be reduced from 120 members to 99 members" underscores the significant change if governments were bound to act on the outcome of constitutional reform referenda.[67] This would be a shift from Parliamentary sovereignty to popular sovereignty.[68]

8.7.1.2 Convention of Special Processes for Constitutional Change?

The limited number and scope of the government-initiated referenda to date make it difficult to argue that there is an evolving convention that "substantial constitutional changes should not be made by a bare majority vote of a coalition of minorities in Parliament."[69] The ACT, National and New Zealand First parties wanted to invoke such a convention that the Labour government could not abolish appeals to the Privy Council, if there was not 75% support of MPs for the law change. New Zealand First Party MP, Dail Jones, said[70]:

> We have seen how the minority Labour Government operates on constitutional issues through, for example, the Privy Council matter and the Supreme Court legislation. The Supreme Court Act was rammed through this House. It had the support of only 38 percent of those able to vote at the last election, yet it was rammed through the House. In fact, the majority on both sides was the same: 38.1 percent of those eligible to vote at the last election voted for that Supreme Court legislation, and 38.1 percent voted against. Yet the Labour Government rammed it through.

No referendum was held on replacing the Privy Council with the Supreme Court of New Zealand as our final court of appeal.[71] As former Attorney-General, the Hon

[66] The Victims' Rights Package of new legislation was announced by government on 12 June 2000. Hon Phil Goff (Minister of Justice at the time) and Hon Matt Robson (Minister for Courts at the time) said the "Victims' Rights Package delivers on the governing parties' commitment to victims of crime and recognises 92% support in the 1999 referendum for enhancing victims' rights" (New Zealand Government 2000). Subsequently the Victims' Rights Bill was announced by the government on 11 October 2002 also in reflection of the 1999 referendum.

[67] The result of the referendum held in conjunction with the general election on 27 November 1999 on the question "Should the size of the House of Representatives be reduced from 120 members to 99 members?" was Yes – 81.5%, and No – 18.5%.

[68] See Robert Hazell in Chap. 5 of this volume, p. [?].

[69] New Zealand Business Roundtable (2003).

[70] Jones (2004).

[71] Campaign for the Privy Council (2003): "The Labour, Greens, and the Progressive Coalition parties will have committed a shameless act of constitutional vandalism if they pass this bill.