

2465

From: Barbara Jones
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 9:19 a.m.
Subject: CAP Submission

It is time for the Maori seats to be abolished. We are one people with a great deal of diversity from the very many different originating races from which we have all sprung. It is time we concentrated on those wonderful features and enjoyed being New Zealanders.

Barbara Jones

2160

From: "bud" <[redacted]>
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 10:50 a.m.
Subject: CAP Submission

Dear Constitutional Review,

I have only recently, now that I'm retired [2005], become interested in NZ politics through my involvement in conservation and the environment in spite of living in NZ for 46 years.

I have become involved in a number areas which are problematic to the future of NZ and consequently waded through stacks of books by excellent writers to get myself informed so I am speaking from an educated point of view.

The greatest problem which confronts us right now is the possibility of entrenching in law race based preference and/or privilege.

I believe all race based decisions have no place in a modern 21st C. NZ. This means the removal of all Maori electoral seats, privilege or preference in any form and where ever they might occur. This includes no race based [Maori/Treaty of Waitangi or any other racial group] clauses in a proposed new constitution.

All should be equal under the law. Anything other than this will lead to enormous problems in the future and lead down the slippery slope to co-governance greed and apartheid. Every time these dual governance ideas have been tried throughout history they have failed with disastrous consequences. This should be warning enough.

Bud Jones QSM

Eketahuna

1100

From:
To: <constitutionalreview@justice.govt.nz>
Date: 5/06/2013 3:12 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Barbara Rose Jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Palmerston North Postal
City: Palmerston North Postal Region: Manawatu Postal Post Code: Postal Country:
New Zealand Submission: Our country's method of law making, based as it is on many decades of
experiences and modifications to suit changing needs, does not need rushed major changes, and no
alterations of the sort being touted should be undertaken until all New Zealanders have
thoroughly discussed and understood the implications and probable outcomes of such changes.
There has been insufficient discussion on these matters as yet, and no less than some years of
discussion and thought are required before tossing away the satisfactory
system we have to embark on another which may or may not be beneficial to all New Zealanders,
and may favour some more than others.

As regards the Maori demands, we need to regard each other as New Zealanders in all things, not as
part of one ethnic group or another. The Treaty should be terminated as having fulfilled its purpose,
and all races should be considered New Zealanders first
and foremost. Any constitution based on a divided base of Treaty members or non-Treaty members
will only lead to greater and greater division. We all need to take our place and fulfill our
responsibilities towards our families and our communities. Our media
should be encouraging this ethic instead of the emphasis it has on the ephemeral and worthless.

There is little reason to regard the Maori forebears as anything other than immigrants to New Zealand
and not even the first ones, The many races who have come to live here are from all over the world
and add their own individualities and benefits and gifts
to our country, whether from European countries, China, Asian countries, Pacific Islands, Canada,
Scandinavian countries, USA, South American countries or wherever else in the world our citizens
have come from.

Let us be glad of our many differences and our diversities, and use our abilities to make New Zealand
greater, and put aside these petty squabbles for more favours to one group than to another. That way
leads to disaster through resentment and injustice.

Sent on the 5 June 2013 at 15:08

1883'

Submission to Government :-

New Zealand does not need
a written constitution, and I
strongly oppose any legislation or
reference to the Treaty of Waitangi
should one be dropped in future.

Carol L. Jones,

Tauranga

3568

From: Carwyn Jones
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 14/07/2013 3:09 p.m.
Subject: CAP submission
Attachments: Submission to CAP.docx

Please find my submission on the Consideration of Constitutional Issues attached.

Dr Carwyn Jones | Lecturer | Te Kura Tātai Ture - Faculty of Law |
Victoria University of Wellington - Te Whare Wānanga o te Ūpoko o te Ika a Māui
Co-editor of the Māori Law Review maorilawreview.co.nz

ahi-ka-roa.blogspot.co.nz

Submission to the Constitutional Advisory Panel

Name: Dr Carwyn Jones

Postal or Email Address:

Date: 14 July 2013

Overview

I believe that the Consideration of Constitutional Issues has been constrained by its overly narrow terms of reference and the inherently political nature of its origin.

I recommend that the public be engaged in a more wide-ranging constitutional discussion that addresses fundamental issues such as the values that ought to underpin our constitution.

I also recommend that, in any case, the Treaty of Waitangi be recognized as a central component of our constitution and that, until better mechanisms are established for Māori representation, the Māori seats in Parliament are retained and entrenched, and the establishment of Māori wards continues to be encouraged at the local government level.

Narrow Terms of Reference

There is a pressing need for constitutional reform in Aotearoa. However, the terms of reference for the Consideration of Constitutional Issues are too narrow to allow for any issues to be addressed that could lead to effective constitutional reform. The terms of reference focus on specific mechanical issues relating to our existing constitutional institutions. This assumes that the basic structures of our current constitution work well, provide for effective accountability and participation in the exercise of public power, and reflect values that are appropriate for Aotearoa in the 21st century and beyond.

A more effective process for constitutional reform should be undertaken. This should begin with a discussion about the core values that ought to underpin the exercise of public power in Aotearoa. Those values could then drive the development of appropriate institutions and mechanisms. The approach and work of Aotearoa Matike Mai: The Independent Constitutional Working Group might be instructive to consider.

Politicization of the Process

The Consideration of Constitutional Issues is also constrained because it has been established as an inherently political process. The entire process originated from the confidence and supply agreement between the Māori Party and the National Party. The terms of reference are coloured by the political imperatives that drive each of those parties. Those parties have a vested interest in portraying this process as a success. Other political parties have an incentive to paint the process as a failure. These issues are simply too important to be politicized in this way or to be controlled by politicians and political processes.

A non-politicized process of constitutional reform should be undertaken.

Maintenance of Basic Constitutional Protections for Māori

While the Consideration of Constitutional Issues is too constrained to lead to effective constitutional change, it is vital that basic constitutional protections for Māori are not eroded as a result of this process. The Treaty of Waitangi ought to be recognized as a central part of our constitutional arrangements that speaks to the exercise of public power in Aotearoa. The Māori seats in Parliament may be only a minimal form of Māori representation but they must be retained and entrenched until better mechanisms are established. Similarly, Māori wards should continue to be encouraged at the local government level.

850

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/05/2013 9:28 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: CAROVNE JONES Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City Postal Region: CANTERBURY Postal Post Code:
Postal Country: New Zealand Submission: I THINK THE PARLIAMENTARY TERM
SHOULD BE EXTENDED TO 4 YEARS AS A 3 YEAR TERM DOES NOT GIVE SUFFICIENT TIME
TO MAKE NECESSARY CHANGES .(Particularly when there is a financial mess to sort out which
was left by the previous Government)

Sent on the 15 May 2013 at 21:27

4018

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 10:06 a.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Danny jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Wellington Postal Region: Wellington Postal Post Code: Postal Country: New Zealand
Submission: My Aspirations for NZ are to be free of the British Royal Family. To create our own
currency credit, that is not interest baring and owed to central banks and bond holders who print
money out of thin air. I want to see direct democracy and to be able to
vote on most legislation. I want to kick the tyrannical regime called the USA form their spy
base/fortress in Wellington. I want to decommission any spy-bases that would put a target on our
heads and make us all party to the current wholesale slaughter of
humans for resources around the world. I want no privatisation. I want GMO's banned. I want any
politician than lies to be held to a higher standard and be subject to jail.

Thanks,

Danny Jones

Submitted on the 29 July 2013 at 10:05

3699

From: darrell jones
To: <constitutionalreview@justice.govt.nz>
Date: 19/07/2013 11:46 a.m.
Subject: CAP Submission

DearSir/Madam

Usage of the term bi-culturism is continuing to decline in NZ because as we know NZ now has a multiplicity of cultures and this can only increase.

There were times during the 20th century when the provision of Maori seats would have been justified but in the 21st century, NZ is way too diverse,

and there is now no longer any requirement for seats to be based on race, any more than there is for gender based seats, Asian seats, or you can name it.

Such seats will only continue the not inconsiderable level of pluralism that currently exists in NZ society.

Separatism is divisive .

Sincerely

Daryl Jones

682

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 7:24 p.m.
Subject: The form on your contact page has just been submitted

Sent from Constitutional Advisory Panel #link:<http://www.cap.govt.nz/>.

Contact Name: Doreen Jones Phone: Email:

Comment: I want no change to New Zealand's unwritten constitution it has served us well since the 1852 NZ Constitution Act was passed, our founding document, It may require some alteration in the future, but not a race based Constitution, Equality for all, One people One Nation. Sign Up For Updates: Yes

Sent on the 15 April 2013 at 19:23

4414"

From: Garry & Jes
To: <constitutionalreview@justice.govt.nz.>
Date: 31/07/2013 11:37 a.m.
Subject: Document2
Attachments: Document2.docx; GJJ.vcf

Submission for constitutional review:

1. Size of Parliament.

1a. This has already been covered in the 1999 citizens Initiated Referendum where 81.5% of the voters wanted the number of MPs reduced so why is this being looked at again 14 years later this is a waste of tax money we already know the answer. Fewer not more is the answer.

2. The length of term of Parliament and whether the term should be fixed.

2a. Should the parliamentary term stay at 3 years or increase to 4 years.
Without a Citizens Veto right on unacceptable legislation then 3 year term or more frequent election is the only way we the voters can hold the government to account. So no, the term should be 3 years term or shorter.

2b Should the election date stay flexible or be fixed?

This should remain the same – there would be an increase in electioneering and lobbying by vested groups and we already have enough of this.

3. Size and number of electorates, and method for calculating size.

3a Should the number of electorate stay the same?

Since we are supposed to have a democracy in New Zealand and we have a small population then 120 seats is far too many. Electorate seats should stay the same, the Maori seats are far too many for the population of Maori and the list seats should be drastically reduce so we become more of a democracy. 85% of seats should be elected MP.

3b Should the method of calculating the size of electorates be changed?

Every electorate should have the same number of people in it, South Island, North Island. On a population of 4.5 million with 85 elected seat that would have 53,000 votes to every seat and that would be democratic.

4. Electoral integrity legislation.

4a Should electoral integrity legislation be re-introduced?

If a list MP is removed from a party or decides to be part of the party they can no longer be an MP their party has been voted on to that seat not the individual if however it is an elected MP then they have the right to stay until the end of their term as they have been voted by their electorate. Anything else is undemocratic. A list MP has never been voted for. It is the party vote that makes them an MP.

5. Maori representation, including Maori Electoral Option, Maori electoral participation, Maori seats in parliament and local government:

5a Should the Maori electoral option (separate Maori roll) be retained or abolished?

The Maori seats were a mechanism to allow Maori to vote when only landowners had the right to vote. Because of their tribal joint ownership of land it became an easy option for the Politicians of the time to overcome this problem by having a Maori roll. So in fact all Maori men had the vote before many of the male pioneers. Since all men and woman over 18 can now vote it is quite undemocratic to have this archaic two roll system. It should go.

5b Should the parliamentary Maori seats be retained or abolished?

The Maori seats like the Maori electoral option should go. Either we are a democratic society or we are not and with MMP and the way it is run in New Zealand we are less and less a democracy.

6. The role of the Treaty of Waitangi within our constitutional arrangements.

6a Should the Treaty of Waitangi have a more central role in our constitution arrangements?

This is a travesty of democracy. The treaty of Waitangi has had so many arguments about its proper interpretation it is a worthless piece of paper. There has been so much contention over what it actually meant or the correct interpretation it would be a disaster for New Zealand and its people. The treaty of Waitangi should be abolished as any part of our constitutional law. The voters of New Zealand should always have the right to vote for their choice of government and the judicial system should have nothing to do with our government. They are not elected or allowed to be sacked by the people of New Zealand. This would be a travesty of justice.

7. Bill of Rights issues (for example, property rights, entrenchment).

7a Should the protection of property rights be included in the Bill of Rights?

Private property rights should be added to the Bill of Rights we already have and know works.

8. b. Should the Bill of Rights be entrenched?

9.

The electoral act is the only New Zealand statute containing entrenched provisions. The Bill of Rights does not need to be entrenched since by convention no government would change such a law without wide cross-party parliamentary support.

10. Written constitution

8a Should New Zealand retain our present flexible constitutional arrangement with the ultimate law-making power held by elected Members of Parliament, or should a new written constitution, which gives the ultimate law-making power to judges be introduced?

New Zealand's present constitutional arrangements consist of written statutes, conventions and common law rights, which give our elected Members of Parliament the ultimate law-making power. It has been described as one of the most flexible and successful constitutions in the world. If a new written constitution was introduced, unelected judges and lawyers would be in charge of law making in this country, rather than elected MPs who can be voted out. If we want

to retain parliamentary sovereignty, a 'written' constitution should be avoided at all cost.

9. Any other comments.

9a Should the DECLARATION OF EQUALITY be enacted by Parliament?

The Declaration of Equality states:

"We New Zealanders of all backgrounds, having founded and developed our society in equality, fairness, and comradeship, oppose any laws which establish or promote racial distinction or division.

- 1) We reject references to the Treaty of Waitangi or its principles in any constitutional document.*
- 2) We ask that such references be removed from all exiting legislation.*
- 3) We ask that race-based Parliamentary seats be abolished.*
- 4) We ask that race-based representation on local bodies be abolished.*
- 5) We ask that the Waitangi Tribunal be abolished.*

Therefore in the interest of New Zealand we call on the members of the House of Representatives to implement the principles of this Declaration of Equality to ensure that there is one law for all."

9b Should constitutional change be dictated by MPs or subjected to a public referendum?

The only legitimate democratic way to enact major constitutional change is through a public referendum process. With full and proper consultation of all effected. Any attempts by MPs to change the constitution by way of a parliamentary vote should be regarded as illegitimate and strongly opposed by all citizens.

Garry & Jes Jones

(Fax)

(Home)

(Cell)

(Internet)

Formatted Name

Garry & Jes Jones

Name

Family: Jones
First: Garry & Jes
Middle:
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(Cell)

Version

2.1

4714

Laws 420: Law and the Democratic Process

**A Submission to the Constitutional Advisory
Panel on the Term of the New Zealand
Parliament**

Guy Jones (

24 May 2012

2,496 words (excluding footnotes and bibliography)

The key to determining the length of the Parliamentary term in New Zealand is evaluating the relative importance of effective government and the protection of voter sovereignty.¹ Currently, the three year term laid out in s 17(1) Constitution Act 1986 and entrenched by s 268 Electoral Act 1993, does not satisfactorily balance these two objectives. It is submitted that a four year Parliamentary term would give appropriate weight to the need to allow the government sufficient time to implement its policies and act in the long term interests of New Zealanders, while reducing the frequency of the disruptive effects of elections years. Voters will continue to hold the government accountable with an election every four years - an adequate constraint on executive power given the introduction of the Mixed-Member Proportional (MMP) voting system in 1996. In addition, the length of the Parliamentary term should be fixed, removing the possibility of opportunistic early elections in order to ensure fairness between the parties and efficient electoral administration.

The term of the New Zealand Parliament should be increased to four years

A longer Parliamentary term would increase the effectiveness of government, through allowing greater time for the planning, development and implementation of policy.² As well as leading to better-formulated policy, a four year term makes available more time for public consultation and legislative scrutiny of proposed laws. As such, the use of urgency in passing laws will be both less necessary and less justifiable³ - a particularly important consequence, given that time spent under urgency continues to be a significant proportion of the House of Representatives' total sitting hours despite the introduction of MMP.⁴ Moreover, increasing the length of the term should enable the government to focus more on policy in the long-term interests of New Zealand; since the effects of such policy will be more likely to become apparent before the next election, the government will be less conscious of any public desire for instantaneous results, and more disposed to enact policy (especially economic) which necessarily takes time to produce the intended outcome. Hence, a four year term can be expected to facilitate well thought-out legislation, with less of the artificial focus on the immediate future caused by an upcoming election.

Increasing the Parliamentary term also necessarily reduces the frequency of election years, with the corresponding benefit that the legislative distortions caused by electioneering occur less often.

¹ Constitutional Advisory Panel *New Zealand's Constitution: The conversation so far* (2012) at 18.

² Margaret Wilson "Reforming Parliament" in Raymond Miller (ed) *New Zealand Government and Politics* (5th ed, Oxford University Press, Melbourne and Auckland, 2010) 145 at 151.

³ Claudia Geiringer, Polly Higbee and Elizabeth McLeay *What's the Hurry? Urgency in the New Zealand Legislative Process 1987-2010* (Victoria University Press, Wellington, 2011) at 162.

⁴ Ryan Malone *Rebalancing the Constitution: The Challenge of Government Law-Making Under MMP* (Institute of Policy Studies, Wellington, 2008) at 212.

Although the existence of an election-year economic cycle remains an unproven hypothesis,⁵ it is obvious that in an election year, the government's attention is focused on getting re-elected, and therefore diverted from normal Parliamentary business. This increases the likelihood of poor decisions calculated to bring about a brief increase in public support for the incumbents - for example, Labour's 2005 election promise of interest-free student loans - and ensures that controversial, but necessary, policy changes are delayed. More importantly, the focus of both the government as a whole, and individual Members of Parliament, is on campaigning, so there is a clear risk that Parliamentary business is not given the necessary consideration. Less electioneering means less spending of tax-payer money,⁶ and more time available for dealing with the important business of the country in an undistorted fashion. Hence, unless voter sovereignty clearly requires a three, rather than four, year election cycle, less frequent elections would be a positive development for New Zealand.

A further reason for a four year Parliamentary term is the value of the increased certainty of government action to the business community. Elections often usher in major regulatory changes, including alterations to the labour market and the tax code, which affect business confidence and leave investors cautious.⁷ In order to encourage long-term investment, clear and accurate forecasts of government policy are necessary, and these are most likely to be possible when the same government holds office for a reasonable length of time. This difficulty has been noted by the Business Council of Australia,⁸ and more recently by a number of major business leaders in New Zealand.⁹ It is therefore clear that the weight of opinion supports the view that a longer Parliamentary term would improve the New Zealand business environment and bring all the benefits of the associated economic growth. Too-frequent elections, on the other hand, reduce commercial certainty, not only through planned policy changes by incoming governments, but also with the capricious election-year decisions of governments attempting to stay in power.

Most of these arguments were recognised by the Royal Commission on the Electoral System in its 1986 report, but the Commission ultimately felt unable to recommend a longer Parliamentary term

⁵ Royal Commission on the Electoral System *Towards a Better Democracy* (1986) at 160-161.

⁶ The 2011 General Election in New Zealand cost \$37,121,000: Electoral Commission *Report on the 2011 General Election and Referendum* (2012) at 15.

⁷ Muriel Newman "Extending the Term of Parliament" (2013) New Zealand Centre for Political Research <<http://www.nzcpnr.com/weekly361.htm>>.

⁸ Scott Bennett *Four-Year Terms for the House of Representatives?* (prepared for the Department of the Parliamentary Library of Australia, 2000) at 9.

⁹ William Mace "Support From Business for Longer Terms" (2013) Fairfax New Zealand News <<http://www.stuff.co.nz/business/industries/8371855/Support-from-business-for-longer-terms>>.

due to the relative absence of constraints upon our executive branch.¹⁰ Since 1986, however, New Zealand has replaced First-Past-the-Post with the Mixed-Member-Proportional voting system, and accordingly is no longer the ‘executive paradise’ that it once was. Because the electoral system ensures proportional representation, parties with a minority of public support cannot possess a majority in Parliament, as was common under FPP. Instead, minority governing coalitions are frequent, where a government is forced to negotiate and compromise with other parties in order to pass controversial legislation.¹¹ The complexity of the legislative process has also increased, leading to approximately 30 percent less government bills being passed than in the days before MMP,¹² and to a significant increase in the sitting days necessary to pass the government bills that are introduced.¹³ Hence the power of the executive to pass legislation at will has been much reduced; a change which clearly lessens the need for voters to hold the government accountable every three years.

The second major change with constitutional impact since 1986 was the passing of the New Zealand Bill of Rights Act 1990. Although not constitutionally entrenched, or possessing the status of ‘higher law’, the Bill of Rights Act represents a further constraint on the power of executive government. Specifically, the Attorney General is obliged under s 7 to issue a report to the House whenever a Bill is introduced that is inconsistent with the rights and freedoms contained in the Act. This rarely prevents a government Bill being passed,¹⁴ but it does ensure that a rights-focused analysis is undertaken by the Ministry of Justice or Crown Law Office before any legislation is proposed, and the fact that the advice given to the Attorney-General is publicly available online leaves any issue open to be critically assessed by the public.¹⁵ Additionally, the Bill of Rights Act applies to actions of the executive, and is an interpretive tool (unless Parliament’s wording is clear and unambiguous) in the hands of the courts. When the growth of the news media in New Zealand, especially on the internet and blog sites, and the Citizens Initiated Referenda Act 1993 are also considered, it is apparent that our government is now subject to significantly more constraints than it was in 1986, and vulnerable to the opinion of a well-informed and active electorate. The Royal Commission’s concerns about lengthening the Parliamentary term, therefore, ought to be alleviated.

¹⁰ Royal Commission, above n 5, at 164.

¹¹ Geoffrey Palmer and Matthew Palmer *Bridled Power: New Zealand’s Constitution and Government* (4th ed, Oxford University Press, Melbourne and Auckland, 2004) at 182.

¹² *Ibid*, at 182-3.

¹³ Malone, above n 4, at 202.

¹⁴ Andrew Geddis “The Comparative Irrelevance of the New Zealand Bill of Rights Act to Legislative Practice” (2009) 23(4) NZULR 465 at 476.

¹⁵ Palmer and Palmer, above n 11, at 325.

Whether to increase the Parliamentary term to four years has twice been put to the public in referenda - in 1967 and 1990 - and each time, more than twice as many people were opposed than in favour of the idea.¹⁶ There is reason to believe, however, that if a referendum on the issue were to be held this year, the result would be somewhat different. In 1967, public discussion was focused on a parallel referendum on the closing hours of hotels, and during the 1980s, both National and Labour publicly preferred the three year term.¹⁷ This year, in contrast, the Prime Minister, John Key, and the leader of the opposition, David Shearer, have both advocated for a four year term, as have the leaders of the Green Party, New Zealand First and United Future.¹⁸ Editorials of the major newspapers have also been written in support of this proposal,¹⁹ and, most importantly, several public opinion polls have indicated that nearly half (if not more) of New Zealand believes that three years is not sufficient.²⁰ The opinions of both politicians, commentators and the public at large have therefore shifted a long way since the last referendum was conducted.

It is instructive, also, to consider the term lengths of other legislatures around the world. The United Kingdom has a five year term, set under the Fixed Term Parliaments Act 2011 (UK), though when initially introduced as a non-fixed term in 1911, the intention was that in practice, early dissolving would make the typical term length four years.²¹ Australia's Commonwealth House of Representatives has a term length of three years, though there have been calls to increase it by a year,²² and the lower houses of all state legislatures (except Queensland, which has a unicameral legislature with a three year term) have four year terms. The House of Commons in Canada has a four year term, as do the legislatures of Denmark, Finland, Norway, Scotland and Sweden.²³ South

¹⁶ David McGee *Parliamentary Practice in New Zealand* (Dunmore Publishing Limited, Wellington, 2005) at 111.

¹⁷ Royal Commission, above n 5, at 156.

¹⁸ Claire Trevett "Leaders Support Four Year Term" *The New Zealand Herald* (New Zealand, 7 February 2013) <http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10863886>.

¹⁹ Editorial "Time to Look at a Four-Year Term for Parliament" *The New Zealand Herald* (New Zealand, 1 December 2011) <http://www.nzherald.co.nz/election-2011/news/article.cfm?c_id=1503012&objectid=10770001>; Editorial "Four Year Term Better for the Country" *The New Zealand Herald* (New Zealand, 8 February 2013) <http://www.nzherald.co.nz/politics/news/article.cfm?c_id=280&objectid=10864096>; Editorial "Four More Years?" *The Dominion Post* (New Zealand, 8 February 2013) <<http://www.stuff.co.nz/dominion-post/comment/editorials/8274957/Editorial-Four-more-years>>; Editorial "A Four Year Electoral Cycle Would be Just Right" *The Listener* (New Zealand, 3 September 2011) <<http://www.listener.co.nz/commentary/editorial/a-four-year-electoral-cycle-would-be-just-right/>>.

²⁰ Claire Trevett "Voters Divided on Four Year Term" *The New Zealand Herald* (New Zealand, 25 March 2013) <http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10873403>.

²¹ House of Lords Select Committee on the Constitution *Report on the Fixed Term Parliaments Bill* (United Kingdom, 2010) at 16.

²² Bennett, above n 8, at 25-26.

²³ Pleasance Purser *Parliamentary Terms: Fixed and Flexible* (prepared for the Parliamentary Library 2013) at 3-9.

Africa and Ireland have legislatures with five year terms.²⁴ One comprehensive study considered forty democracies, and noted that thirty-five have terms of four years or more.²⁵ New Zealand is therefore an outlier in having a parliamentary term of only three years, although it must be borne in mind that many other parliamentary democracies have upper houses or written constitutions providing additional constraints on their elected representatives. Nonetheless, international comparisons do provide strong support for extending our Parliamentary term.

The term of the New Zealand Parliament should be fixed

Increasing the length of Parliament's term results in an increased opportunity for the Prime Minister to call an early election. It is submitted, however, that the election dates should be fixed so as to preclude this possibility. Partly, this is for reasons of basic fairness - the ability to select the date for the election enables the Prime Minister to choose a time when electoral conditions are advantageous for the governing party and adverse for the opposition, in which case the playing field is not level.²⁶ But fixing election dates also reduces the executive's power to control Parliament,²⁷ increases the efficiency of electoral administration by allowing the Electoral Commission to plan well in advance and allows the government to plan its legislative timetable with relative certainty. Furthermore, either by fixing election dates absolutely or allowing certain well-defined exceptions, the risk of a constitutional crisis arising out of the use (or non-use) of prerogative powers in the case of a disputed dissolution is reduced.²⁸ Hence fixing election dates is a well-justified move, should Parliament's term be lengthened to four years.

The approach of other jurisdictions to election dates is consistent with this reasoning - in fact, thirty of the forty democracies surveyed in one study have legislative provisions requiring fixed election dates (with or without exceptions).²⁹ In 2011, the United Kingdom adopted the Fixed Term Parliaments Act which provides for a fixed five year term, with an early election only possible if two thirds of the House of Commons vote for dissolution, or one half for a motion of no-confidence

²⁴ Ibid, at 5 and 7.

²⁵ Henry Milner "Fixing Canada's Unfixed Election Dates: A Political Season to Reduce the Democratic Deficit" (2005) 6(6) IRPP Policy Matters 1.

²⁶ Robert Hazel *Fixed Term Parliaments* (The Constitution Unit, London, 2010) at 10. See also Robert Blackburn *Summary of Evidence to the Political and Constitutional Reform Committee on Fixed Term Parliaments* (2010) at 1.

²⁷ AW Bradley and KD Ewing *Constitutional and Administrative Law* (15th ed, Pearson Longman, New York, 2011) at 181.

²⁸ Robert Blackburn "The Future of the British Monarchy" in Robert Blackburn (ed) *Constitutional Studies: Contemporary Issues and Controversies* (Mansell Publishing, London, 1992) 1 at 7.

²⁹ Milner, above n 25, at 13. The list of twelve countries without fixed election dates set out here includes Canada and the United Kingdom, both of which have since adopted fixed election legislation, and so have been removed from this list to produce the adjusted figure of ten.

in the government.³⁰ Equally, Canada followed nine of its provinces in 2006 and passed an Act³¹ fixing its election date, but leaving the Governor General with a discretion to dissolve Parliament. This legislation proved ineffective in 2008, when the Governor General acceded to Prime Minister Stephen Harper's request to dissolve Parliament over a year before the scheduled election date. However, the fact that both the United Kingdom and Canada have sought to fix their Parliamentary terms is indicative of the concerns outlined above, and points strongly to the need for New Zealand to make a similar change if the term of our Parliament is extended.

Some have argued that, given the Canadian experience, fixed term legislation is ineffectual, and that consequently governments are still able to call early elections when they wish.³² But this rather misses the point. Just as a government is able to repeal the entrenchment provision of s 268 Electoral Act 1993, fixed term legislation may be rescinded. But, in each case, the expected public outcry makes such a move unpalatable and, by calling an election, voters are able to have an immediate say on whether that government deserves to be returned to office. The same reasoning applies where a government engineers a vote of no-confidence to take advantage of an exception to a fixed term - the public will evaluate whether such a move was appropriate, and factor this in to their electoral choices. Fixed term legislation has also been criticised as too inflexible, particularly given the fact that New Zealand has several times been governed by minority coalitions under MMP, which are prone to collapse if a support partner pulls out. However, this issue can be addressed by providing for an early dissolution of Parliament if such a motion is supported by a majority of the House of Representatives, or if the House passes a motion of no-confidence in the government.³³

When an early dissolution takes place through one of these exceptions, the next elected Parliament should serve a full four years rather than simply serving out the remainder of the previous term. This is because election decisions by voters ought to be equally valid and apply for a full term of Parliament, whether an early election was called or not. Otherwise, there is a risk that justified early elections could be seen as less important by voters, resulting in a reduced electoral turnout and a less legitimate result. Equally, it is important to protect against the possibility of having two

³⁰ Alec Samuels "End of Term? The Law Surrounding the Length of Parliamentary Terms" (2011) 161 New Law Journal 1439 at 1440.

³¹ The Act amended, and is now codified in, the Canada Elections Act RSC 2000 c 9, s 56.1.

³² Adam Dodek "The Past, Present and Future of Fixed Election Dates in Canada" (2010) 4 JPPL 215 at 227; Don Desserud "Fixed Date Elections: Improvements or New Problems?" (2005) 7(1) Electoral Insight 48 at 52.

³³ Andrew Geddis *Electoral Law in New Zealand: Practice and Policy* (LexisNexis, Wellington, 2007) at 51-51.

elections in quick succession, which could lead to general voter cynicism and disillusionment with the electoral process,³⁴ and a duly elected government deserves a full term in which to pursue its legislative program.³⁵ These considerations outweigh the argument that not resetting the clock creates a genuinely fixed term, with no incentives for governments to engineer an early motion of dissolution or no-confidence for their political advantage - especially since the electorate has the opportunity to impose political consequences for such disingenuous moves at the election.

Conclusion

The submission is therefore that Parliament's term ought to be increased to four years. Making this change will improve the effectiveness of government, through providing more time to implement policies and reducing the frequency of election-year influences, and increase certainty in the commercial environment. Voter sovereignty is now adequately protected, with the MMP voting system and the New Zealand Bill of Rights Act representing significant constraints on executive power. Extending the Parliamentary term does, however, increase the opportunity for early elections, so in the interests of fairness and efficient administration, the term length should be fixed except where Parliament votes for dissolution or no-confidence. Section 17(1) Constitution Act 1986 should be amended to enact these changes through a public referendum in accordance with s 268 Electoral Act 1993, instead of a seventy-five percent majority in Parliament which could provoke allegations of self-interest.

³⁴ The Constitution Society *Fixed Term Parliaments* (United Kingdom, 2010) at 7.

³⁵ House of Lords Select Committee on the Constitution, above n 21, at 21.

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1158

From: <1>
To: <constitutionalreview@justice.govt.nz>
Date: 8/06/2013 9:30 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Ian Jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Whangaparaoa Postal Region: Auckland Postal Post Code: Postal Country: New
Zealand Submission: I am very concerned that racially based legislation or preferential treatment
of specific groups, will creat long term resentment and future discord that will ruin the special qualities
that is the essence of New Zealand.

All people should have an equal voice now, not biased towards an agreement made by two groups of
settlers more than a hundred years ago.

Ian Jones

Sent on the 8 June 2013 at 09:29

2021

Quick Submission

Your name:

Jeff Jones

Name of the organisation you represent (if applicable):

Postal address or email address:

I believe that if
a bill is passed
under urgency there
should be a minimum
of 60% ~~to~~ of
people voting "Yes"
to pass it.

Privacy and Confidentiality

Your personal information will be held in accordance with the Privacy Act 1993. This Act outlines the requirements for transparent collection, ethical use and secure storage of personal information.

The personal information you provide in this submission form will be used for the purposes of the Consideration of Constitutional Issues only.

**You can also make a submission online
at www.ourconstitution.org.nz**

4051

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 3:27 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Jordan Luke Jones Organisation Name: Email:
AddressB: Postal City: Auckland Postal Region: Postal Post Code: Postal
Country: New Zealand Submission: I have a number of dreams and aspirations for our nation.

One of them is for legislation and regulating bodies to be set up to ensure that the gender pay gap is decreased, to the point that it is removed entirely, but also that gender discrimination is ameliorated and abolished, to ensure that glass ceilings, sticky floors, and glass escalators are eliminated. Such an action would require awareness campaigns, interventions, incentives, and regulators.

Another would be for New Zealand to harness more environmentally friendly policies. I think that we should harness renewable energy sources more such as wind farms and solar panels. I think initiatives should be set up to encourage individuals to use solar panels, and also subsidies put in place for lower socioeconomic households and state housing particularly start to utilise solar energy.

An additional area that I am passionate about is removing poverty in New Zealand, and ensuring that schemes are put in place to ensure children are properly fed, clothed, and educated.

This links with my next aspiration which would be for the government to spend more money on education and less money on crime. Since schooling is proven to be a better intervention to prevent crime, than the reactive strategy of building more prisons.

On the topic of education, there is also a dire need for the educational incentives which have been quashed by National to be reinstated. For this further discourages and disadvantages students who wish to study. As there is no guarantee that jobs will be available or readily found for university graduates. Furthermore given that university degrees have experienced credentials inflation, many students are intimidated by the amount of study required, let alone the ever-increasing course fees and repayment schemes required by students to pay. Coupled with the amount of schemes that have been rescinded or reduced, i.e. post-graduate student allowances being removed or access to the disability allowance being further restricted.

In terms of schooling I believe there is a need to allow for education to be more customised and creative. While also ensuring that current trends toward national standards, and related schemes like charter schools are researched more fully. Greater effort also needs to be placed in ensuring that subjects are not ranked or put into a hierarchy with more appreciation, encouragement, and respect being afforded to more creative and practical disciplines.

This is the just the surface of the numerous policies and laws that could be enacted, however I will let others speak about other societal issues and solutions who are more knowledgeable and more significantly affected by the current actions, inactions, and reactions of the government.

Submitted on the 29 July 2013 at 15:26

895

From:
To: <constitutionalreview@justice.govt.nz>
Date: 22/05/2013 5:43 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission
Attachments: Submission by JessicaJones.docx

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Jessica Jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Northcote
Postal Region: Auckland Postal Post Code: Postal Country: New Zealand Submission:
Submission Upload: Submission by Jessica Jones.docx

Sent on the 22 May 2013 at 17:42

895a

Submission on Aotearoa New Zealand's Constitution

Jessica Jones

22/5/13

My aspiration is for Aotearoa New Zealand to be an independent, fair, vibrant multicultural country that it proud of our unique bicultural heritage.

I want our country to be run by an elected Head of State and Members of Parliament as an independent republic, where the Head of State has the same role as the current Governor-General. This is because I think this model better reflects the reality of Aotearoa New Zealand as a modern, democratic Pacific nation that is no longer a British colony.

Constitution

I think that the constitution should be written in a single document in order to provide unity and clarity to our rules and practices, but should not be entrenched, to allow for change over time. The Courts should be able to declare, if they so decide, that legislation is inconsistent with the constitution, and Parliament should have to respond to any such declarations. In this way, neither institution would be accorded total power over decisions of inconsistency, rather the Courts would have input and MPs would be held accountable to the public.

Bill of Rights Act

I believe that the Bill of Rights Act should be written into the constitution, with the following modifications to the related Human Rights Act:

- sex, as a category in the prohibited grounds of discrimination section, should be broadened to include people of non-binary sex, ie. those who are neither male nor male, or both; and intersex people.
- gender identity should be added as a category in the same section, to include people who are transgender, transsexual, agender, gender fluid, third gender, fa'afafine or whakawahine, and all other gender diverse people.

These changes would establish freedom from discrimination based on sex and gender identity.

A section should also be added in Part 2 of the Bill of Rights Act under 'Life and

security of the person' to the following effect:

- right to bodily integrity and autonomy

This is in order to prevent (in conjunction with section 11) the non-consensual, irreversible and medically unnecessary surgeries that are still being performed on infants, such as circumcision and cosmetic genital surgery of intersex babies and children.

This addition would also establish constitutional reproductive rights of all citizens, including the right of a pregnant person to terminate their own pregnancy. This would prevent forced continuation of pregnancy, which is a gross violation of the bodily autonomy of pregnant people.

The current BORA does not protect my rights enough due to the absence of these stipulations.

Te Tiriti o Waitangi

I believe that Te Tiriti o Waitangi should also be written into the constitution, along with a current interpretation of the relationship between Māori and the State based on the Treaty of Waitangi Act 1975. This is in order to ensure that Māori are recognised as tangata whenua, and the people who were oppressed during and after the colonisation of this land, and who consequently still experience the ongoing negative effects of this. I support Māori rangatiratanga at all levels of decision-making from central to local government.

I strongly aspire towards a country that is truly bicultural, not just in name but in nature. To this end I support greater Māori input in decision making and the elevation of reo and tikanga Māori throughout the country.

Due to the fact that I am Pākehā, I do not consider it appropriate for me to comment on Māori representation in Parliament, other than to express my support for whatever consensus is reached by Māori concerning Māori seats, local government representation, and electoral participation.

Electoral Matters

I support the current number of 120 MPs because I believe that this number allows for diverse representation in Parliament. I also support the current 3-year term of Parliament due to the level of control it gives to the public.

4462

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 5:59 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Kay Jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Wellington Postal Region: Wellington Postal Post Code: Postal Country: New Zealand
Submission: I believe that New Zealand's formal constitution should be as good as any other
constitution elsewhere in the world, in terms of saying what we believe in most.

To me this means the Constitution should entrench as paramount:

A The Treaty of Waitangi as a founding document;

B Environmental protections at least equal to what was in the Resource Management Act prior to the 2013 amendments;

C The Bill of Rights Act; and

D The Human Rights Act.

New legislation should not be in conflict with these fundamental principles for the long term good of New Zealand, its citizens and living biota.

Submitted on the 31 July 2013 at 17:59

484

From: [redacted]
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 10:20 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Kiernyn Jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: A constitution is hard to change.

Freedom of the press. Limits on the power of government and it's agents - these are fundamental protections that may be well served by codifying in constitution. Let's be honest though. This whole process is going to get hijacked by well meaning but ideological non mainstream lobbyists.

The majority of the people who feel motivated enough to get involved are going to be ultra green, ultra left, ultra disenfranchised... ultra something.

Keep them out of it or see support for this whole process from the mainstream of NZ evaporate and the "constitution conversation" left to our great grandchildren to address.

Maybe they will have grown up enough to keep the idiots out of it and right a document worth supporting.

Sent on the 16 April 2013 at 22:19

2525

From: "paul jones" <constitutionreview@justice.govt.nz>
To: <constitutionreview@justice.govt.nz>
Date: 4/07/2013 11:00 a.m.
Subject: CAP Submission

Cancel ALL Maori seats as we are supposed to be one country
its discrimination Paul Jones

~~2056~~ 2056¹

From: Paul Jones <
To: <constitutionaireview@justice.govt.nz>
Date: 2/07/2013 9:25 p.m.
Subject: CAP Submission

abolished
Cheers

Paul

Submission to the New Zealand Constitutional Advisory Panel 2013

As a supporter of Amnesty International, I write to add my voice in support of its submission to the current constitutional conversation.

I am concerned that all our human rights are not adequately protected in New Zealand law.

For example, our Bill of Rights Act 1990 only incorporates civil and political rights. Yet, it is widely recognised that human rights are interrelated, interdependent and indivisible; this means that one set of rights cannot be enjoyed in a meaningful way if the other set of rights is not also adequately protected and respected too.

I believe civil and political rights, such as the right to life, cannot truly be achieved without the equal right to work, accessible health care, adequate housing and education, which are enshrined in the concepts of economic, social and cultural rights.

Despite having ratified the International Covenant on Economic, Social and Cultural Rights in 1978, successive New Zealand Governments have failed to fulfill their obligations to respect, promote and fulfil these human rights.

While the Government says economic, social and cultural rights are currently protected by subject specific statutes, current issues involving these rights, such as child poverty, show that the current system is not working to adequately protect our rights. The maze of laws and policies around economic, social and cultural rights make it difficult for New Zealanders to understand and access their rights.

Without a clear framework to guide legislation and policy it also makes it difficult to see if laws policies are actually working to recognise New Zealanders rights. In addition many human rights in New Zealand lack avenues to remedies if they are breached, which limit New Zealanders' access to justice - an essential right of victims of all human rights violations.

I therefore submit the following recommendations:

- The incorporation of economic, social and cultural rights into the Bill of Rights Act 1990;
- The entrenchment of the Bill of Rights Act 1990 so that the weight and importance of these rights is adequately recognised;
- The explicit inclusion of the power for judges to provide remedies when the Bill of Rights Act is violated;
- That New Zealand ratify the Optional Protocol for International Covenant of Economic Social and Cultural Rights, including opting in to its inquiry and inter-state mechanisms, so that New Zealanders have access to an international remedy;
- The establishment of a Human Rights Select Committee to ensure that the impact of legislation on human rights is sufficiently considered;
- The requirement of all levels of Government to take a human rights approach to addressing human rights issues; and
- Increased human rights education initiatives to increase awareness of economic, social and cultural rights.

I believe these recommendations will provide for stronger protections within our constitutional framework for economic, social and cultural rights.

Taking these measures will ensure a strong legal framework in which all rights are equally protected. It will ensure that the Government can take a rights-based approach to addressing rights issues in New Zealand such as child poverty.

New Zealand has an obligation to take steps to progressively realise such rights as the rights to health, education, and adequate housing. Ensuring they are explicitly protected in New Zealand law is a significant step in ensuring that New Zealand is a place where human rights are protected, respected and fulfilled.

Penelope Jones
Auckland
New Zealand

1657

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 27/06/2013 9:12 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Phillip Lloyd Jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Te
Awamutu Postal Region: Waikato Postal Post Code: Postal Country: New Zealand
Submission: I would like to see NZ move forward from here as one united people working for the good of the country as a whole. Race based representation in Parliament and at local body level should be abolished. Reference to the Treaty of Waitangi must NOT be included in any future constitutional change. Maori claims for compensation are being settled a greater rate the ever. When present claims are settled the Treaty of Waitangi needs to be set aside and we all need to get on as one. Maori are given too much influence.
Maori will be soon outnumbered by other immigrants. Race based legislation has no place in a democratic society.

Sent on the 27 June 2013 at 09:12

This submission to the Constitutional Advisory Panel will discuss the term of reference 'Electoral Matters', with a particular focus on the length of term of Parliament, and whether that term should be fixed by fixing the election date. Each matter will be addressed separately.

Summary of recommendations:

- (i) that the term of Parliament remain at three years; and
- (ii) that the term of Parliament should be semi-fixed, thereby removing the Prime Minister's discretion to call an election date; and
- (iii) that legislation used to implement a semi-fixed election date should contain two separate 'safety-valve' measures that allow for the early dissolution of Parliament in limited circumstances; and
- (iv) that any changes should be implemented via legislation contingent upon majority support in a national referendum, as required by s 268(2)(b) Electoral Act 1993.

I. THE LENGTH OF TERM OF PARLIAMENT

Under New Zealand's current constitutional arrangements, Parliament is limited to a three year term "and no longer" from the day fixed for the return of the writs for the preceding general election, unless it is sooner dissolved.¹ The term of Parliament is entrenched by s 268(2) of the Electoral Act 1993, whereby the term of Parliament cannot be amended unless by a 75 percent majority in the House of Representatives or there is majority support in a national referendum. Although s 268 is not itself entrenched, the entrenchment of the parliamentary term signifies its importance to New Zealanders in the absence of a formal written constitution, and that any change should be the result of broad consensus in New Zealand society. I argue that there is no such case for changing (i.e. extending) the term of Parliament for a number of reasons.

(i) Lack of checks and balances on Parliament

Although New Zealand is one of the few countries in the world to have a three year parliamentary term, we are also one of only three countries in the world without a written constitution² and therefore very few formal and enforceable checks and balances on public power outside the triennial election. We have no Upper House³ in Parliament, our Bill of Rights Act gives the judiciary no ability to strike down legislation inconsistent with that Act⁴ and our citizens initiated referenda are not binding.⁵ In fact, s 17(1) of the Constitution is the only legal restriction on the term of Parliament. Essentially, New Zealanders experience true democracy once every three years and this restraint on Executive power should not be diluted by extending the term of Parliament to four years or beyond.

¹ Constitution Act 1986, s 17(1).

² The United Kingdom and Israel are the only other countries without a written constitution.

³ Legislative Council Abolition Act 1950, s 2(1), which reconstituted Parliament as the Governor-General and the House of Representatives.

⁴ New Zealand Bill of Rights Act 1990, s 4.

⁵ See Citizens Initiated Referenda Act 1993, Long Title.

(ii) *Effective government*

The traditional argument favouring extending the term is that any given government spends its first year 'settling in', the second year is for working through its more substantive and potentially controversial policies and the third year is devoted to winning the upcoming election.⁶ This 'effective government' argument significantly informed the conclusions in the 1986 Report of the Royal Commission on the Electoral System,⁷ and has been picked up on by the Panel.⁸ The Commission considered that the three year term meant a "short-term planning mentality"⁹ whereby the government's decision-making would be cautious as opposed to confident, leading to uncertainty for individuals and businesses.

In my opinion, this is a naïve and oversimplified view of how the government operates once it has received a clear mandate from the voting public. For example, the National-led government's controversial policy to partially sell State Owned Assets began its implementation regime within the first year of re-election to government. Even the Commission's report was tinged with realism when it said that no matter what the length of the term, governments will always make unpopular decisions early in the piece.¹⁰

It cannot be said that four years, or even three for that matter, is the magical solution to political timetable issues. Any number is arbitrary. However, in the absence of a consensus to extend the term of Parliament, governments should in the meantime use the three year term in an efficient manner to conduct consultation and implement their policies.

(iii) *Voter sovereignty*

Democracy requires that the people have the ability to frequently pass judgment on those in government. An election delivers exactly that: an allocation of power to individual parliamentary representatives in accordance with the mandate provided by the populace of the country.¹¹ If the government is doing a bad job in the eyes of the majority of the public, it should open itself up to accountability at the ballot box. As previously mentioned, this kind of truly accountable democracy happens only once every three years and should not be extended. While there is merit to Royal Commission's argument that government accountability had increased leading up to 1986 with, for example, the introduction of the

⁶ Philip A Joseph "The Future of Electoral Law" in Caroline Morris, Jonathan Boston, Petra Butler (ed) *Reconstituting the Constitution* (Springer Heidelberg Dordrecht, London, 2011) 219 at 237.

⁷ Royal Commission on the Electoral System, *Report of the Royal Commission on the Electoral System: Towards a Better Democracy* (Government Printer, Wellington, 1986).

⁸ Constitutional Advisory Panel *New Zealand's constitution: The conversation so far* (2012) at 25.

⁹ Above, n 6 at 159.

¹⁰ Ibid, at 162.

¹¹ Andrew Geddis *Electoral Law in New Zealand: Practice and Policy* (LexisNexis, Wellington, 2007) at 9.

Ombudsmen and the Official Information Act 1982,¹² these measures can hardly change a government that has lost its mandate.

It has also been argued that MMP places sufficient limits on the government to warrant a four year term since it has to frequently negotiate with minor parties in order to form a majority government.¹³ However, this type of constraint goes to the representativeness of the government as opposed to how long any given government (majority or minority) can govern. MMP is check on majority governments, but not enough so to justify extending the term to four years. In fact, extending the term could arguably give minor parties a disproportionate amount of power in relation to their share of the political vote – especially now that the current government has rejected any proposed changes to the ‘coat-tailing’ legislation.¹⁴

(iv) International alignment

There are also calls for the term to be extended to align New Zealand with international standards.¹⁵ However, it is generally accepted that New Zealand has its own ‘constitutional culture’ whereby our attitudes towards those who exercise public power are characterised by values that are “deeper-seated than even the formal Westminster device of constitutional conventions would indicate.”¹⁶ In other words, despite New Zealand’s colonial history, we no longer seek to define our constitutional arrangements in relation to other countries. This argument should carry very little weight in the Panel’s consideration process.

(v) Conclusion

Overall, although an extended term would better suit the politicians, the matter is not political in nature. New Zealanders value elections as the heart of the democratic process¹⁷ and should continue to be able to hold the government to account every three years. Change, therefore, should originate from the voting public. At this point it is prudent to note that there have been two decisive rejections to the three year term via referenda in 1967 and 1990, where only 31.9 percent and 30.7 percent respectively voted in favour of a four year term.

II. FIXING THE TERM OF PARLIAMENT

The decision as to the timing of an election lies exclusively in the hands of the Prime Minister, subject to the overall three year limit on Parliament’s term or unless the government loses the confidence of the majority in the House of Representatives.¹⁸ Formally, it is the

¹² Above n 6 at 164. Accountability measures since the Commission’s Report include the Constitution Act 1986, the Bill of Rights Act 1990, the Privacy Act 1993 and the adoption of MMP itself via the Electoral Act 1993.

¹³ Above n 8, at 26.

¹⁴ Judith Collins “MMP changes impossible without agreement” (press release, 15 May 2013).

¹⁵ Above n 5, at 237.

¹⁶ Matthew Palmer “New Zealand Constitutional Culture” (2007) 22 NZULR 565 at 567.

¹⁷ Jonathan Boston “The Future of Electoral Law” in Caroline Morris, Jonathan Boston, Petra Butler (ed) *Reconstituting the Constitution* (Springer Heidelberg Dordrecht, London, 2011) 191 at 191.

¹⁸ Above n 11, at 45.

Governor-General via his or her prerogative powers who is responsible for dissolving Parliament and calling the election,¹⁹ however the Governor-General's role as the Prime Minister's 'constitutional puppet' renders this role symbolic at best.²⁰ I argue that fixing the election date would free the electoral process from any partisan abuse, and bolster public confidence in the voting system. However, any fixing of the election date must be tempered with the ability to allow for an early election should the government receive a vote of no confidence.

(i) The need for an even playing field – electoral fairness

The Prime Minister's discretion to call an election confers obvious partisan benefits to the incumbent government – an election can be called at any time during the election cycle to take advantage of the political and/or economic climate. Fixing the election date would remove any notion of political-self interest from the electoral process (and it is the Prime Minister alone who has this power) would generate an even playing field come election time. It is imperative that there is certainty surrounding the electoral process for all players who have a stake in its outcome, whether that be the incumbent government, the opposition, minority parties or the voting public.

(ii) Better government planning

Fixed term parliaments create the expectation that the government will last for its full term, thereby giving Parliaments sufficient time to plan for and execute its policies.²¹ A fixed term also benefits minority parties by removing the ability for governments to use early elections as a threat, and facilitates planned and considered negotiations while keeping the opposition 'in the loop' as to when they must prepare to contest an election.

(iii) Case study – the United Kingdom

In 2011, the United Kingdom Parliament passed the Fixed-term Parliaments Act which requires that all Parliaments last for a full five year term,²² with early elections to be held before the completion of the term if there is a motion of no confidence with no alternative government found,²³ or a motion for an early election is agreed to by at least two thirds of the House of Commons.²⁴

Opponents of the Act questioned whether the flexible arrangement in the UK – the same as in New Zealand – would make any material difference in the government's decision in

¹⁹ Ibid.

²⁰ Except where the Prime Minister loses the confidence of the House of Representatives and there is no clear alternative government, or refuses to vacate his office – in these situations the Governor-General must call an election of his own accord. Neither of these two situations has occurred under MMP.

²¹ Robert Hazell "Fixed Term Parliaments" (paper published by the Constitution Unit, Department of Political Science, University College London, August 2010) at [3.1.4].

²² Fixed-term Parliaments Act 2011 (UK), s 1(3); this Act did not create the maximum five year term, found in the Septennial Act 1715, but establishes fixed dates for future elections.

²³ Ibid ss 2(3), (4).

²⁴ Ibid, s 2(1).

announcing an election date.²⁵ However, although the term of Parliament in the UK is longer than in New Zealand, Prime Ministers have repeatedly taken advantage of political conditions to call early elections. In fact, Parliament has only endured its full five year term five times since 1911.²⁶ Despite the differences in the length of term between the two Parliaments, our similar constitutional arrangements and especially the lack of checks on executive power justify a similar approach to the question in both jurisdictions. There is potential for abuse of the Prime Minister's discretion whatever the length of parliamentary term. Therefore, the arguments in the UK that a fixed or semi-fixed term would reinforce public confidence in the electoral process and force politicians to be more open about any decision to dissolve Parliament early²⁷ are equally valid in the New Zealand context.

(iv) The 'safety-valve' argument – allowing for early dissolution

I acknowledge that adopting a rigidly fixed term of Parliament is not appropriate for New Zealand. In the case of a 'government meltdown' there must be a mechanism to provide for early dissolution of Parliament in extraordinary circumstances. This would be to 'semi-fix' the term of Parliament.

The two 'safety-valves' in the Fixed-term Parliaments Act 2011 are satisfactory, and I recommend that any fixed-term legislation in New Zealand is modeled on that Act. However, in keeping with the general tenor of New Zealand's constitutional legislation, the threshold of for a motion for an early election should be 75 percent of the House of Representatives. This would, depending on the composition of Parliament after any given election, allow for more parties in the political spectrum than just Labour and National to be involved in the decision to dissolve Parliament.

These measures would achieve the desired result of removing the power to call the election from the Prime Minister alone, while retaining an element of flexibility. The buck stops with a super-majority in the House who would have to justify departing from any legally fixed term. Open debate on the issue again reinforces confidence of the voting public in the electoral process, instilling a sense of ownership and true involvement over the way our elections are conducted.

(vi) Conclusion

Even though early elections do not occur as frequently as in other countries such as the UK, it is enough that there is the potential for abuse of the power. It is the equivalent of the government arriving at a racetrack already in running gear and being allowed to fire the starting pistol while the opposition is still tying their shoelaces.²⁸ Just as Lord Jenkins of Hillhead says this is "not in accordance with the best athletic practice",²⁹ nor is the status quo in accordance with best constitutional practice. If New Zealanders are to have true confidence

²⁵ Fixed-term Parliaments Bill (UK) (Constitution Committee report) at [34].

²⁶ Alec Samuels "End of term? The law surrounding the length of parliamentary terms" (2011) 161 NLJ 1439 at 1439.

²⁷ Above n 24, at [29].

²⁸ Lord Jenkins of Hillhead (House of Lords Debate, 11 March 1992).

²⁹ Ibid.

in democratic process, certainty must be created by fixing the election date, while allowing for early dissolution in limited circumstances.

III. THE PROCESS FOR IMPLEMENTING CHANGE

Should any of the recommendations in this submission be acted upon, there is a particular process that should be followed to ensure the integrity of the democratic process. Since the s 17(1) of the Constitution Act is entrenched by s 268(2) of the Electoral Act, either a super-majority of the House of Representatives or majority support at a national referendum is required for change to take place.

There are obvious legitimacy arguments to be made for change to take place via a national referendum as opposed to obtaining a super-majority in the House. If the aim of fixing the term of Parliament is to reduce executive power over elections then it is a gesture of good faith and democratic principle that the decision should be in the hands of the electors.

In this regard, I recommend that the government employ a similar approach to the adoption of the Electoral Act 1993 and introduce a Bill proposing to amend s 17(1) of the Constitution Act 1986 that will become an Act of Parliament contingent upon majority support at a national referendum.

IV. CONCLUSION

This submission rejects the proposal that the term of Parliament should be extended beyond three years. Such a change must originate from the voting public and in the current political climate there is no such catalyst for this drastic change.

As for fixing the term of Parliament, this submission acknowledges that any change to the Prime Minister's discretion would be to rescind an important constitutional practice deeply ingrained in New Zealand's constitutional psyche. However, tradition alone cannot justify allowing the government to retain an unfair advantage when it comes to the democratic process, which should be just that – democratic. New Zealand prides itself on being a country where constitutional change occurs pragmatically – if there is a problem we will fashion a tailored remedy. The uncertainty surrounding the term of Parliament is such a problem and we should fix it.

[word count: 2348]

794

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/05/2013 12:50 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Sheena Jones Organisation Name: - Email: : z Phone:
Postal AddressA: Postal AddressB: Postal City:
Tauranga Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: I do not think we need to make any changes to our NZ Constitution as it has worked well for years. I do not understand why we are even having this "conversation". I certainly do not want to see the Treaty of Waitangi included in it. This is just another push by elite Maori. It appears biased on the television with Pio and Bernice fronting it and I certainly do not see any Public Meetings on it advertised in my area. Leave well alone.

Sent on the 8 May 2013 at 12:50

794a

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/05/2013 1:07 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Sheena Jones Organisation Name: - Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Tauranga Postal Region: BOP Postal Post Code: Postal Country: New Zealand
Submission: My aspirations for NZ are equality for all and no preference given to any particular race.
I think a Referendum should be held so the People can have their say on the Constitutional Review.
We vote Politicians into govern on our behalf but it appears they
are betraying the public. I would like to see more Public Meetings held by local MP's so they get the
"feel" of opinions in their Electorate. Not just at Election time.

I would like all the Treaty grievances closed as soon as possible, Helen Clarke changed the Law in
2008 to close off historic Treaty claims to the Waitangi Tribunal. So what happened?

I do not want to see any more National Parks traded in deals with Maori. These as well as the
beaches and foreshore belong to all of us for the future generations.

I would like to a reduction in the number of Politicians, and MMP revised.

Sent on the 8 May 2013 at 13:06

794b

From: "Sheena Jones"
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 2:04 p.m.
Subject: CAP Submission

I would like to make it known that I would like to see the Maori Seats abolished in Parliament. I do not think any race based representation has any place in our modern society. Our democratic rights should be based on citizenship not race.
I dont suppose there are any full-blooded Maoris left in Aotearoa anyway. (1/16th Maori blood and 15/16 other bloodline(s) does not make a Maori in my mind.
Sheena Jones.

4158

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 11:17 a.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Sophie Mary Peta Jones Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: New Plymouth Postal Region: Taranaki Postal Post Code: Postal Country:
New Zealand Submission: 1) What are your aspirations for Aotearoa New Zealand?

New Zealand is a country which is full of potential. Although we are a first world 'developed' country we can still build a lot more infrastructure and make New Zealand a place which more people from around the world would like to come and see. An update in infrastructure can also bring opportunities in to New Zealand to lead in ground breaking research. This would mean more students would want to stay in New Zealand rather than moving over to Australia. The Treaty of Waitangi should be incorporated in to the school curriculum further and the constitution. It is a key part of our history and as a country we should continue to respect this. The relationship between Pakeha and Maori is vital and should be equal. Putting the treaty in to the constitution would be a great way to recognise this. The RMA is a great start when it comes to sustainable management of the environment however the government and people in charge should continue to look at this. The size of the government is fine as it gives a wide range of opinions. The 3 year term of the government is a difficult topic to make a decision on. New Zealanders typically like the 3 years as it leaves us with less to worry about because it is only three years. However if the government changed every three years when would there be time to make and tackle important decisions. By the time they are sitting in their new office it is time for them to walk out again. When can they implement policies to do with global warming when they only have time to tackle immediate issues. I think a written constitution could help many New Zealanders who find the whole political system and all of the policies confusing it gives them something concrete to look at. Maori seats have always been part of parliament. I am on the fence for that one because although parliament should be equal now and therefore Maori should be represented without the seats I am unsure as to whether it really is and therefore it could be a safe guard to keep them.

2) How do you want our country run in the future?

Simple, fairly. New Zealand has to realise it can not stay small and isolated for ever and there for things like selling of state assets is needed but there should be a point where the country has to stop and keep hold of industries like agriculture. The government should be respecting basic human rights and there for things like the GCSB bill should not be tolerated in New Zealand. The people running the country have to realise that New Zealanders do not like things like this and do not want to follow in Americas footsteps. We do not want to be like America and do not want to be controlled by them and their wealth. I want the government to still care about the little people. Give more power back to Christchurch (have they not gone through enough). Focus on young children not going hungry (the new milk scheme is good). Focus on people having everything they need without abusing the system. Focus on University students and do not slap interest on their loans they have enough to pay back already. All in all a fair and not only driven by money New Zealand society is how I would like New Zealand to be run in the future. Every government had their high points and low points but if they focus on the people then more people might be more happy about the 'democracy' we are currently living in. New Zealand compared to many countries in the world is a great place to live we just can't lose that.

4769

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 3:25 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Sarah Mephan Jones Organisation Name: not applicable Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Postal Region: Otago Postal Post Code:
Postal Country: New Zealand Submission: I strongly believe the Maori seats in parliament should be retained and that they should be constitutionally entrenched. The Maori seats are an embodiment of the treaty partnership between Maori and the Crown, specifically of Article Two of the treaty which guaranteed Maori "rangitiritanga". The Maori electorates allow Maori to participate *as Maori* in an overwhelmingly western electoral system. They protect Maori interests from the worst effects of a 'tyranny of the majority' as a numerical minority in their own land.

I also believe that there needs to be an urgent investigation into guaranteed Maori representation in local body governance, under article two of the Treaty of Waitangi, for the reasons outlined above.

Submitted on the 31 July 2013 at 15:24

4769a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 3:28 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Sarah Mephan Jones Organisation Name: not applicable Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Postal Region: Otago Postal Post Code:
Postal Country: New Zealand Submission: I strongly believe the Maori seats in parliament should be retained and that they should be constitutionally entrenched. The Maori seats are an embodiment of the treaty partnership between Maori and the Crown, specifically of Article Two of the treaty which guaranteed Maori "rangitiritanga". The Maori electorates allow Maori to participate *as Maori* in an overwhelming western electoral system. They protect Maori interests from the worst effects of a 'tyranny of the majority' as a numerical minority in their own land.

I also believe that there needs to be an urgent investigation into guaranteed Maori representation in local body governance, under article two of the Treaty of Waitangi.

Submitted on the 31 July 2013 at 15:28

563

From:
To: <constitutionalreview@justice.govt.nz>
Date: 19/04/2013 9:54 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>

Full Names: Sian Olwyn Jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal
City: Auckland Postal Region: Auckland Postal Post Code: Postal Country: New
Zealand Submission: I feel our land is most important to the people who live in New Zealand. We
(emphasise New Zealanders) should own, look after it, value it

- * sustainable living should be encouraged, taught and enforced such as organic farming methods
- * rules, regulations, covenants should be considering the distant future
- * setting an example to the rest of the world for caring for the land
- * include the values of the tangata whenua
- * that the land is not just for exploitation but should be used for the maximum benefit for the people, animals and plants that depend on it
- * land includes the land beneath our feet, the skies over our heads and the seas 200 km around us

Sent on the 19 April 2013 at 21:54

2170

From: "Tony Jones" <
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 11:09 a.m.
Subject: CAP Submission

Sir.

All Maori seats should be abolished immediately. In fact all seats based on ethnicity should be abolished. Only people elected to parliament should be in parliament.
We should strive to make New Zealand one people, one nation. Apartheid and race based decisions should be eliminated immediately by all residents of this country.
Division of the races should not be tolerated in any form whatsoever.
Who is running this country, a few racist Maori who care about know one other then themselves, or men and women elected to govern.
Binding referendums should be called on all decisions associated with the proposed new constitution. Not that we need one.

Regard

Tony Jones

379

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 7:21 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Tony Jones Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Postal Region: Canterbury Postal Post Code: Postal Country: New
Zealand Submission: i would like to see relationship partners/spouses able to be charged with
theft if he/she wastes or unjustly spends relationship money.

I believe this will reduce domestic violence. thank you for your time

Sent on the 15 April 2013 at 19:20

2405

From: "Johan Jooste"
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 10:08 a.m.
Subject: CAP Submission

Maori seats should be abolished.

Johan

704

From:
To: <constitutionalreview@justice.govt.nz>
Date: 30/04/2013 12:46 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Tony Jordan Organisation Name: N/A Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Postal Region: Waikato Postal Post Code: Postal Country: New
Zealand Submission: New Zealand does not need a written constitution with a Treaty agenda.
Political decisions must be made by elected politicians who are meant to represent all New
Zealanders not just vested interests and Maori grievance groups. As it stands at the moment
unpopular and just plain dumb decisions made by our politicians can be overturned by a future
Government. The Treaty of Waitangi should be seen as a historical document made for that time not
as part of a written constitution.

Sent on the 30 April 2013 at 12:45

5191

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 8/08/2013 8:48 a.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: G.E. & D Jorey Email: Phone: Postal
AddressA: Postal City: Postal Region: Horwhenua Postal Post
Code: Postal Country: New Zealand Submission: We have a strong objection to
"Maori" being consulted as a group-- the Treaty we believe did not give any indication that
Maori were to be involved with governing of NZ

The constitution must be approved by all NZ's

Submitted on the 10 June 2013 at 22:38

4155

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 11:08 a.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Patricia Anne Jorgensen Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: Postal
Region: Wellington Postal Post Code: Postal Country: New Zealand Submission: It seems
to me that the affairs of this country have been run fairly efficiently to date without a written
constitution.

For every reaction, I put a written constitution in this bracket, there is a reaction.

i would not like to see the arguments over the meaning of the words in a written constitution overtake
good lawmaking and processes.

To date I have not seen nor heard at the meeting I attended a good argument for a written
constitution.

I am not in favour of a written constitution at this time in our history.

Submitted on the 30 July 2013 at 11:06

2194

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 11:56 a.m.
Subject: [RELEASED FROM QUARANTINE] [SUSPECT SPAM]
<http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Name: Rosemary Jorgensen Organisation Name: Email:
Phone: Postal AddressA Postal AddressB.
Postal City: Takaka Postal Region: Postal Post Code: Postal Country:
New Zealand Submission: Treaty of Waitangi is unsuitable in today's constitution but there are
relevant parts that would benefit today's multi cultural society

Binding referendums on all major issues

Bill of Rights

Aim to strive for pay equality for all

Sent on the 2 July 2013 at 16:38

287

From:
To: <constitutionalreview@justice.govt.nz>
Date: 13/04/2013 4:55 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission
Attachments: constitution.docx

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Chris Joseph Organisation Name: Private Email: Phone:
Postal AddressA: Private Postal AddressB: Postal City: Postal Region: Postal Post
Code: Postal Country: New Zealand Submission: Please see attached Submission Upload:
constitution.docx

Sent on the 13 April 2013 at 16:54

from Chris Joseph

My submission is as follows.

The Bill of Rights ACT

The Bill of Rights Act is an act of parliament that can be changed at will, if there is the will. There is nothing constitutional about it.

The Bill of Rights Act of parliament fails to address the right of people to die at a time of their choosing.

The act upholds people's right to religion and superstition but does not uphold the right of people to a secular education without unwanted exposure to religion and superstitions to themselves and their children.

Section 19.2 of the Bill of Rights Act needs its scope changed. Currently wealthy people from wealthy areas are receiving preference while other people, often of different ethnicity, are failing to receive the preference offered even though they would better serve the desired outcome. Examples of better focus would be to offer preference based on the location a person comes from rather than perceived ethnicity. Basically the clause is too vague and promotes racism and resentment rather than addressing inequality – those it is intended to help are missed yet they may suffer the retaliation of resentment.

The bill of rights fails to address the rights of the victim of crime. A victim should have the right to expect everything reasonable will be done to catch the offender; that repeat offenders (3 or more offences) will not be allowed out to reoffend; that they won't be further victimised by having to wait two years to see justice.

Section 24 b of the Bill of Rights Act needs adjusting so repeat offenders cannot continue offending until they finally get into court. The public should have the right not to be made victims.

The Bill of Rights Act also fails to give people the right to protect their homes and the right to do this in a manner that no harm will come to them if their actions are reasonable given the fear they could be facing e.g. no individual should be prosecuted for shooting a group of men robbing his farm while it would be reasonable that, if a group of men killed a child robbing fruit this would be still be a crime due the full force of our legal system but, if they held that child until police arrived and in the struggle the child sustained an injury, again these home owners should not have to fear the state victimising them.

The Bill of Rights Act also needs to recognise the individual within a relationship. We have the situation where people cannot income split for tax purposes yet their spouses are income tested in the event of applying for a benefit.

Quality of legislation

We seem to have laws of expedience that are often not good or clean laws. An example (just for example) of this is the anti-smacking law where politicians were

saying they would not uphold the law in the case of a small smack. What they are saying is that they would make a law and then ignore it. If the law is not to be used as intended it should not be allowed to be brought into existence. In effect, these people elected to parliament are ignoring the legislative will of parliament – if they cannot, or lack the will to, enforce a piece of legislation as set out, it should be illegal to introduce it into parliament.

Some grey area is needed. I think the current divorce settlement laws run roughshod over the rights of the individual and their property but, even if laws were changed to better recognise the individual and their property in a relationship, there will always be a need to deal with grey areas where property ends up in the middle.

The Treaty of Waitangi

Many New Zealanders be them of European, Asian or Pacific descent think of themselves as New Zealanders, not where their ancestors have come from. Any formal constitution needs to remove the division between those who have an ancestor who arrived pre 1840 and those whose ancestors arrived in the last 173 years. It also needs to ensure those born or naturalised as New Zealanders all have the same access to government and its elective process.

In effect any constitution should prohibit the limitation of people joining an electoral role based on perceived ethnicity – this would not mean the Maori roll would necessarily be merged with the General roll but it would mean anyone, who lives within the boundary of that Maori electorate can either choose the General or Maori roll.

Given we are New Zealanders, not subjects of the Queen of United Kingdom of Great Britain and Ireland, it would appear to me the Treaty of Waitangi should be to the benefit of all New Zealanders regardless of when their ancestors arrived. Any constitutional construct should recognise this. In line with this, current fee simple, 999 year lease and Maori land should all change to freehold title and current protections given to the likes of utilities traversing private land, which do not appear to be in line with the Magna Carta should be reversed in an orderly and considered manner.

3663

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 17/07/2013 8:21 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Daniel Charles Josephs Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Postal Post Code: Postal Country: New Zealand Submission: I
would like our country to be a Republic rather than a Constitutional Monarchy.

We need to look seriously into whether NZ should have an legally entrenched Bill of Rights and whether the Treaty of Waitangi should be codified in NZ law, rather than only some of its principles (e.g. as in the RMA Act).

Submitted on the 17 July 2013 at 20:21

609

From: "Warwick Jost"
To: <constitutionalreview@justice.govt.nz>
Date: 23/04/2013 8:27 a.m.
Subject: Constitutional Review

My submission regarding the NZ Constitutional Review is very simply - IN NO
WAY DO I WANT A RACE BASED CONSTITUTION!

If the unwritten constitution that this country has had in place since 1852
still serves us AS ONE PEOPLE then do not change it. If there is a need to
change the Acts in place or put in place a formal Constitution then please,
please do not base it on race.

Equality for all - ONE PEOPLE ONE NATION!

Thank you

Warwick Jost

New Zealand

I am using the Free version of SPAMfighter <<http://www.spamfighter.com/len>>

SPAMfighter has removed 953 of my spam emails to date.

Do you have a slow PC? <<http://www.spamfighter.com/SLOW-PCfighter?cid=sigen>>
Try a free scan!

5187

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 8/08/2013 8:44 a.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Colin Jowett Email: Phone: Postal
AddressA: Postal AddressB: Postal City: Auckland Postal
Region: Auckland Postal Post Code: Postal Country: New Zealand Submission: I
would like a constitution to reflect the values, ideals and inclusive principles of a democracy.

The idea that a country makes individual legal allowances for any particular culture, race or creed, is simply outdated, divisive and racist.

Regardless of cultural significance, a 16% portion of the population should not be garnered any rights of access to land, water or air, or rights of exclusive ownership over such resources at the legal expense and business capabilities of others. Nor should

such a minority be granted legal definitions, voting rights, exclusive political boundaries or affiliations at the expense of any other cultures who legally live and are entitled to the resources of this country.

In no country in the world has the idea of positive discrimination had any other effect than creating divisions between cultures.

Submitted on the 11 June 2013 at 12:00

2359

From: Grahame Joyce
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 9:05 p.m.
Subject: CAP Submission

From
Grahame Frederick Joyce

Paraparaumu Beach
Re Constitutional Review

I am strongly of the view that the Maori Parliamentary seats should be abolished.

I am concerned that race based seats will cause conflict for future generations. In the Pacific one finds great tensions in places like Fiji and Malaysia where there is race based legislation. Maori seats no doubt have served a role in giving Maori a political voice in the early years of colonisation. However those days are well behind us and it is paternalistic to continue with separate seats when they are well able to perform in the political arena. Also migration is changing the racial demographics within New Zealand and if we are going to have legislation to benefit one race then should we have seats for Pacific Islanders or even Asians? I also consider that the Treaty of Waitangi should not be referred to in any new Constitution. As a document it only represents the interests of a colonising power and various tribal groupings. It is a historical document of great relevance in this nation's history but has no place in the modern society we live

in or for the future. The place of the monarchy in New Zealand is an open question. I personally think that the majority view is that at some time in the future New Zealand will cut its ties with the Crown. However I think that is probably a decade or two away. There is still much questioning of MMP and general dissatisfaction with the performance of the political system.

Yours faithfully
Grahame Joyce

2582

From: Mike Judd
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 3:45 p.m.
Subject: CAP Submission

I, Michael Joseph Judd of PARAPARAUMU Wish to submit my opposition to retaining the Maori seats as this has and still is preventing our wonderful country from progressing . As long as the members in these seats which are based on tribalism along with a Race based political party continue to keep on looking back, many more real Maori New Zealanders will continue to leave our shores to make a contribution to other countries, free of the pressures of having to be subjected to the ever increasing myths being continuously dreamt up by the elite minority of Maoridom who have benefited substantially without much going to " Their People".

We must move on in harmony as we are now many generations from the original settlers and there is at least nineteen members of our democratically elected parliament including List members which is a higher percentage per capita compared with Pakeha and those from other nations. It is now time to move on. If we don't, separatism is very much a possibility and I, like the majority including Maori have had enough of billions of dollars being shelled out to the same elitist people. Remember, Maori tribes gained their lands by conquest, it was never paid for. The much vaunted treaty was the best thing for Maoridom as if they were left to their own devices, they could have still been fighting each other.

"IT'S DEFINITELY TIME FOR CHANGE" .AND TIME FOR COMMON SENSE !!!!

M J Judd

1597

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 10:14 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Anne-Marie Dawn Judson Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Katikati Postal Region: Bay of Plenty Postal Post Code: Postal Country:
New Zealand Submission: The New Zealand constitution should include; the NZ Bill of Rights, The indigenous rights of NZ Maori to access Toanga; the separation of powers of the Judiciary, the Legislative and the Executive, the International Covenant of Civil and Political Rights, The Rights of the Child, Equal Pay, Human Rights Act, the Electorate Act. The Treaty of Waitangi should be given special status in the manner of all New Zealanders having the same equal status across the board under the New Zealand government. Neither racial inequality nor excessive lop sided representation should override the underlying principles of New Zealanders being 'one people'. One rule for everyone should apply. Everyone born in New Zealand is indigenous. Therefore New Zealand belongs to New Zealanders.
The constitution needs uniformity not division, not inequality, not separatism. It should not be set up to give to one while taking from the other. The constitution needs to take into consideration the multicultural nature in New Zealand while also protecting its Forrest's, it's Fisheries, it's Natural resources. Keep New Zealand in New Zealand. Lease not sell interests in water rights, natural Resources. Make our constitution protect New Zealand and New Zealanders for the benefit of our community and not to disenchant the community by selling to Foreigners. Make the constitution protect us while engaging in economics for profits reduce the risk to the country by shutting off buying power and start leasing.

This should be our constitution 'New Zealand is owned by New Zealand, it's people and it's resources belong to those who live here, the government in New Zealand shall not sell New Zealand, it belongs to the people'.

Sent on the 26 June 2013 at 10:13

Quick Submission

1823

Your name:

ROBERT JULIAN.

Name of the organisation you represent (if applicable):

Postal address or email address:

TAURANGA

NEW ZEALAND DOES NOT
NEED A WRITTEN CONSTITUTION
+ I STRONGLY OPPOSE ANY
LEGISLATION OR REFERENCE
TO THE TREATY OF WAITANGI
SHOULD ONE BE DRAFTED
NOW OR IN THE FUTURE.

I BELIEVE WE MUST "ALL"
FORGET THE WRONGS OF THE
PAST + LOOK TOWARD A MORE
HARMONIOUS FUTURE.

WE MUST VIGOROUSLY OPPOSE
THOSE WHO TRY TO GAIN
PERSONAL ADVANTAGE BY
RECURRECTING THEILLS OF
THE PAST

15th June 2013

Privacy and Confidentiality

Your personal information will be held in accordance with the Privacy Act 1993. This Act outlines the requirements for transparent collection, ethical use and secure storage of personal information.

The personal information you provide in this submission form will be used for the purposes of the Consideration of Constitutional Issues only.

You can also make a submission online
at www.ourconstitution.org.nz

254

From:
To: <constitutionalreview@justice.govt.nz>
Date: 12/04/2013 8:07 p.m.
Subject: http://www.ourconstitution.org.nz/ form submission

Sent from The Constitution Conversation #link:http://www.ourconstitution.org.nz/.

Full Names: Elizabeth Jane Jury Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal
City: Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: I think it is essential that MORE is done to create health rather than illness in our society. Teach children to take responsibility for their health with positive food and lifestyle choices. Give good consequences to food manufacturers who create health giving foods, rather than rubbish in a packet that is filled with additives. Not enough is done.

I want our country to be run for the best of the people, not as a business. The best thing for the people is that we have healthy land to grow food with and raise our children on. I want the country run with good values and integrity.

Sent on the 12 April 2013 at 20:07