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Special voting in New Zealand

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ABSTRACT

There has been a dramatic change in the effect that special votes have on the results of general elections in New Zealand. Under the former first-past-the-post system for electing Members of Parliament, special votes favoured the National Party. For example, during the 12 successive elections from 1960 through to and including 1993, Labour Party candidates received an average share of the special votes cast that was 1.58 percent less than their share of election-night votes, while National Party candidates gained, on average, 2.19 percent more special votes than their initial share of the provisional votes tallied on election night. Since the implementation of New Zealand's mixed member proportional (MMP) representation voting system, however, special votes have favoured the Green and Labour parties. This article documents the effects that special votes have had in New Zealand for a period of more than 50 years and examines why a major change has occurred in the impact that special votes have on the fortunes of New Zealand's political parties.

KEYWORDS

New Zealand; elections; voting; first-past-the-post; mixed member proportional (MMP) representation

Introduction

Significant differences between election-night results and final results have long been a feature of general elections in New Zealand. Sometimes these differences become the stuff of legends. For example, in mid-2019 the official website of the New Zealand Book Council was still claiming that Professor Keith Sinclair (one of the country's pre-eminent historians and author of the bestselling *History of New Zealand*) 'was member for Eden for three weeks' in 1969. However, Sinclair was *never* elected to Parliament. As the Labour Party's candidate in Eden, he led the provisional election-night count by 35 votes, but as Wellington's *Evening Post* (1969, 10) noted two days after the general election 'the Minister of Housing (Mr Rae) ... is expected to be declared the winner when special votes are counted.' That did, indeed, come to pass. After in excess of 2,000 special votes had been counted (constituting nearly 12 percent of the 18,180 valid votes cast in the electorate), the National Party's incumbent candidate, John Rae, retained the seat with a 67-vote plurality (The General Election 1969, 1970, 11).

Likewise, Labour narrowly held the Wellington Central and Palmerston North electorates on election-night figures in 1972 and 1975 respectively, only to see the seats fall to National after special votes were counted. In 1993 votes tallied after election night had an

even more dramatic effect: they changed the nature of the government. At the conclusion of the initial election-night count, the National Party had won 49 seats in the 99-member Parliament, while the Labour Party had 46 seats, and the Alliance and the New Zealand First parties had two seats apiece. These results meant that National could have, at best, formed a minority government. However, one of the seats nominally in Labour's column was Waitaki, where its candidate, Bruce Albiston, had a 126-vote advantage over National's incumbent MP, Alec Neill. Despite the fact that a surprisingly low number of special votes were cast in Waitaki in 1993 (they accounted for less than 8.5 percent of the total poll), there were, nevertheless, enough special votes – which were, overall, disproportionately in favour of the National Party – to enable Neill to retain his seat with 53 more votes than Albiston.

In the period from 1960 through to and including 1993 – in a total of twelve first-past-the-post general elections – there was only one instance of National holding a seat on election night but losing it to Labour after special votes were counted. On election night in Wellington Central in 1990, Fran Wilde (who had held the seat for Labour for nine years) trailed Pauline Gardiner, the National Party's candidate, by 159 votes. On this occasion, though, Labour easily outclassed National in the battle for special votes. Wilde won more than 400 more of them than Gardiner, and Wilde held onto her seat by a margin of 246 votes.

Overall, then, across twelve general elections incorporating 1,070 separate first-past-the-post electorate races, the National Party had a four-to-one advantage over Labour when it came to winning seats that the party had seemingly failed to win on election-night figures.¹ After New Zealand adopted its new mixed-member proportional representation (MMP) electoral system, however, a different picture began to emerge.

In the first MMP election in 1996, special votes produced no changes to the numbers of seats that the parties had held at the conclusion of the initial election-night count. In 1999, however, special votes resulted in changes both at the electorate level and at the nationwide party-vote level which had a significant effect on the nature of the government that was formed after the general election. On election night, Jeanette Fitzsimons, co-leader of the Green Party, had 114 fewer votes in the Coromandel electorate than the National Party's candidate, Murray McLean; and – in terms of the party vote – the Greens had also failed to gain Parliamentary representation (they had won 4.9 percent of the party votes, which was below the five percent party-vote threshold) (Cleland 1999, 1). Two weeks later, after special votes had been included in the final count, Ms Fitzsimons had become the MP for the Coromandel electorate with a 250-vote plurality over Mr McLean, and the Green Party had won 5.16 percent of the party votes cast in the general election and a total of 7 MPs in the 120-member House of Representatives. This meant, too, that the Labour-Alliance government had slipped from being a majority coalition on election-night figures to being a minority coalition government (with the direct backing of only 59 seats in a Parliament of 120).

A detailed examination of special voting in New Zealand is warranted so as to better understand these instances where the final election result is notably different from the initial provisional election-night result due to the counting of special votes. This article explains what constitutes a special vote; it examines how many special votes are cast in general elections, with close attention paid to the Māori electorates; it measures the partisan impact of special voting and the changing impact on Parliamentary representation under the first-past-the-post and the MMP electoral systems; and finally this article offers reasons for the dramatic change in the proportion and political impact of special votes.

What are special votes?

The difference between the election-night ‘provisional’ or ‘preliminary’ result and the final ‘official’ result can be significant. The preliminary result is an unofficial count of ordinary votes, that is, votes cast – in advance or on election day – by an elector whose name appears on the printed electoral roll in a polling place designated for their electorate. This result is announced on election night while the official result follows about a fortnight later after the official count has been undertaken. The official count includes a careful cross-check and recount of all ballot papers tallied on election night; and while this recount can result in a small number of changes in the vote total, by far the most significant difference between the preliminary and official results comes from the inclusion of all valid ‘special votes’ in the final count.

What are these special votes? Electors unable to cast an ordinary vote may instead cast what is formally known as a special declaration vote: if they are voting from overseas, voting outside their electorate, voting remotely away from the supervision of an electoral official (for example, a takeaway vote or telephone dictation vote), or they are not on the printed roll for their electorate (because they enrolled after writ day or are on the unpublished roll). Special voters must complete a statutory declaration at the time they vote establishing the grounds on which they claim a special vote (Electoral Commission 2015, 31–32). Special votes may be cast in advance or on polling day. Most advance votes are ordinary votes, and advanced ordinary votes are part of the preliminary result. By contrast, all overseas votes are special votes and are included only as part of the official count. Thus, *when* the vote is cast (on election day or in advance) is not significant, however *where* the vote is cast and when the voter *enrolled* are critical.

Other votes not counted on election night but which are part of the official count include hospital votes and, since 2002, party-only special votes.² Included in the official, but not in the provisional, count is also a small number of ordinary votes not counted on election night because, to protect voter privacy, staff do not undertake counts for polling places for which they issued fewer than six ordinary votes. This is quite common, for example, with Te Tai Tonga counts in rural voting places in the South Island. Included in official results from 1987 through to and including 1999 was the tangata whenua vote – a particular type of special vote only available to those on the printed roll for a Māori electorate, who voted at a polling place within their Māori electorate which was not designated as an ordinary polling place for that Māori electorate.

Special votes cast by electors who are not enrolled are invalid and therefore not included in this analysis. With respect to eligibility to vote at general elections – irrespective of whether by ordinary or by special vote – all electors must be enrolled by the cut-off date. This date has changed over the time period examined in this article: at the 1960 to 1984 elections, voters had to be enrolled by writ day; at the 1987 and 1993 elections, enrolment closed as at writ day unless a person became eligible between writ day and election day (for example, the person turned 18 in this period, or the elector needed to change their address); at the 1990 election, and at the 1996 and all subsequent elections, voters had to be enrolled by the day before election day (Pengelly 2018; Peden 2019).³

How many special votes are cast?

A detailed examination and analysis of the valid votes cast at every one of the twenty general elections from 1960 through to and including 2017 reveals that the overall proportion of special votes cast in general elections in New Zealand was 11.15 percent. In the twelve first-past-the-post elections from 1960 to 1993, the proportion of special votes was 10.68 percent. The proportion was higher – namely, 11.64 percent – for the eight MMP elections from 1996 to 2017. However, as [Table 1](#) shows, this reflects the rise in the proportions of special votes that were cast in the general elections held after 2011. Prior to 2014, the overall share of special votes cast in the six general elections from 1996 to 2011 was 10.59 percent, which is a slightly lower figure than that for the twelve first-past-the-post elections, suggesting something other than the change of voting systems is at play here.

Of particular interest is the rate of special voting in the Māori electorates during this time period. [Figure 1](#) compares the proportions of valid special votes cast in Māori and general electorates from 1960 through to 2017. It is striking that from 1960 through to 2017, without exception, the proportion of special votes in Māori electorates was greater – and at times significantly greater – than in general electorates in every one of the 20 general elections studied here. Even more striking, despite the finding (above) that the overall proportion of total special voting was, on average, higher for the eight MMP elections than it was for the twelve first-past-the-post elections, the opposite was found to be the case when the Māori electorates were looked at separately. In the twelve first-past-the post elections from 1960 to 1993, 23.6 percent of valid votes cast in the Māori electorates were special votes; in contrast, the average rate of special voting in the Māori electorates in the eight MMP elections was 18.9 percent (Pengelly 2018). What is more, the rises and falls in the rates of special voting in the Māori electorates follow a course that is seemingly disconnected from electoral system change, reaching a high of 39 percent in 1990 (under first-past-the post) and an all-time low of 13.6 percent in 2002 and 2005 (both these general

Table 1. The numbers of valid votes and special votes cast in general elections – and the proportions of special votes – in New Zealand from 1960 to 2017.

Year	Total valid votes	Total special votes	Special votes %
1960	1,170,503	101,188	8.64
1963	1,198,045	105,490	8.81
1966	1,205,095	102,459	8.50
1969	1,340,168	130,578	9.74
1972	1,401,153	139,348	9.95
1975	1,603,733	159,988	9.98
1978	1,710,173	197,595	11.55
1981	1,801,303	202,095	11.22
1984	1,929,201	211,195	10.95
1987	1,831,777	232,589	12.70
1990	1,824,092	242,355	13.29
1993	1,922,796	197,702	10.28
1996	2,072,359	238,306	11.50
1999	2,065,494	218,109	10.56
2002	2,031,617	202,770	9.98
2005	2,275,629	230,006	10.11
2008	2,344,566	250,353	10.68
2011	2,237,464	240,351	10.74
2014	2,405,622	300,915	12.51
2017	2,591,896	417,980	16.13

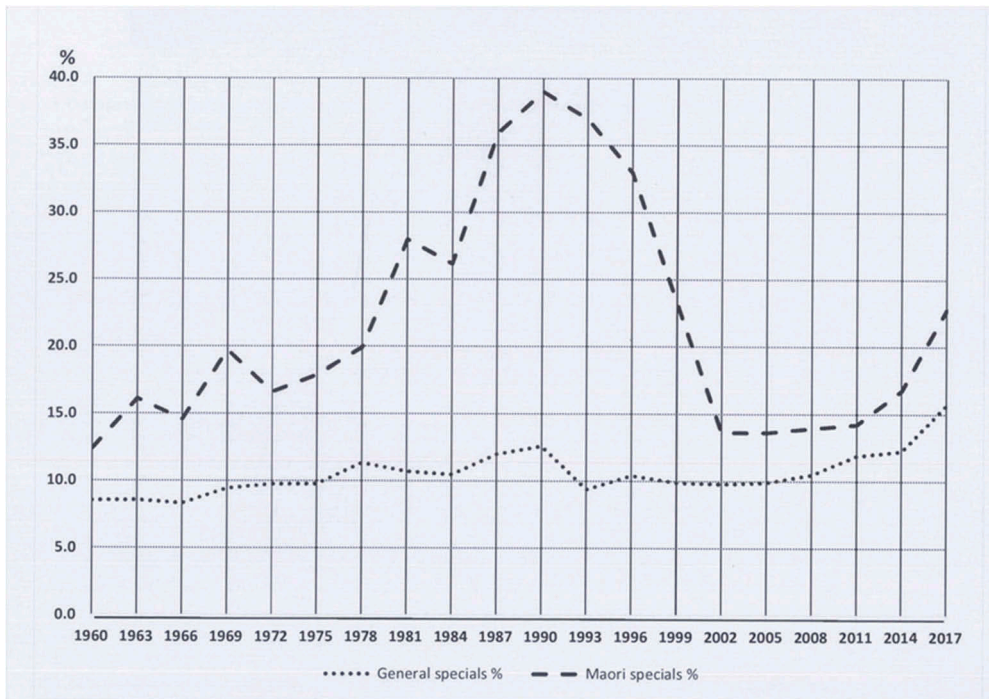


Figure 1. The proportions of special votes cast in Māori electorates and in general electorates.

elections were after the introduction of MMP). This suggests that the changing rates of special voting, in the Māori electorates at least, are best explained by something other than the adoption of MMP. This phenomenon is explored in more detail later in this article.

The effects of special votes in first-past-the-post elections

Under first-past-the post, there was no overall party vote that was tallied throughout the country as a whole. The outcome of general elections was determined by votes for candidates (usually, but not always, representing political parties) in separate electorates. During the twelve first-past-the-post general elections from 1960 to 1993, there were 1,070 individual electorate races (reflecting the increase in the size of the House of Representatives during the period from 80 to 99 seats). The numbers and proportions of special votes cast in each of the 1,070 electorates have been examined, and to assist in an understanding of the effects of special votes, an analytical tool has been developed for this article. It is called the special vote differential. To take one electorate as an example, [Table 2](#) examines the electorate race that Professor Keith Sinclair ‘won’ on election-night figures but lost after special votes had been counted and the final results declared (namely, Eden in 1969).

The example illustrated in [Table 2](#) is not unusual. As [Figure 2](#) shows, an examination of the special vote differentials in the 1,070 electorate battles from 1960 till 1993 reveals that National Party candidates had an average (*i.e.* mean) special vote differential of +2.19 percent.

Table 2. Election-night, special vote, and final vote percentages in Eden in 1969, with the consequent special vote differentials highlighted in the third column of figures.

Party and candidate	Election-night vote %	Special vote %	Difference (%)	Final vote %
Labour: Sinclair	47.42	45.01	-2.41	47.13
National: Rae	47.20	49.72	+2.52	47.50
Social Credit: Molloy	5.38	5.27	-0.11	5.36
<i>n</i>	16,016	2,164		18,180

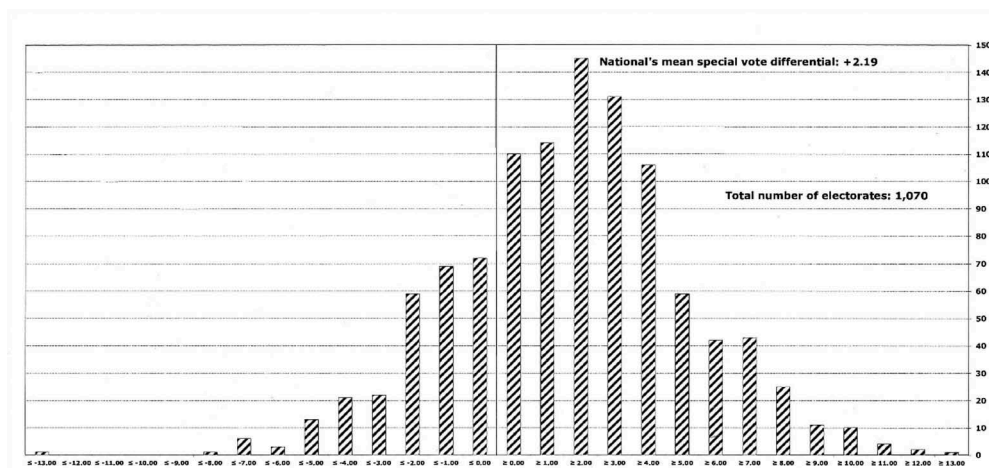
**Figure 2.** National's special vote differentials (%) in general elections from 1960 to 1993.

Figure 3, however, reveals that the Labour Party's candidates in the 1,070 contests had a mean special vote differential of -1.58 percent (and a modal differential that was, from the Labour Party's perspective, even worse – it was between -2.00 and -2.99 percent). Figures 2 and 3 clearly show that the fact that Labour lost Eden, Wellington Central, Palmerston North, and Waitaki after special votes had been counted in 1969, 1972, 1975, and 1993 respectively was not an aberration: the party's poor performance in special votes was part of a pattern.

The data in Figures 2 and 3 form almost picture-perfect normal distribution curves. However, while the distribution of the National Party's special vote differentials is overwhelmingly positive, the statistics that form the basis of the Labour Party's special vote differential normal distribution curve are predominantly negative. It is little wonder, then, that National benefitted by a margin for four to one after special votes has been tallied in nail-bitingly close marginal electorates from 1960 through to and including 1993, which marked the end of the era of first-past-the-post general elections in New Zealand.

There is clear evidence in first-past-the-post electoral systems of higher voter turnout in marginal seats and close races. As one of many studies has noted, marginality 'remains a statistically significant predictor of turnout' (Denver, Hands, and MacAllister 2003, 174).

Figure 4 shows that the data compiled for a total of 570 electorates that could be classified as either safe, fairly safe, or marginal⁴ over the course of seven general elections in the 1960s, 1970s, and 1980s produced a reasonably satisfactory version of a normal distribution curve. Voters in safe National and safe Labour seats⁵ were less likely to cast special votes than electors in fairly safe seats, and they too, in turn, were less likely to cast

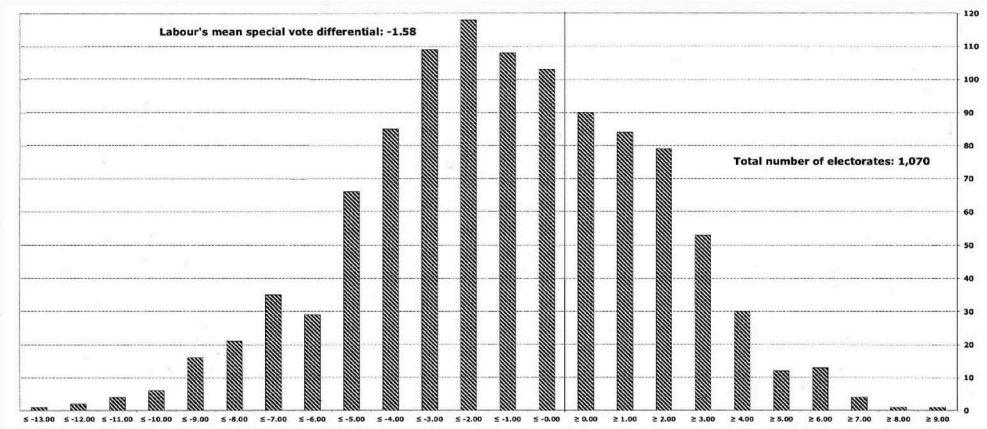


Figure 3. Labour's special vote differentials (%) in general elections from 1960 to 1993.

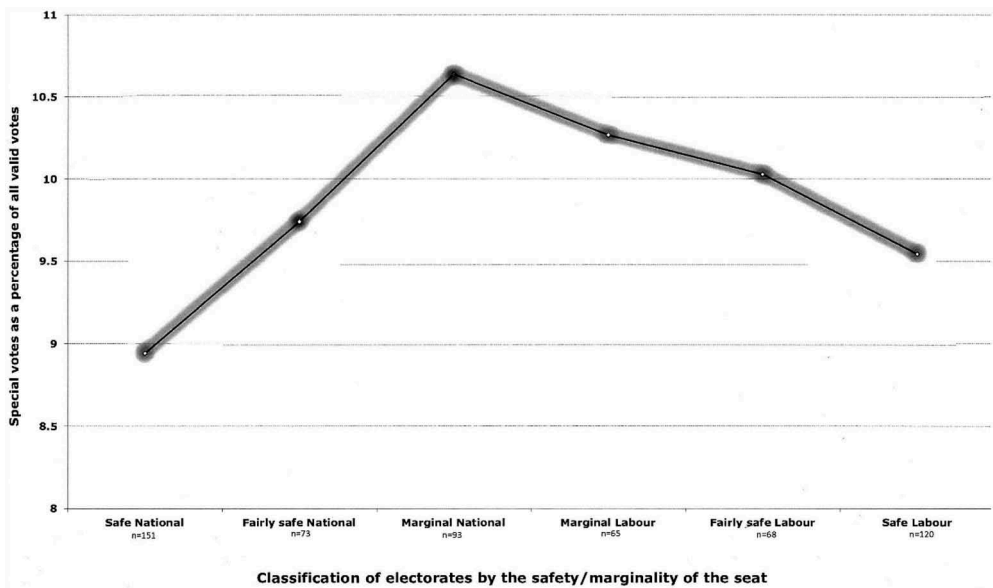


Figure 4. The proportions of special votes cast in safe, fairly safe, and marginal electorates in seven first-past-the-post general elections in New Zealand between 1960 and 1981.

special votes than electors in marginal National or marginal Labour seats. When one's vote is more likely to count – that is, when it could possibly affect the result – electors are more likely both to vote and to cast a special vote. One reason for this, of course, is that political parties pay greater attention – they give more money and more resources – to tight contests. As Pattie and Johnston (1998, 46) have noted, 'parties are rational in their local campaign expenditure; they react sensibly to local conditions, putting most into marginal seats, and least into seats where they have no real chance of winning'. Special voting data from New Zealand gives further support to findings like these.

The effects of special votes in MMP elections

New Zealand's switch from first-past-the-post to proportional representation had a dramatic effect on the political landscape of the country. Under first-past-the-post, every election from 1935 up to and including 1993 resulted in a single-party majority government in Parliament. By contrast, in all eight elections since the introduction of MMP, no party has – on its own – held an absolute majority of the seats in the House of Representatives. Under MMP each voter has two votes – one for a political party and another for an electorate candidate. The party vote throughout the country as a whole is of primary importance: it is directly responsible for determining the number of seats that parties win in Parliament. Consequently, when analysing the effects of special votes in New Zealand's general elections under MMP, the focus of this article of necessity switches from the votes in individual electorates (which had to be scrutinised in first-past-the-post elections) to the party votes won throughout the entire country by the political parties contesting the election. Nevertheless, it is still possible to calculate and use the parties' special vote differentials to analyse the effects that special votes have had on the outcome of New Zealand's general elections. [Table 3](#) uses data from the 1999 election to show how the parties' special vote differentials are calculated under MMP using the parties' party votes.

The 1999 general election has been chosen as an example because it was the first time that the Green Party contested an MMP election in its own right (it had fought the 1996 general election as part of the Alliance). From 1999 through to and including the 2017 general election, the National, Labour and Green parties all crossed the 5 percent party vote threshold for Parliamentary representation at each election. The New Zealand First party's record was not quite as flawless (not only did it fail to reach the 5 percent threshold in 1999, but it also fell short of the mark in 2008); however, in the eight MMP elections, New Zealand First was the only party other than National, Labour, and the Greens to achieve an overall party vote in excess of 5 percent (it averaged 7.53 percent of the votes cast in the eight elections). Other parties that have achieved Parliamentary representation during the MMP era have, frankly, faded into insignificance – after the 2017 election, ACT managed merely to retain its sole electorate seat in the House of Representatives, while the United Future and Māori parties were no longer represented at all in Parliament. As a result, this analysis of the distribution of special votes under MMP focuses on what can, with some justification, now be called New Zealand's four main political parties. [Figure 5](#) illustrates their special vote differentials.

The data summarised in [Figure 5](#) are striking. The National Party's strong performance in the special vote count in first-past-the-post elections has completely disappeared under

Table 3. Election-night, special, and final party vote percentages in New Zealand in 1999, with the consequent special vote differentials highlighted in the third column of figures.

	Election-night vote %	Special vote %	Difference (%)	Final vote %
Party				
Labour	38.90	37.38	-1.53	38.74
National	30.68	28.96	-1.72	30.50
Alliance	7.85	6.83	-1.01	7.74
ACT	7.00	7.40	+0.40	7.04
Green	4.86	7.66	+2.80	5.16
NZ First	4.30	3.93	-0.37	4.26
Others	6.41	7.84	+1.43	6.56
<i>n</i>	1,847,385	218,109		2,065,494

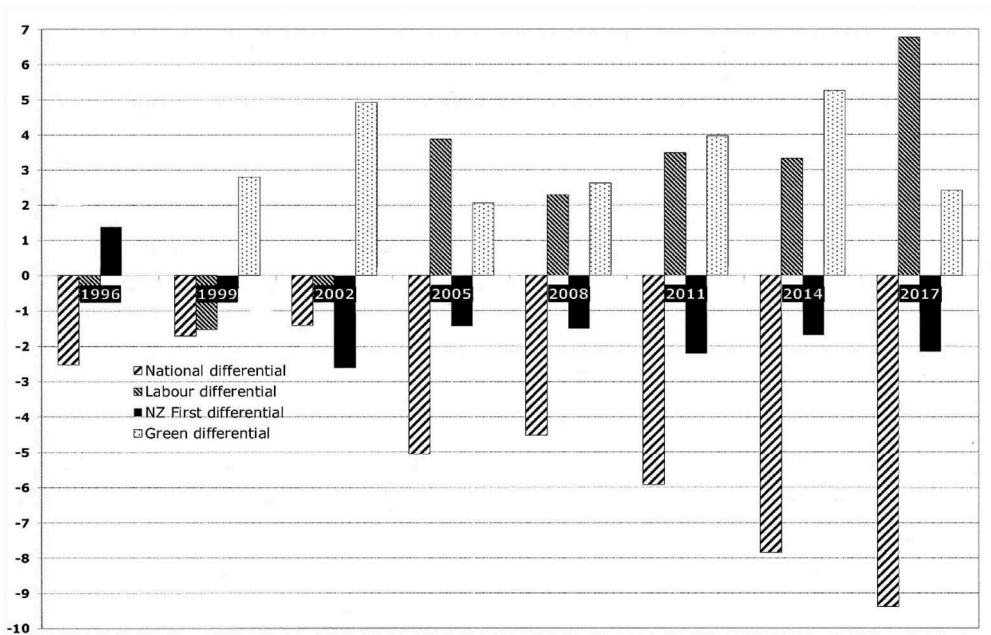


Figure 5. Special vote differentials (%) for New Zealand's four main political parties in the eight MMP elections from 1996 to 2017.

MMP. The party did not have one positive special vote differential in New Zealand's first eight proportional representation elections. Not only was National's differential consistently negative, but the trend for the party has also been clearly downward. While the Labour Party had small negative differentials for the first three MMP election, its fortunes changed in 2005. Since then, the party has been in positive territory – and stunningly so in 2017. New Zealand First's best-ever performance at a general election – namely, its 13.35 percent of the valid votes cast in 1996 – was accompanied by the party's sole positive special vote differential. During the next seven proportional representation elections, New Zealand First had a consistently small negative differential (ranging from -0.37 percent in 1999 to -2.62 in 2002).

However, what really – and rightly – catches one's attention in [Figure 5](#) is the performance of the Green Party. Its special vote differential was positive in each of the seven MMP elections it has contested as a separate party. In five of the elections, the Greens had the best special vote differential of all the main political parties. Its performance was eclipsed by Labour in only the 2005 and the 2017 general elections, in both cases due to exceptional circumstances unique to those particular elections.⁶

The data used to construct [Figure 5](#) can themselves be summarised by looking at the seven MMP elections contested by all four of New Zealand's main political parties. [Table 4](#) does this.

These data not only represent a very large change from the situation that existed under New Zealand's first-past-the-post electoral system – when the National Party was clearly the nett beneficiary of special votes, but they also show why the parties of the Left have consistently gained seats in Parliament after special votes have been counted in general

Table 4. The total election-night, special, and final party vote percentages in New Zealand's seven MMP general elections from 1999 to 2017, with the consequent overall MMP special vote differentials highlighted in the third column of figures.

	Election-night vote %	Special vote %	Difference (%)	Final vote %
Party				
Labour	34.44	38.67	+4.23	34.94
National	40.31	35.46	-4.86	39.75
Green	7.09	10.47	+3.38	7.49
NZ First	6.88	5.22	-1.66	6.69
Others	11.27	10.18	-1.08	11.14
<i>n</i>	14,091,804	1,860,484		15,952,288

elections held under New Zealand's mixed member proportional electoral system. [Table 5](#) documents the changes in seats that have occurred.

As has already been mentioned, special votes in 1999 changed the status of the government – from a majority coalition government (in which the Labour and Alliance parties had a total of 63 seats out of 120 in Parliament) to a minority coalition with 59 seats – two short of an absolute majority – in the House of Representatives. Dramatic as it was, however, the Greens' entry to Parliament on a small tidal wave of special votes did not alter the character of the government. In light of the attitude of Jim Anderton towards his former Alliance partner, the Green Party was never going to be permitted to be a formal part of the government created as a result of votes cast during the 1999 general election.

The effect of special votes on the formation of governments was probably most apparent in 2005 and in 2017, which is ironic in the case of the 2005 election, because – as [Table 5](#) shows – special votes in 2005 had less impact on the overall outcome of any MMP election other than the 1996 general election (when no seats changed hands as a result of the special vote count). In 2005, election-night figures saw the Labour Party and the National Party win 50 and 49 seats respectively. Winston Peters, the leader of New Zealand First, had said he would initially talk about government formation with the leader of the largest political party, so the question became, Could National possibly become the largest party in Parliament once special votes had been counted? Given National's pre-eminent record in harvesting special votes during the first-past-the-post era, National gaining seats as a result of special votes cast in 2005 was not something that could be discounted entirely. However, this was not to be, because – as [Figure 5](#) shows – in 2005 National had a special vote differential slightly greater than minus five percent, while Labour's special vote differential was nearly plus four percent (which was Labour's highest

Table 5. Seats gained and seats lost as a result of special votes cast in New Zealand's eight MMP general elections from 1996 to 2017.

	1996	1999	2002	2005	2008	2011	2014	2017	Total seats affected
Labour	0	-3	0	0	0	0	0	+1	4
National	0	-2	0	-1	-1	-1	-1	-2	8
Green	-	+7	+1	0	+1	+1	+1	+1	12
NZ First	0	-1	0	0	0	0	0	0	1
Alliance	0	-1	0	0	0	0	0	0	1
ACT	0	0	0	0	0	0	0	0	0
United	0	0	-1	0	0	0	0	0	1
Māori	-	-	-	0	0	0	0	0	0
Total seats affected	0	14	2	1	2	2	2	4	27

special vote differential prior to 2017). Special votes cast in 2005 reduced National's tally of seats in Parliament by one (and no other party lost or gained seats; the overhang was also reduced by one and instead of a Parliament of 122, the country ended up with a Parliament that for the next three years had a total of 121 seats).⁷ New Zealand First began post-election discussions with the Labour Party (which after special votes had been counted was clearly the largest party in Parliament), and as a result New Zealand First signed a confidence-and-supply agreement with the government and Winston Peters became Minister of Foreign Affairs but without a seat in the Cabinet. The 2005 government set a clear precedent for the formation of every New Zealand government since then, each of which has featured parties with confidence-and-supply agreements with the government and full portfolio Ministers outside Cabinet.

Table 5 also shows that special votes in 2017 had the second-greatest overall effect on seats in Parliament in any MMP election. National's election-night tally was reduced from 58 to 56, while Labour and Green representation in Parliament rose by one seat apiece. It will never be known what might have happened had National not had a disastrous special vote differential in 2017 (it was close to minus ten percent) while Labour had its best-ever special vote differential (it was +6.77 percent) and the Greens were in positive territory too (+2.41 percent). However, a plausible 'What if?' or counterfactual argument can be made for saying that New Zealand First and its leader, Winston Peters would have found it extremely difficult to deny a party with 58 of the 120 seats in Parliament its 'rightful' place in government. As it was, when it was first formed, the government – with a combined total of 63 seats (46 Labour, 9 New Zealand First, and 8 Green seats) in the 120-member House of Representatives – found 'loud challenges being made to [its] legitimacy' (Edwards 2017b), and its 'political opponents [were] suggesting it [was] somehow not legitimate' (Edwards 2017a). A Labour-New Zealand First-Green government with just 61 seats in Parliament would have likely been smeared as illegitimate from the start.

The impact of MMP

Almost immediately, the change to MMP had a significant and direct impact on the effect of special votes on the composition of Parliament. Under first-past-the-post from 1960 to 1993, in 12 elections, the results in only five seats (affecting a total of just 10 candidates) changed from the provisional election-night count to the final official result. In contrast, as Table 5 shows, in every MMP election barring the first one, the makeup of Parliament switched from the provisional to the official count, impacting an overall total of 27 seats in only eight elections. This is mainly due to the primacy of the party vote under MMP that is cast and counted in a New Zealand-wide electorate.⁸ Special votes, rather than being divided between many electorates are, instead, consolidated in one count throughout the country as a whole, increasing the possibility they will lead to seat changes and thus amplifying their impact on the composition of Parliament and, potentially, government.

The move to MMP also coincided with a marked change in the partisan hue of special voting. National did particularly well in special votes under first-past-the-post, but under MMP it has fared badly. Conversely, Labour has had a largely positive experience with special votes under proportional representation, whereas its first-past-the-post performance was dismal. Under MMP, the Green Party has been the chief beneficiary of special

votes: it has gained seats in six of the seven MMP elections it has contested as a separate political party and has had positive special vote differentials throughout. But what accounts for this change?

Looking at election results more generally, National was the dominant party under first-past-the-post. While Labour had a surplus of votes in relatively few urban and Māori electorates, National had a more optimum geographic spread of votes around the general electorates (Arseneau 2010, 293). According to Jack Vowles, this meant first-past-the-post's translation of votes to seats bestowed National with an advantage over Labour, that is, an advantage over and above the exaggeration that first-past-the-post typically gives to the winning party (Vowles 2008, 169–170). It is also notable that under first-past-the-post, Labour only once formed a government with less than 45 percent of the total vote; Reform/National were able to do so six times. This was because votes for minor parties disproportionately hurt Labour; when voting for minor parties rose, Labour was less likely to become the government. These minor party votes tended to hurt Labour in the marginal seats where just a few votes were decisive: 'Smaller parties to Labour's centre or left chipped away at votes it needed in marginal seats' (Vowles 2008, 172).⁹

This National Party dominance is also replicated in the analysis of special voting in the twelve first-past-the-post elections from 1960 to 1993. Figures 2 and 3 showed the degree to which the National Party benefitted from the distribution of special votes, and the extent to which Labour suffered. It was also found to be fairly consistent: National had a *positive* differential in all but two elections from 1960 to 1993; conversely, Labour's special vote differential was *negative* in all but two elections. Through these twelve elections, overall, National's mean special vote differential was +2.19 percent compared with Labour's -1.58. Once again, the key features identified by Vowles – the geographic spread of votes, marginality, and the impact of votes for smaller parties – also help to explain National's advantageous special vote differentials under first-past-the-post.

As discussed in relation to Figure 4, both National and Labour electors were more likely to cast special votes in marginal seats than in fairly safe or safe seats in the seven first-past-the-post elections analysed from 1960 to 1981 (noting that 1963 was excluded due to boundary changes). The Figure also shows that National had more marginal seats – 93 compared to Labour's 65. A closer examination of the two parties' relative special vote differentials according to the marginality of electorates is revealing. The performance of the National Party is almost a model of rational voting behaviour. The party's special vote differentials were lowest in its own safe and fairly safe seats and in Labour's safe seats; and highest in Labour's fairly safe and marginal seats, and in National's own marginal seats. In sharp contrast, Labour's special vote differentials were at their best (that is, the least negative differential) in unwinnable safe National electorates and at their worst in its own marginal Labour electorates. To put this in context, across the seven elections, the mean special vote differential for National was +2.82 percent and for Labour it was -2.53; but in the crucial marginal electorates, National's performance rose above its mean (+3.86 in marginal Labour and +3.61 percent in marginal National electorates) while Labour's fell below its mean (-3.66 in marginal National and -4.28 percent in marginal Labour electorates).

National's special vote advantage in marginal seats has dissipated under MMP. New Zealand is now, in effect, a single, marginal electorate and the resulting consolidation of the special vote count seems to have caused a dramatic change in the partisan make-up of special voting in New Zealand. Upon closer examination, though, the impact of MMP

might better be classified as leading to a change of the partisan *effects* rather than a change of the partisan *make-up* of special votes. The calculations of special vote differentials in this article are done – quite rightly – electorate-by-electorate for the first-past-the-post election results and New Zealand-wide using the party vote for the MMP results. Using New Zealand’s final first-past-the-post election in 1993 as an example, the special vote differentials for National and Labour were +2.50 percent and –1.48 respectively. These represent the electorate-by-electorate averages. But a simple recalculation of these special vote differentials on a total New Zealand-wide basis provides a very different result. The National Party overall differential would switch from a positive result to a negative one – from +2.50 to –0.94 percent. The Labour Party’s special vote differential does the opposite: it changes from –1.48 to +0.13 percent. This recalculation has a similar effect on the two previous elections (1987 and 1990) as well – a much improved special vote differential for Labour and a worse one for National when the votes are counted throughout the country as a whole rather than in each individual electorate. This exercise highlights the impact of special votes when they were, of necessity (for that is how first-past-the-post elections work), tallied in a series of separate, single-member districts.

MMP has also helped to mitigate the negative impact for Labour of the votes cast under first-past-the-post for smaller parties. With MMP, multi-party governments have replaced the single party governments of first-past-the-post. As a result, there is a need to think in terms of growing a bloc of aligned parties rather than focusing solely on the two major parties (see Arseneau and Roberts 2015). Hence the votes for smaller parties – provided they go to a party that crosses an MMP threshold and are aligned to the same bloc – are no longer the liability for Labour that they were under first-past-the-post. Instead, as Miller (2005, 10) argues, Labour’s success post-MMP has largely been due to its ability to work with these smaller parties. This too has led to a significant change in the partisan effects of special votes, best illustrated by comparing the impact of special votes for the Green Party under MMP to that of the party’s first-past-the-post predecessor, the Values Party.¹⁰ In every election from 1972 to 1981, Values had a larger share of its vote come from special votes than any other party – including National – and often by a significant margin. But as no Values candidate was ever elected, the party’s special votes did not impact the outcome and therefore were, in effect, wasted votes. Under MMP, the Green Party has similarly performed well in special votes and has achieved a positive special vote differential in every election the party has contested thus far. However, in sharp contrast to the Values Party, the Greens’ special votes led to a gain of 12 seats, across seven elections, once special votes were counted. Of particular focus here is the differing impact this has had on Labour: while the votes for the Values candidates were of no benefit to Labour, and likely even detrimental based on Vowles’ analysis, under MMP the Greens’ special votes – because they have translated into seats and because Labour and the Greens are in the same left-of-centre party bloc – rather than being lost to Labour or wasted, they are available to support Labour. And therein lies the important difference with MMP.

In light of this, the true partisan impact of special votes under MMP is clearer in [Figure 6](#) which combines the Labour and Green special vote differentials.¹¹ A number of interesting features stand out. First, since 1999 the special vote differential movement from National to Labour/Greens has been gradual and steady. Second, this trend does not seem to be acutely affected by the particular circumstances of each election. It remains steady in the face of changing voter turnout – as demonstrated by comparing elections in

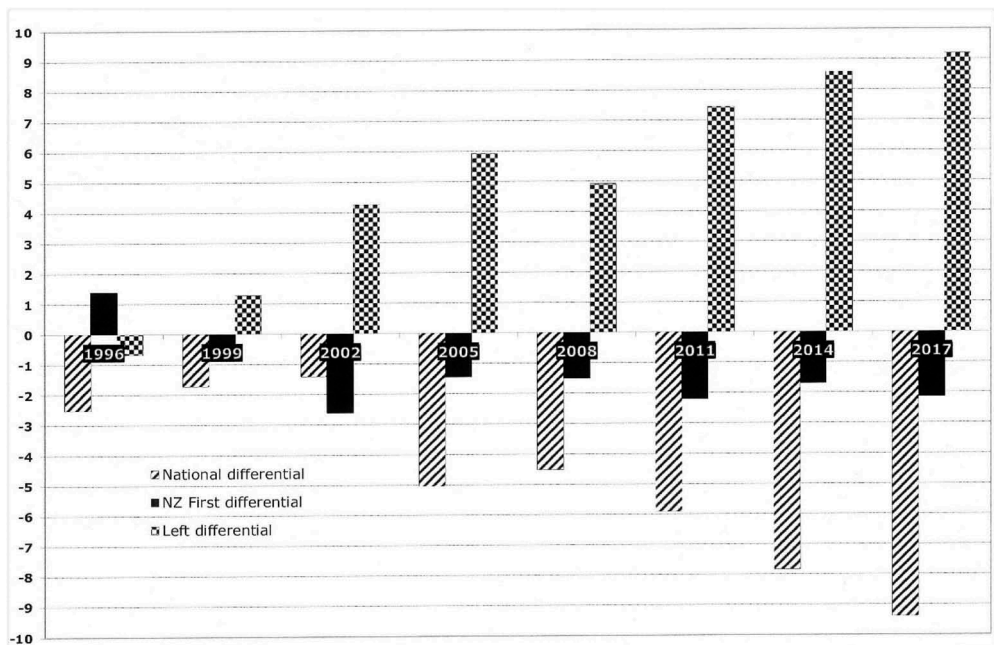


Figure 6. Special vote differentials (%) for National, for New Zealand First, and for the combined Left vote (*i.e.* the combined Labour-Green vote) in the eight MMP elections from 1996 to 2017.

2002 (with a low turnout) and 2005 (with a high turnout). It also seems to be unaffected by partisan popularity at elections; for example, the negative differential continued through the National Party's period of electoral dominance – 2008, 2011, and 2014. Labour did not do well overall in the 2011 and 2014 general elections and yet the combined Labour/Green positive special vote differential continued to grow. While acknowledging the positive effect for the Labour Party – of policy promises such as interest-free student loans in 2005 and the 'Jacinda effect' of 2017 – to tap into pools of new or intermittent voters (arguably at the Green Party's expense), it is noteworthy that the combined Labour/Green partisan special vote differential *trend* line does not shift significantly.

Table 6 sheds further light on the source of the incremental partisan change of special voting. It shows the Greens, Labour, National, and New Zealand First's proportional share of each of the following categories in elections from 1999 to 2017: ordinary votes, overseas votes, party-only special votes, domestic specials cast prior to election day, and domestic special votes on election day. Ordinary votes are counted on election day and make up the provisional count; the other four categories are all special votes and thus part of the official, final count. Comparing a party's share of each type of special votes to its share of ordinary votes helps show what underlies the gradual shift in the parties' positive or negative differentials highlighted in Figure 4. Bold type signifies a category of special votes where a party's percentage is higher than its percentage of ordinary votes; non-bold signifies the opposite – a category where the party's provisional count is higher than that category of special votes.

Looking at the Greens, the story is one of consistency of positive effects for special votes, right across all four categories in every MMP election the party has contested in its own

Table 6. The proportional share of ordinary votes, overseas votes, party vote only specials, domestic specials prior to election day, and domestic special votes on election day cast for New Zealand's four main political parties in general elections from 1999 to 2017.

		Proportion of Valid Votes (i.e. excluding informal votes)				
		Provisional Ordinary Votes	Overseas Special Votes	Party Only Votes	Special Votes Before E. Day	Special Votes on E. Day
1999	Greens	4.9%	5.7%		6.1%	8.0%
	Labour	38.9%	30.7%		38.4%	37.7%
	National	30.7%	36.1%		27.7%	28.7%
	NZ First	4.3%	2.5%		5.8%	3.8%
2002	Greens	6.5%	14.3%	13.6%	8.0%	11.3%
	Labour	41.3%	39.4%	44.6%	42.3%	40.1%
	National	21.1%	23.3%	14.3%	21.0%	19.7%
	NZ First	10.6%	4.1%	8.2%	11.2%	8.1%
2005	Greens	5.1%	11.1%	5.9%	5.6%	6.9%
	Labour	40.7%	38.3%	53.9%	41.3%	44.7%
	National	39.6%	40.9%	22.5%	38.2%	34.8%
	NZ First	5.9%	3.1%	4.5%	6.1%	4.4%
2008	Greens	6.4%	13.8%	6.9%	7.3%	8.8%
	Labour	33.7%	27.1%	46.1%	36.1%	35.9%
	National	45.4%	51.0%	28.9%	42.2%	40.9%
	NZ First	4.2%	1.2%	2.8%	4.3%	2.70%
2011	Greens	10.6%	22.7%	12.5%	12.6%	14.4%
	Labour	27.1%	21.2%	41.0%	31.1%	29.6%
	National	48.0%	48.6%	28.6%	43.0%	43.6%
	NZ First	6.8%	1.9%	4.8%	6.2%	4.6%
2014	Greens	10.0%	26.5%	12.4%	14.1%	13.8%
	Labour	24.7%	18.0%	38.0%	29.2%	27.3%
	National	48.0%	45.4%	29.0%	39.7%	42.1%
	NZ First	8.9%	3.1%	8.7%	7.3%	7.7%
2017	Greens	5.9%	15.2%	6.2%	7.8%	6.6%
	Labour	35.8%	38.2%	52.4%	43.6%	40.0%
	National	46.0%	37.4%	26.4%	36.5%	39.5%
	NZ First	7.5%	2.9%	6.6%	5.1%	6.5%

right. New Zealand First's special votes have only ever outperformed its ordinary votes in one category – specials before election day from 1999 through 2008. Even in this category, though, the party's specials were in steady decline, and from 2011 the party's share of ordinary votes was higher than each and every category of special votes. Labour's experience is one of gradual but steady and – so far – unrelenting improvement across the special vote categories. In 1999 Labour's ordinary vote share was higher than every category of special votes. In 2002, two special vote categories (party-only vote and specials before election day) outperformed ordinary votes; and for the next four elections (adding specials on election day) in three categories. The final breakthrough in 2017 with the overseas votes favouring Labour as well – arguably, somewhat at the Greens' expense – led to a significant overall margin of special votes over ordinary votes. National's special votes journey is perhaps the most striking, especially given its dominance under first-past-the-post. Under MMP, from 1999 to 2011, National's special vote share has only ever outperformed its ordinary vote share in one category – that is, overseas votes – and since 2014, in no categories, and in 2017 this was by a significant margin.

The real impact and significance of Table 6 is best understood when studied alongside Figure 7. This shows the percentage and relative share of each category of special votes as a share of the total special votes cast in each election. It also clearly demonstrates the

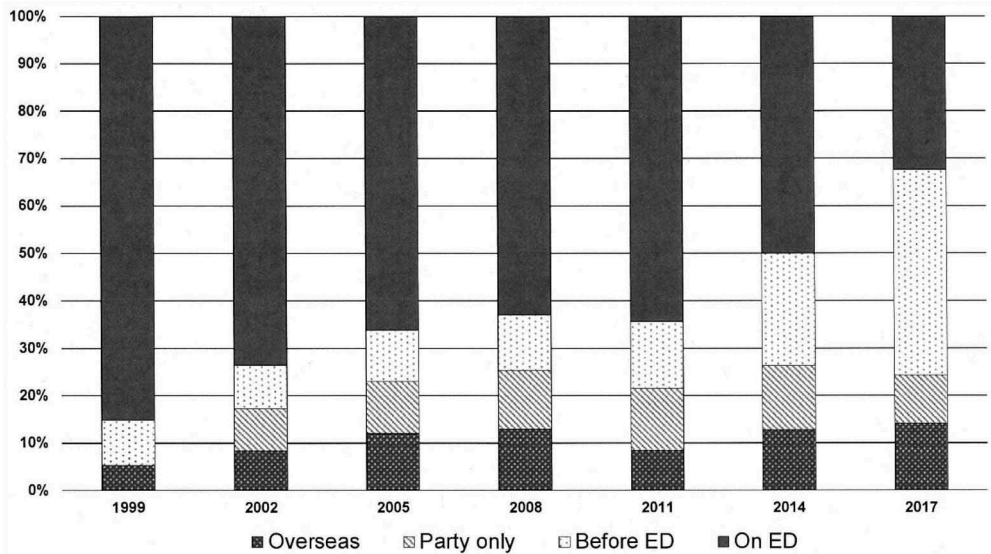


Figure 7. The proportions of the different categories of special votes cast in MMP elections in New Zealand from 1999 to 2017.

changes in proportion and therefore importance of each category over the seven elections from 1999 to 2017. This helps to better illustrate what type of special voting drove the significant growth in special votes in 2014 and 2017 that was noted earlier. For example, the Electoral Commission pointed out in its report on the 2017 general election that the overseas votes increased by 53 percent on 2014. But in terms of sheer volume, what is most striking, when comparing and contrasting the profile of special votes in 1999 to that of 2017, is the decline in the relative share of election day specials and the significant increase in the proportion of domestic specials before election day.

An analysis of [Table 6](#) and [Figure 7](#) together sheds more light on the fragility of National's special vote profile in MMP elections thus far. It is notable that National's overall special vote differential immediately shifted to negative with the switch to MMP, the only exception in terms of type of special votes being overseas votes through to 2011 – a category that is relatively dwarfed in terms of sheer numbers cast by special votes both before and on election day. In contrast, while Labour only shifted into positive territory in terms of its overall special vote differential in 2005, the party's gradual growth in the share of special votes has been strong in special votes before and on election day – the categories which consistently account for the bulk of special votes cast in general elections. Finally, the strength of the Greens' special vote profile – right across the board – combined with their success in converting these votes to seats, clearly demonstrates the impact of MMP.

The importance of electoral legislation and processes

In accounting for the changes in special votes over the 57 years examined here, it is clear that the move from first-past-the post to MMP is an important, even fundamental, cause.

But the advent of MMP – in and of itself – does not provide a full explanation. There are other less high-profile reforms that are critical to understanding what lies beneath the changes in the patterns of special voting. One such change was the extension of the enrolment period, from writ day to the day before election day. This was done just once under first-past-the-post (in 1990), but has been in effect for every MMP election, and has operated in tandem with the effects of MMP to amplify the impact of special voting. While MMP may have provided new incentives for more – and more politically varied – special voting, the extended deadline for enrolment provided the opportunity: these extra weeks allow unenrolled electors to react to the specifics of an election campaign and mobilise accordingly. For example, the promise of interest-free student loans, National's plans to abolish the Māori seats, and fears about the future of state housing are thought to have been factors in the increased voter turnout in 2005, including through special voting (see White 2005).

The fact that the rates of special voting were relatively static in the first six MMP elections, but that there were sharp increases in 2014 and 2017 suggest that something more than MMP is driving the changes in special voting. Analysis of the Māori electorates provides some interesting insights. Returning to [Figure 1](#), the higher rates of special voting in Māori electorates is marked, as is their ebb and flow. But of particular focus here is understanding *why* and *when* the rates changed, as their rise and fall do not neatly coincide with electoral system change. To examine this more fully, it is helpful to separate the Figure into three time periods: 1960–1984; 1987–1999; 2002–2017.

In the first time period, and under first-past-the post generally, the greater proportion of special votes in Māori electorates was, for the most part, due to the relatively small number of polling places designated for voters on the Māori roll and therefore a relatively low ability to cast ordinary votes when compared with voters in general electorates. As McRobie (2000, 38) argues, 'because ordinary Māori electorate polling places were far more thinly spread than general polling places, ... Māori electors were often required to travel far greater distances than non-Māori electors in order to cast an ordinary vote.' The alternative, taken up by many on the Māori roll, was to cast a special vote at a general electorate polling place. Doing so was not only a more time consuming and difficult process, it was also far more likely to result in the vote being disallowed. As McRobie (2000, 38) highlights, the rate of disallowed special votes was particularly high in Māori electorates: in the five elections from 1972 to 1984, they averaged 41.8 percent; by contrast, the comparable figure for general electorates was 24.9 percent. Strikingly in the 1972 and 1975 elections, significantly more Māori special votes were disallowed than allowed: 21,801 special vote declarations in Māori electorates were declined as compared with 14,728 accepted.

In the second period from 1987 to 1999, the proportion of special votes in Māori electorates surged high above the rate in general electorates. This spike is a prominent feature of [Figure 1](#), particularly for the 1987, 1990 and 1993 elections – all contested using first-past-the post. The critical reform that drove this was the introduction of the tangata whenua vote which simplified the voting procedure for special voting in Māori electorates, and – crucially – as a result, the rate of disallowed special votes dropped substantially. Every general polling place had a copy of the Māori roll for the Māori electorate in which they were located. This was used to check whether the Māori elector was enrolled, and then a more simplified special vote declaration was used. In the four elections (1987–1996) following its introduction, over half of all special votes cast in Māori

electorates were tangata whenua votes, and although these vote declarations were still subject to later verification, the rate of disallowed special votes in Māori electorates dropped to an average 19.3 percent (McRobie 2000, 38). The combination of a large uptake of the tangata whenua vote and its higher rate of valid special votes explains the steep rise in the proportion of special votes in this time period.

It is worth emphasising, though, that while the tangata whenua vote improved Māori electors' ease of casting a *valid* vote, it still required them to cast a *special* vote – which remained more onerous, time consuming, and more likely to be deemed invalid – and therefore, according to Parliament's Electoral Law Committee in its review of the 1996 general election, although an improvement, still unsatisfactory. The Committee concluded that 'This is unfair to those tangata whenua voters who are on the electoral roll and who are voting in their electorate' (Electoral Law Committee 1999, 79).

Addressing this inequity led to legislative changes prior to the 2002 election to the way in which polling places were staffed and organised to make it administratively feasible to provide ordinary voting facilities for both the Māori and general electorate within which the polling place was situated. Every polling place now has at least two ballots available – including both the general and Māori roll – and most now have multiple ballots to hand. This means that since 2002, electors on the Māori printed roll can attend *any* voting place within the boundaries of their electoral district and cast an ordinary vote, thus greatly reducing the proportion of special voting in Māori electorates and supplanting the need for the tangata whenua vote.¹²

In the third time period (2002–2017), the proportion of special votes remains higher in Māori electorates than in general electorates, but what is most striking is that this gap has closed significantly. This narrowing is due to the marked decline in the rate of special voting in Māori electorates – from a high of 39 percent in 1990 to 13.6 percent in 2002, the lowest rate since 1960. Finally, [Figure 1](#) also shows that the proportion of special votes in the last two elections was on the rise in both the Māori and general electorates. Unlike such rises in the past, they appear relatively in step suggesting a cause common to both electoral rolls. This is significant, and suggests that something more is at play, particularly when explaining the changes in 2014 and 2017.

The root of these dramatic changes in 2014 and 2017 is best traced back to a seemingly unrelated change to electoral law. In 2010 Parliament reformed procedures for advance voting that removed the requirement for electors to make a statutory declaration that they are unable to vote on election day, thus opening the door to 'no excuse' advance voting (see Nicoll 2017; Electoral Commission 2015). In 2011, in the immediate aftermath of the deadly Christchurch earthquake and amidst ongoing significant aftershocks, Cantabrians were specifically encouraged to advance vote. From 2014 on, this encouragement was widely and strongly communicated throughout New Zealand and has resulted in an exponential growth in advance voting; it doubled from 14.2 percent in 2011 to 28.7 percent in 2014 and then up to 47.2 percent in 2017.

Intertwined with this were further ongoing reforms that improved voting and enrolment procedures as well. The Commission (2015, ii) recognised, for example, that postal services, while still a core feature of electoral administrative processes, were in decline and that voters were 'increasingly expecting to conduct business through digital channels.' A change was introduced in 2014 to enable overseas voters to scan and upload their voting papers to a secure website – an option most of them used in 2017. The Electoral

Commission also championed further innovations designed to make advance voting even more accessible by situating voting places where people 'live, work and gather'. Advance polling booths in both 2014 and – even more extensively – 2017 were in highly visible, high traffic areas such as supermarkets, shopping malls, libraries, tertiary institutions, and marae. They operated late hours, including the Sunday before election day, and proved to be popular with voters.

Improvements in enrolment services are also key to understanding the rise in special voting. The Electoral Commission had long identified the trend of voters enrolling later and closer to election day (2018, 17), and confirmed 'the growth in [special voting in 2017] was mostly due to more enrolments after writ day.' Figure 8 uses the Commission's data to illustrate the growth in the electoral roll in the lead-up to the 2017 election and compares it to 2011 and 2014 (using the equivalent days pre- and post-election). All electors who enrol after writ day and then vote in a general election do so by a special vote.

Note the significant growth in enrolments from the opening of advance voting and a marked leap in enrolments confirmed after election day with the formal count. The growth in post writ-day enrolments – election on election on election – is striking. Again, underlying this increase was a mix of reforms, encompassing more public education campaigns, including increased use of texting, to remind the unenrolled to enrol. But most important, in 2017, the advance booths – for the first time – provided a one-stop enrolling and voting service. Following the amalgamation of the country's three main electoral agencies (the Chief Electoral Office, the Electoral Enrolment Centre, and the Electoral Commission) in 2010, Parliament passed amendments to allow electors to lodge enrolment forms at advance polling places, and electoral officials to use a digital enrolment-checking function (Electoral Commission 2018, 18).

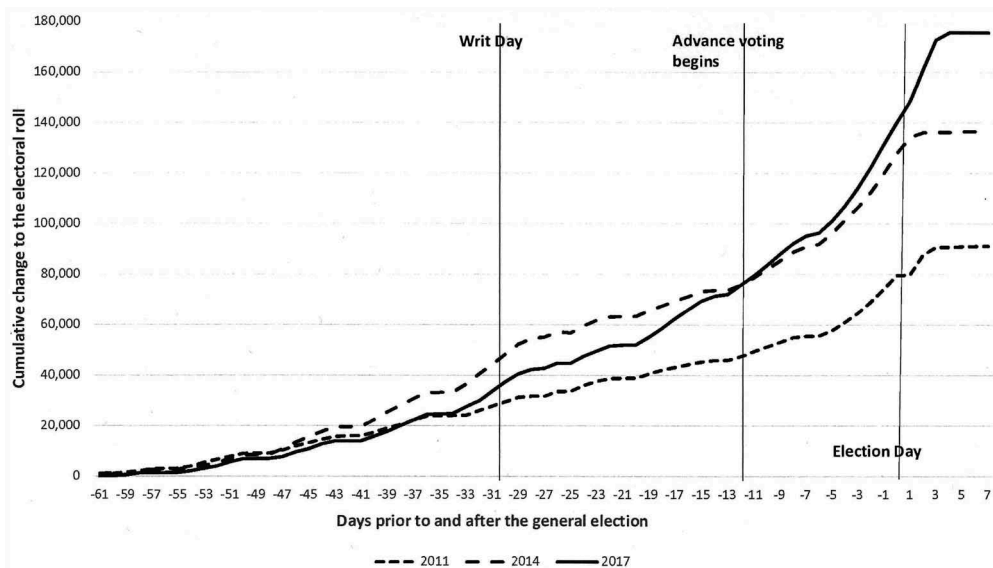


Figure 8. The growth in the electoral roll in New Zealand in the lead-up to the 2011, 2014, and 2017 general elections.

It is the greater access to advance voting, when combined with ease of enrolling and voting at the same time at these advance booths, that is critical to the substantial growth in special votes in 2017, and to the growth in the 'domestic specials in advance of election day' category in particular. Furthermore, Holly Garnett's (2018, 113–114) analysis found that New Zealand's easy-access extensive advance voting, *when combined with on-site enrolment*, was also fundamental to the increased voter turnout overall in the 2017 general election.

This not only impacts the rate of special voting but, in turn, likely had a political affect as well. Voters must be enrolled in order to cast a valid vote. According to Vowles (2018, 152), the groups most difficult to mobilise to enrol and vote tend to be those more likely to support Labour – those on lower incomes, in rental accommodation, and the young. They also tend to be more mobile and therefore require ongoing efforts to remain on the electoral rolls. His analysis of the 2017 general election found that, in sharp contrast to 2014, enrolments were up in Labour strongholds (defined as the 23 general electorates with Labour party votes of over 30 percent in 2014) while enrolments tended to be down in the remaining general electorates (Vowles 2018, 152–153). Although this increased mobilisation and turnout was largely driven by the late change of Labour leader – to the popular and effective Jacinda Ardern – the *means* for many of these voters was to cast a special vote, assisted by the combination of advance voting and a one-stop enrolment/voting service.

Conclusion

Changing New Zealand's voting system from first-past-the-post to MMP was a significant constitutional reform and it had an impact on special voting. But the lesson from New Zealand is that numerous legislative and administrative changes to enrolment and voting practices, albeit less high profile, *in conjunction with the move to MMP*, are fundamental to understanding the changing proportion and effect of special votes from 1960 to 2017. Looking forward, what does the future hold for the impact of special voting? The Electoral Commission's Report of the 2017 General Election provides some insights. The Commission (2018, 33) projects that advance voting will continue to increase over the next three elections: its estimates of total advance votes range from a low of 1.3 million in 2020 to a high of 2.8 million in 2026. Similarly, the Commission projects an increase in the number of special votes: from 550,000 in 2020 to (an upper range of) 800,000 in 2026.

Whether these special voting projections come to pass will be partly determined by Parliament. The Electoral Amendment Bill 2019 contains reforms, as recommended in the Commission's report, designed to improve enrolment and voting processes to better enfranchise voters, including making it easier for the Electoral Commission to use places such as supermarkets as voting places (Section 155A) and changes to special votes that will improve vote-issuing and counting processes at the 2023 election. The bill allows for a person who applies to enrol after writ day and before polling day to be issued an ordinary ballot paper if the rolls can be marked (manually or electronically), thus leading to increased use of ordinary ballots, with a corresponding decrease in special votes (Clause 6, section 88(3)(c)). The bill also provides that the Electoral Commission may treat a special vote declaration as an application for registration as an elector, as the enrolment form and special vote declaration form largely contain the same information (Section 83(3)(a)).

The most significant and – for some – most contentious proposed reform is to enable electors to enrol on election day (Section 88(4)). The matter has been considered before. In 1980, for example, the House of Representative’s Select Committee on the Electoral Law reported that it considered ‘whether the opportunity to register to vote should be extended from writ day (the present last day for enrolment) up to and including polling day’. The Select Committee examined the question because of ‘its interest in making the exercise of the franchise as simple as possible, [and] thereby attracting a maximum response from persons entitled to register.’ However, the Committee thought there were ‘strong reasons against such change’, and it endorsed the view that the facility to ensure qualified people get on the rolls ‘should not be stretched to the point where the ease of last-minute registration could undermine the whole system of roll administration’ (Select Committee on the Electoral Law 1980, 29). In 1995, however, in light of the major changes to New Zealand’s electoral system that had been endorsed in the binding nationwide referendum held in November 1993 and reflecting widespread concern about falling levels of turnout in general elections in New Zealand,¹³ Parliament finally changed the law to permit enrolment up to and including the day before the election.¹⁴

Will Parliament now go one step further and allow election-day enrolments? If adopted, the Electoral Amendment Bill 2019 will possibly lead to even more special votes being cast in 2020. And, as shown in this article, these special votes are likely to result in significant changes between the election night count and the final result. But this analysis is also a timely reminder that the election night result is nothing but provisional.

Moreover, while it has been shown that *both* the change of voting system to MMP *and* the greater access to late enrolment have had a significant impact on special voting, this should not be used as a reason to restrict late access to either enrolment or ease of voting. The right to vote is fundamental. Therefore, access to late enrolment and special voting should not be treated as a partisan issue, even though it has had, and could continue to have, partisan effects. Rather, it is an issue of basic democratic rights: the enfranchisement and ability to vote for all qualified residents of New Zealand.

Notes

1. There was one other possible case during the 1960–1993 period of a change in party fortunes as a result of the special vote count. On election night 1987, National’s candidate in the Wairarapa electorate had a 65-vote margin over Labour’s incumbent MP, Reg Boorman. The final count awarded the seat to Boorman by a margin of seven votes, but after an official recount that was reduced to one vote. Following a petition to review the results, however, an Electoral Court ruled that a total of 125 votes in the electorate were invalid and the Court consequently reduced Boorman’s tally by 78 votes and Creech’s total by 43 votes (and the Democrats’ candidate by four). The nett effect of all these manoeuvres was that on final Court-mandated figures Creech managed to hold the electorate that he had nominally won on election night by a final margin of 34 votes.
2. Party-only special votes are votes cast by electors who voted for an electorate other than the electorate for which they were qualified to vote, for example a voter enrolled in Christchurch Central who votes for Christchurch East. Their party vote will count but their electorate vote will not. Prior to 2002, the entire ballot was disallowed. Note that the *party-only votes* category does not include votes where the voter cast a vote for the correct electorate but did not cast a valid electorate vote (for example by leaving it blank or ticking multiple

candidates). These types of votes are fully allowed and are included in the party vote results, it is just that their electorate vote would be recorded as *informal*.

3. The Electoral Amendment Act 1990 provided that a person who applied for registration after writ day and by 4pm on the day before polling day could vote by special vote and this applied to the 1990 election. The Electoral Amendment Act 1993 (an amendment to the 1956 Act) restored the 1987 provision so that only those who became eligible between 31 days before writ day and the day before polling day could vote, and this was applied at the 1993 general election. The Electoral Act 1993 (brought into force by the referendum on the electoral system) maintained the 1987 position. It was the Electoral Amendment Act (No 2) 1995 that introduced the current provision which applied at the 1996 and subsequent elections (noting though that the 4:00 pm deadline for the application to be received no longer applies). We are very grateful to former Electoral Commission Chief Executive Robert Peden for this clarification.
4. A *marginal* seat is one that requires a two-party swing of 5 percent or less to change hands; a *fairly safe* seat needs a two-party swing of between 5 and 10 percent to fall; and any seat requiring a swing of more than 10 percent to switch allegiance is classified as a *safe* seat. See Roberts (1975, 112).
5. The 120 safe Labour seats illustrated in Figure 3 do not include the four Māori seats that were in existence for each of the seven general elections from the which the data for the Figure were extracted and analysed. This is because – as is discussed elsewhere in this article – special voting in the Māori electorates was considerably higher than special voting in the general (*i.e.* non-Māori) electorates, not least because of the fact that not every polling place in the Māori electorates was a Māori electorate booth. They were frequently general electorate polling places only, and in order to vote at them, Māori electors had to cast a special vote.
6. It is worth recalling that in 2005 a great deal of voter attention was focussed on which major party – Labour or National – would win the most votes (and thus also the most seats in Parliament) as a result New Zealand First's pledge to negotiate initially with the party that won the most votes. In 2017, there were late changes in leadership for both the Labour and the Green parties – changes that were viewed positively for Labour but more negatively for the Greens.
7. An overhang occurs when a party wins 'more seats in parliament than its proportion of the party vote would have entitled it to' (Levine and Roberts 2006, 346). As Shugart and Wattenberg have pointed out, the word overhang comes 'from the German term *überhangmandate*' and 'overhang seats actually increase the total number of seats in the chamber' (2001, 23). Four of the first eight MMP elections in New Zealand produced overhang seats in the House of Representatives. There were no overhang seats after the 1996, 1999, 2002, and 2017 general elections. The 2005, 2011, and 2014 elections all resulted in a Parliament with one additional (*i.e.* overhang) seat; the 2008 election saw the Māori Party win two overhang seats, which meant there was thus a House of Representatives of 122, the largest in New Zealand's history.
8. See Elklit and Roberts (1996), regarding the significance of upper- or controlling-tier votes in two-tier proportional representation electoral systems.
9. It is worth noting that as early as the 1950s, Ralph Brookes made similar points to those by Vowles. See Brookes (1953); and Brookes (1959).
10. The Values Party contested five elections from 1972 to 1984 and was widely viewed as New Zealand's first environmental-focused political party.
11. New Zealand First maintains it is centrally positioned in the party spectrum and, initially at least, negotiated actively with both Labour-led and National-led governing blocs. However, the party was only once (and briefly) part of a National-led government. New Zealand First has more commonly been part of Labour-led governments.
12. Provision for tangata whenua votes remained in the electoral regulations and if, for any reason, the Chief Electoral Officer or Electoral Commission decided against providing ordinary Māori voting facilities in any polling place, they would have been legally obliged

to provide tangata whenua voting facilities at that polling place. Regulation 22, which provided for tangata whenua voting, was revoked in March 2017, which means that there is no longer provision in the legislation for tangata whenua voting. We are extremely grateful to former Electoral Commission Chief Executive Robert Peden for this clarification.

13. Official turnout in the 1984 general election was 93.71 percent. Three years later it had fallen to 89.06 percent, and in 1990 was 85.24 percent. In 1993 turnout fell still further – to 85.20 percent, which was less than 79 percent of the estimated voting age population (Electoral Commission 1997, 127).
14. See Section 27 of the Electoral Amendment Act (Number 2), 1995, to the Electoral Act 1993. We are extremely grateful to Bill Moore, Parliamentary Counsel Office/Te Tari Tohutohu Paremata for his help in clarifying this point.

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References

- Arseneau, T. 2010. "2008: National's Winning Strategy." In *Key to Victory: The New Zealand General Election of 2008*, edited by S. Levine and N. S. Roberts, 272–294. Wellington: Victoria University Press.
- Arseneau, T., and N. S. Roberts. 2015. "Standing Back and Looking Forward: The 2014 General Election in Perspective." In *Moments of Truth: The New Zealand General Election of 2014*, edited by J. Johansson and S. Levine, 300–319. Wellington: Victoria University of Wellington Press.
- Brookes, R. H. 1953. "The Butler Analysis and the Cube Law: Seats and Votes in New Zealand." *Political Science* 4: 37–44. doi:10.1177/003231875300500204.
- Brookes, R. H. 1959. "Electoral Distortion in New Zealand." *Australian Journal of Politics and History* 5 (2): 218–223. doi:10.1111/j.1467-8497.1959.tb01197.x.

- Cleland, G. 1999. *Provisional Results for the 1999 New Zealand General Election*. Wellington: New Zealand Parliamentary Library. December 3.
- Denver, D., G. Hands, and I. MacAllister. 2003. "Constituency, Marginality and Turnout in Britain Revisited." *British Elections and Parties Review* 13 (1): 174–194. doi:10.1080/13689880308413093.
- Edwards, B. 2017a. "Legitimacy Swipes are Sour Grapes." *RNZ [Radio New Zealand]*, October 24. Accessed 24 April 2019. <https://www.radionz.co.nz/news/on-the-inside/342292/legitimacy-swipes-are-sour-grapes>
- Edwards, B. 2017b. "Political Roundup: The Legitimacy of the Labour-led Government." *New Zealand Herald*, October 24. Accessed 24 April 2019. https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11936270
- Electoral Commission. 1997. *The New Zealand Electoral Compendium*. Wellington: Electoral Commission/Te Kaitiaki Take Kowhiri.
- Electoral Commission. 2015. *Report of the Electoral Commission on the 2014 General Election*. Wellington: Electoral Commission/Te Kaitiaki Take Kowhiri.
- Electoral Commission. 2018. *Report of the Electoral Commission on the 2017 General Election*. Wellington: Electoral Commission/Te Kaitiaki Take Kowhiri.
- Electoral Law Committee. 1999. "Inquiry into the 1996 General Election." *Appendices to the Journals of the House of Representatives* 1996–99: I.17A.
- Elklit, J., and N. Roberts. 1996. "A Category of Its Own? Four PR Two-Tier Compensatory Member Electoral Systems in 1994." *European Journal of Political Research* 30 (3): 217–240. doi:10.1111/j.1475-6765.1996.tb00675.x.
1969. *Evening Post*. December 1.
- Garnett, H. A. 2018. "Advance Voting with Same-Day Registration: The Impact on Turnout in New Zealand." *Political Science* 70 (2): 102–116. doi:10.1080/00323187.2018.1561154.
- Levine, S., and N. S. Roberts. 2006. "The General Election of 2005." In *New Zealand Government and Politics*, edited by R. Miller, 338–352. 4th ed. Auckland: Oxford University Press.
- McRobie, A. 2000. "What's so Special about Specials?" In *Electoral Research – The Core and the Boundaries*, edited by J. Pearce and J. Taylor, 36–48. South Australia: South Australian State Electoral Office.
- Miller, R. 2005. *Party Politics in New Zealand*. Auckland: Oxford University Press.
- Nicoll, D. 2017. <https://www.stuff.co.nz/southland-times/news/96908227/increase-in-advance-voting-could-see-changes-to-electoral-advertising-rules>
- Pattie, C., and R. Johnston. 1998. "Voter Turnout and Constituency Marginality: Geography and Rational Choice." *Area* 30 (1): 38–48. doi:10.1111/j.1475-4762.1998.tb00046.x.
- Peden, R. 2019. Personal correspondence from the former Chief Executive of the Electoral Commission to the authors.
- Pengelly, A. 2018. Personal correspondence from an Electoral Commission official to the authors.
- Roberts, N. S. 1975. "'The General Election of 1972'." In *New Zealand Politics: Reader*, edited by S. Levine, 99–113. Melbourne: Cheshire.
- Select Committee on the Electoral Law. 1980. *First Report of the Select Committee on the Electoral Law*. Wellington: Appendices to the Journals of the House of Representatives, I. 17.
- Shugart, M. S., and M. P. Wattenberg. 2001. "Mixed-Member Electoral Systems: A Definition and Typology." In *Mixed-Member Electoral Systems: The Best of Both Worlds?* edited by M. S. Shugart and M. P. Wattenberg, 9–24. New York: Oxford University Press.
- The General Election 1969. 1970. Wellington: Appendices to the Journals of the House of Representatives, H. 33.
- Vowles, J. 2008. "Systemic Failure, Coordination and Contingencies: Understanding Electoral System Change in New Zealand." In *To Keep or Change First past the Post: The Politics of Electoral Reform*, edited by A. Blais, 163–182. Oxford: Oxford University Press.
- Vowles, J. 2018. "Surprise, Surprise: The New Zealand General Election of 2017." *Kōtuitui: New Zealand Journal of Social Sciences Online* 13 (2): 147–160.
- White, G. 2005. "The Impact of Special Votes in 2005." UMR Thought Piece, online at UMR website.