

# **INGREDIENTS CONDUCTIVE TO SUCCESSFUL (AND LASTING) ELECTORAL REFORM**

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**Paper prepared for the Workshop on Electoral Systems, Electoral Reform,  
and Implications for Democratic Performance**

**Program on American Democracy in Comparative Perspective  
Stanford University**

**March 14-15, 2014**

Distilling from New Zealand's experience from 1984 to 2011, this paper extracts eleven ingredients that I believe were necessary to the success of electoral reform there and that may be equally essential, or at least conducive, to reform in other established democracies, including the United States. Such a long list may seem unwieldy, but the objective here is not scientific parsimony, but pragmatic appreciation of what it takes to succeed in a difficult undertaking.<sup>2</sup>

The paper is divided into four parts. The first simply lists the eleven ingredients without elaboration. The second explains how all eleven were crucial to the reform process in New Zealand. The third points to their presence or absence when serious reform attempts failed in Britain and Canada. Part IV discusses whether each ingredient obtains or can be promoted in the U.S. The entire presentation is brief, verging on schematic. Most workshop participants will already be familiar with the history mentioned in Parts II and III, and I intend Part IV mainly as a springboard for discussion. Although some points may apply more generally, I assume a context in which the electoral status quo is a plurality-rule system and reformers advocate a more complex alternative, such as any type of proportional representation for legislative elections or instant-runoff voting (IRV) for single-winner elections.

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<sup>2</sup> Notable attempts to theorize about reform of plurality systems include Shugart 2001, Shugart 2008, Blau 2008, and Renwick 2010. There are affinities between their analyses and mine, but I am less concerned with developing a theory than with practice. Besides eschewing parsimony, I seek to use plain language and avoid clunky (though pertinent) scaffolding, such as veto-player and rational-choice analyses. For an essay on limitations and blind spots in theoretical accounts of electoral reform, see Nagel 2001.

## **I. Eleven Ingredients in a Recipe for Reform**

1. Obvious electoral unfairness or other unfavorable outcomes that can be attributed to plurality elections, thus creating a potential constituency for reform.
2. Competitive disadvantage, preferably structural, for one of the two dominant parties, thus giving it an interest in initiating some sort of reform, however modest.
3. One or more political leaders in a position to facilitate reform who do not act primarily on the basis of individual or partisan interest.
4. An impartial group with prestige and legitimacy that proposes and persuasively justifies a particular reform option.
5. A process for enacting reform that takes the decision away from elected politicians without substituting some other status-quo bias.
6. A vigorous, persistent grassroots movement advocating reform.
7. An element of luck, such as blunders or miscalculations by defenders of the status quo.
8. Widespread, intense discontent with politicians and policy outcomes, for which the electoral system is perceived as at least partly to blame.
9. A well-funded, impartial, and effective campaign to educate the public about electoral system options.
10. After the reform is enacted, implementation by electoral administrators who understand the new system, are committed to making it work, and carry out a continued campaign of public education with each electoral cycle.
11. As part of the initial reform decision, a commitment to give the new system a trial through multiple elections before undertaking any major review or re-consideration.

## II. How the Eleven Ingredients Affected Electoral Reform in New Zealand<sup>3</sup>

A barebones chronology may be useful to refresh memories and provide a framework for the analysis that follows. Electoral reform in New Zealand got underway in early 1985, when the newly elected Labour government fulfilled a manifesto promise by appointing a five-member Royal Commission to study the electoral system. In late 1986 the Commission recommended that New Zealand adopt through referendum a German-style mixed-member proportional (MMP) system. That proposal was more radical than most Labour leaders wanted, so the government refused to call a referendum through the remainder of its two terms in office. When the opposition National Party opportunistically exploited that failure in the 1990 election campaign, both parties' manifestoes promised to let the people decide. After winning the election, National reluctantly fulfilled its pledge by holding two referendums. The first, in 1992, asked voters whether first-past-the-post (FPP) should be retained and, if it were to be replaced, which of four alternatives they preferred--MMP, the alternative vote [IRV], STV, or a parallel system (called Supplementary Member in New Zealand). In an astonishing outcome, 84.5% voted to reject FPP, and in the vote among reform alternatives, 70.5% chose MMP. The next year, in a binding referendum coincident with the November general election, voters were asked to choose between MMP and FPP. In this higher turnout contest, the outcome was closer, but MMP won by a 54-46% margin. The first election using MMP was held in 1996. In 2011, another National government held a new referendum in conjunction with the sixth MMP general election. This vote, with questions modeled on the complex 1992 referendum, resulted in 58% choosing to retain MMP.

1. *Obviously deficient outcomes under plurality.* Electoral reformers and many political scientists need no persuading about the defects of plurality, but for reform to become a realistic possibility, failures of the method must become obvious, so that at least a minority of voters will know they have a stake in reform, and potentially a majority can be persuaded that the status quo is unfair or undesirable in other ways. In New Zealand from 1954 to 1990, the vote for minor parties averaged 13.5%, but they were rewarded with a cumulative total of only seven MPs, 0.6% of the seats available. That glaring discrepancy convinced most minor-party adherents of the need for proportional representation. As a corollary of minor-party votes, governing parties won smaller vote shares, never attaining an absolute majority and twice falling below 40%. Contrary to New Zealanders' majoritarian

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<sup>3</sup> This explanation of the success of reform in New Zealand draws on my previous writings, especially Nagel 2004a and 2004b, as well as observations and interviews during visits to New Zealand for the 1993 and 2011 referendums. The best-informed, most in-depth account of the NZ reform process is Jackson and McRobie 1998. Other good sources include Vowles 1995, Vowles et al. 1995, Denmark 2001, Vowles 2008, and Renwick 2010 (ch. 11).

ideology, it became apparent that governments' electoral bases were, at best, pluralitarian.

In addition, FPP in New Zealand conspicuously failed to deliver fair representation for the Maori minority. Since 1867, a system of separate electoral rolls and dual constituencies had guaranteed four seats to Maori. Incremental reforms in 1967 and 1975 gave Maori candidates the right to contest general electorates and Maori voters the option of choosing to vote on either the Maori or general roll; but only a few Maori candidates won general seats, and many Maori electors opted to remain on the separate roll. As the number of Maori seats remained fixed, while both the size of Parliament and the Maori share of the population grew, the problem of Maori under-representation became increasingly acute.

*2. Competitive disadvantage of a major party.* As is well known, plurality elections tend to promote the dominance of two major parties. These duopolists have a shared interest in maintaining the electoral status quo against any reform that would strengthen minor parties. Nevertheless, the major parties are always locked in struggle with each other for competitive advantage, and it may happen that the plurality playing field becomes tilted in favor of one major party and against its rival. According to Rodden (2010), parties of the left often suffer because their votes are usually concentrated in urban constituencies, even if there is no deliberate gerrymandering. The Labour Party in New Zealand experienced such a disadvantage, not only because of its urban vote, but also because it typically polled overwhelming majorities in the four Maori electorates. In 1978 and 1981, the problem became glaringly obvious, as Labour received a plurality of the popular vote in both elections, but National won a majority of seats and thus retained control of government. Those "wrong-winner" outcomes contributed to Labour's pledging in its 1981 and 1984 manifestoes to appoint a Royal Commission to inquire into a broad range of questions relating to the electoral system. When Labour returned to power in 1984 (with the help of a new minor party that drew votes from National), its new government carried out that promise.

*3. Disinterested leaders able to facilitate reform.* Political scientists' models of electoral system choice usually assume that the process is dominated by elected political leaders whose interests are partisan. Most leaders of New Zealand's two major parties fit that assumption, but there were several important exceptions. The most crucial was Geoffrey Palmer, Labour's Minister of Justice and Deputy Prime Minister). Palmer was a professor of constitutional law rather than a career politician. His main goal in government was to promote a variety of constitutional reforms rather than to win re-election. Moreover, Palmer had no deep loyalty to the Labour Party; before standing for Parliament, he had been a member of the National Party, but switched to Labour in reaction to the autocratic excesses of the previous National Prime Minister, Robert Muldoon. Because election laws fell within his portfolio, Palmer dominated the process of appointing the Royal Commission. Rather than stack the body to fit Labour interests and produce a pre-determined

recommendation, Palmer chose five individuals of impressive intellectual stature and independence who set out to discover and recommend the best possible electoral system for New Zealand.<sup>4</sup>

4. *A proposing body that establishes and persuasively justifies a focal option.* Most voters find electoral systems and their effects esoteric. It is easy to view reform advocates as wonky enthusiasts (correctly in some cases--present company excepted!). Moreover, numerous alternative reforms exist or can be invented, and some zealots are more devoted to their own pet system than to the pragmatic goal of replacing plurality with something better. A successful reform movement must solve a coordination game by agreeing on which alternative to pursue. The Royal Commission established MMP as the focal alternative for New Zealand reformers, an accomplishment that proved crucial when the National government attempted a divide-and-conquer strategy in the first referendum.<sup>5</sup> Paradoxically, the Royal Commission succeeded because it acted in a seemingly unpolitic manner. Its book-length report (1986) stands as a model of applied political theory, and its recommendations challenged fundamental interests of both major parties. By thorough canvassing of alternatives, dispassionate appraisal based on widely shared values, and convincing conclusions in favor of MMP, the Royal Commission inspired a persistent grassroots movement and ultimately persuaded a majority of voters.

5. *An alternative process to enact reform.* The expectation that the electoral rules of an established democracy will become "locked in" assumes that reforms must be enacted by legislative processes and thus must win approval from

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<sup>4</sup> Denmark (2001, p. 85) portrays Palmer as "an electoral reform zealot" and claims the Commission's findings "closely echoed...pro-PR reforms advocated by Palmer" in a 1979 book. Palmer's supposed prior endorsement, however, is an ambiguous statement that is consistent with a limited supplementary-member reform (Jackson and McRobie 1998, ch. 5). Their own consistent testimony and all available evidence indicate that four of the Commissioners had no prior commitment to PR in general, and certainly not to any particular form of it. Indeed, one of them, the political theorist Richard Mulgan, had defended FPP in a book published only a year earlier (Mulgan 1984, pp. 76-81). The one exception was the Maori member, Whetumarama Wereta, who was predisposed to PR because she saw it as beneficial to Maori interests (as indeed it has been). (JN, interview with Commissioners John Wallace and Sir Kenneth Keith, 29 October 1993, Wellington). However, the charge to the Commission did include PR as a possible option. Along with eight other electoral matters, the members were instructed to inquire into "Whether the existing system of Parliamentary representation...should continue or whether all or a specified number or proportion of Members of Parliament should be elected under an alternative or alternative systems, such as proportional representation or preferential voting."

<sup>5</sup> Renwick 2010 questions my cynical interpretation of the motives behind the two-question referendum.

politicians who have succeeded under the existing rules, and/or that electoral laws have constitutional status so that change requires a super-majority. The Electoral Act 1956 was as close as New Zealand came to a written constitution, because its key provisions were "entrenched", meaning that Parliament could change them only by a 75% majority. MMP could never have surmounted that hurdle, which would have required substantial support in the caucuses of both major parties. However, the Electoral Act also set out an alternative route to reform--approval by majority vote in a national referendum. This was the process that the Royal Commission recommended for adopting MMP and that was ultimately accepted by Parliament.<sup>6</sup>

6. *A determined advocacy movement.* Formed in anticipation of the Royal Commission's report and subsequently inspired by it, the Electoral Reform Coalition was a poorly funded but vigorous and persistent grassroots movement. During the six years when both major parties sought to put the genie of reform back in its lamp, the ERC's imaginative tactics never let the press, public, or politicians forget the Royal Commission's proposal for a referendum. The appeal to "let the people decide" was difficult to resist in a country with a populist tradition and a long history of using referendums. During the two referendums, the ERC organized throughout the country to promote votes for MMP.

7. *Good luck.* Fortune smiled on New Zealand's reformers at two junctures when politicians opposed to MMP committed major errors.

(a) During a televised town-meeting style leaders' debate in the 1987 election campaign, Labour Prime Minister David Lange responded to a question by promising that he would refer the Royal Commission's report to a parliamentary select committee and that "a referendum thereafter will be held." Lange, an articulate former trial lawyer better known for being quick on his feet than for preparing thoroughly, may have simply succumbed to a temptation to score points in the immediate situation; but his answer was contrary to the wishes of his caucus, his own personal preference, and even his briefing notes. The error was not entirely unforced, however--the audience member who posed the question to Lange was Phil Saxby, a leader of the Electoral Reform Coalition.

(b) Cabinet and caucus colleagues forced Lange to backtrack from his "gaffe," but his very public error set the stage for the parties' competitive pledges during the 1990 campaign to hold a referendum, as the National opposition could not resist exploiting for electoral advantage Labour's failure to keep Lange's promise after its victory in 1987. In addition to competitive dynamics and the threat of a private

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<sup>6</sup> At the last minute, opponents of reform sought to establish, in effect, a super-majority threshold by asking Parliament to require that MMP could not be implemented unless approved by a majority of all registered electors, not just a majority of valid votes cast. The principled objections of Geoffrey Palmer and National Prime Minister Jim Bolger helped defeat this proposal. (Jackson and McRobie 1998, pp. 148-54)

members' bill in 1989, the 1990 pledges resulted from miscalculation by the major parties' leaders. Polls at the time showed public opinion evenly divided on whether to adopt MMP, so politicians probably believed they had a good chance of maintaining the status quo, especially as each party planned to manage the referendum in ways designed to defeat MMP. They might have been able to do just that if it had not been for the next factor.<sup>7</sup>

8. *Massive political discontent.* After its 1990 victory, the new National government consumed almost two years in foot-dragging and diversionary efforts before organizing a vote in 1992 that was to be merely indicative and that could have divided the reform movement among the four options on offer. The delay instead proved fatal to defenders of the electoral status quo. The flood of opposition to FPP revealed by the referendum resulted from the confluence of two previously independent political streams--the movement for electoral reform and the reaction to an extraordinary process of economic liberalization that had convulsed New Zealand since 1984 (Nagel 1998). The 1992 vote coincided with a slough of despond, as economic restructuring to that point had failed to fulfill politicians' promises of improved welfare, delivering instead high unemployment, declining real wages and near-zero growth. The vote against FPP was not a mere unreasoning displacement of anger, however. Voters blamed plurality rule for enabling one-party "elective dictatorships" (first Labour and then National) that had imposed radical economic restructuring without first winning a broad base of popular support.

9. *A campaign to educate the public.* Simplicity is the one great virtue of plurality elections. Hence, any reform option will be more complex. If voters are confused by a proposed new system, they are likely to choose the devil they understand. Moreover, voters who do not firmly comprehend how the reform will work are easy prey for misleading or diversionary anti-change propaganda. After demoralized politicians fled the field of battle, a group called the Campaign for Better Government (CBG) took up the pro-FPP banner. Funded mostly by businessmen and led by the CEO of New Zealand's largest corporation, the CBG outspent the ERC many times over. Aided by an improving economy and expected higher turnout, the CBG's advertising campaign helped bring about a much closer

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<sup>7</sup> A later miscalculation (or choice not to calculate) was Parliament's decision after the 1992 vote to retain Maori seats in the version of MMP that would be put to the people in 1993. The Royal Commission had recommended their abolition, believing Maori could win fair representation under MMP without separate seats. Parliament's action, taken after consultation with Maori and out of statesmanlike motives at a time when approval of MMP seemed all but certain, undoubtedly contributed to the strong vote for MMP among Maori. The resulting swing was probably not crucial to the outcome, but the result might have been very close without it (Nagel 1996).

vote in 1993 than the landslide in 1992.<sup>8</sup> The CBG's onslaught might have succeeded if it were not for a government-sponsored information program that outspent the CBG and ERC combined. Led by the chief ombudsman, the Electoral Referendum Panel disseminated highly professional videos, television spots, print advertisements, and brochures. Designed by the Saatchi advertising agency with technical advice from political scientists Nigel Roberts and Alan McRobie, these materials explained the differences between FPP and MMP in entertaining but accurate fashion. Although strictly neutral between the alternatives, the Panel's educational effort, combined with a similar program before the 1992 referendum, improved public understanding of the reform and helped voters resist misleading attacks.

10. *Effective implementation.* The novelty and complexity of alternative electoral systems also raises the risk that a reform will be misunderstood in practice by voters or officials, and so become discredited after adoption. In particular, MMP in its German and New Zealand forms requires voters to understand that the second or party vote is the one that really counts.<sup>9</sup> The Royal Commission had recommended New Zealand follow Australia's example and establish an independent Electoral Commission to oversee all electoral matters. The National Party government omitted such a body from its initial draft of an Electoral Reform Bill in 1993. After a public outcry and legislative struggle, Parliament agreed to establish an Electoral Commission but gave it limited powers--principally, to oversee the registration of political parties (a crucial function under MMP), allocate broadcasting time and funds to eligible parties, and carry out public education and information campaigns. The first CEO of the new Electoral Commission was Paul Harris, a political scientist who had been Principal Research Officer for the Royal Commission. Drawing on systematic monitoring of voters' knowledge, Harris and his successors worked consistently to educate each cohort of new voters (and forgetful old voters) about how MMP works.<sup>10</sup>

11. *Multiple elections before reconsideration.* The transition to any new electoral system is likely to require both voters and politicians to climb a learning curve. In addition, parties that lose initial post-reform elections may blame their

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<sup>8</sup> Examples of the CBG's tactics were the slogan "MMP = More MPs" (attacking the increase in Parliament under MMP from 99 to 120 seats, at time when politicians were exceedingly unpopular), and visuals showing MPs with bags over their heads, to depict list MPs as political ciphers.

<sup>9</sup> Similarly, the IRV and STV versions of ranked-choice voting may fail if voters do not grasp that the later-no-harm principle applies to them, unlike the more familiar Borda count, which also uses RCV.

<sup>10</sup> Following the 2008 election, the functions of the Electoral Commission were expanded to include maintenance of voter rolls and the actual conduct of elections, thus fulfilling the original recommendation of the Royal Commission.



defeat on the new rules, rather than on temporary misfortunes and their own failure to adapt. MMP in New Zealand got off to a rocky start. After the first MMP election in 1996, parties took nearly two months of bargaining to form a coalition government. The balance of power was held by a controversial minor party, New Zealand First (NZF). After playing the major parties off against each other, NZF made a deal with National, which enabled leaders of that party's unpopular government to cling to power. Proportional representation for minor parties, aided by the expansion of Parliament to accommodate list seats, also brought a large influx of inexperienced MPs, including a new generation of assertive Maori, whose actions drew a decidedly unfavorable response. If a new referendum had been held any time in 1996-99, polls indicated that voters would surely have rejected MMP.<sup>11</sup> The 1993 reform legislation, however, had mandated that two elections be held under MMP before a required parliamentary review.

In 1999, the vote for NZF plummeted, and Labour came back into government as the dominant force in a minority coalition. Labour Prime Minister Helen Clark, who previously opposed MMP, and her colleagues now realized their party could thrive under the proportional system. In 2000-01, a parliamentary select committee conducted the mandated review under instructions to reach conclusions by unanimity or near-unanimity. This charge reflected practical barriers to restoring FPP. Smaller parties, which owed their parliamentary existence to MMP, held 32 of 120 seats--enough to block attainment of the 75% supermajority required for Parliament itself to legislate major changes. The two big parties could have combined to form the ordinary majority needed to call a new referendum, but to do so, they would have had to overcome likely resistance from the 25 list MPs within their own ranks. A survey commissioned by the Review Committee showed strong support for a new referendum on whether to keep MMP; but MPs from Labour and three minor parties joined forces on the select committee to reject a new vote. MMP, originally imposed by voters on reluctant politicians, was now protected by politicians against repeal by a disillusioned public.

That disillusionment dissipated as Clark continued to provide effective leadership in a multi-party environment. However, Labour's nine years of dominance (1999-2008) left most National MPs and voters unreconciled to MMP, so the conservative party's manifestoes continued to call for a new referendum. In 2008, National won 48% of seats under a popular new leader, John Key. The National-led government carried out its promise in 2011, but victory in 2008 (and an expected repeat performance in 2011) showed National that it could thrive under MMP and thus diminished its leaders' enthusiasm for change. To the dismay of the anti-MMP Vote for Change campaign, Key's endorsement of change "was far too little, and far too late." (Williams 2012, p. 308) Moreover, in a tribute to the representational success of MMP, both Vote for Change and Key did not advocate a return to FPP, but instead urged a vote for Supplementary Member, the parallel (or

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<sup>11</sup> One poll in June 1997 showed that voters now preferred FPP over MMP by a 54-30 margin.

mixed-member majoritarian) alternative. With such half-hearted opposition, and after fifteen years of experience that showed MMP could deliver effective government without permanently excluding any party from power, the electorate endorsed both Key's government and the voting system he had nominally opposed.<sup>12</sup>

### **III. Presence and Absence of the Ingredients in Britain and Canada**

Since New Zealand's adoption of MMP, nine serious moves toward the replacement of plurality elections have occurred in Britain and Canada. All were ultimately unsuccessful. In this brief review, I will note which of the nine pre-implementation ingredients were conspicuously present or absent in some of these efforts. I won't attempt to consider exhaustively (and tediously) all nine factors in each case, nor will I discuss some reform attempts about which I know very little.

#### *Britain 1998*<sup>13</sup>

Ingredients 1 and 2 were clearly present. After 1959, substantial and upward-trending shares of the vote for Parliament went to minor parties--mainly the Liberal Democrats and their predecessors, but also Scottish and Welsh nationalist parties, and several right-wing parties. The predictable results were glaring under-representation of minor parties and pluralitarian victories for Conservatives and Labour.<sup>14</sup> After eighteen years of Conservative rule through four elections, the view became widespread that plurality advantaged the Tories by splitting votes of what should be a natural "progressive alliance" between Labour and Liberal Democrats. NewLabour leader Tony Blair subscribed to this theory. When his party returned to power in 1997, Blair proceeded to implement a pre-election pledge to reconsider the electoral system.

At that point, Britain departs from the New Zealand model. Ingredients 3, 4, and 6 were clearly missing; consequently, Ingredient 5, though available, was never used. NewLabour's parliamentary majority in 1997 was larger than expected, and

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<sup>12</sup> As it turned out, on the second question posed in the referendum, a plurality of voters chose FPP rather than SM as their preferred alternative if MMP did not prevail on the first (retention) question. However, many voters who wanted to keep MMP did not answer the second question. (Arseneau and Roberts 2012)

<sup>13</sup> A great deal has been written about this history. For an analytic overview of reform efforts and possibilities in Britain, see Blau 2008. Among other sources, I have drawn on the Independent Commission's *Report* (1998) and the inside account by Liberal Democratic leader Paddy Ashdown (2001).

<sup>14</sup> There was also a hung Parliament and short-lived minority Labour government after the February 1974 election.

many Labour MPs believed their party could henceforth prosper under FPP. Attempting to mediate between his own caucus and the LibDems, Blair managed the reform process to protect partisan interests. Although the group he appointed was styled the "Independent Commission on the Electoral System," it did not function independently. The five members had prestige a-plenty, but all but one also had partisan backgrounds--one with the Conservative Party and two with Labour. The chair, Lord Jenkins, was a former Labour MP and Cabinet member who had earlier joined a break-away faction, the Social Democratic Party, that merged with the Liberals to form the Liberal Democrats.<sup>15</sup> Blair kept a close watch on the Commission's deliberations. Thus constrained, and in sharp contrast to New Zealand's Royal Commission, Lord Jenkins and his colleagues strove to stay within the bounds of political feasibility. They produced an ingenious, watered-down version of MMP, styled "AV+", which used the alternative vote (IRV) at the district level, with a limited number (either 15 or 20%) of "top up" members to be chosen in 79 small local areas, rather than nationwide. The overall goal of the system was to deliver somewhat better representational fairness (especially for Lib Dems) while also enabling major parties to lead single-party governments even if they received considerably less than a majority of party votes. The complexity of the AV+ plan and the perception that it was tailored to suit partisan interests deprived the Jenkins Commission's report of persuasive influence and moral authority. As a result, it failed to inspire popular enthusiasm or a vigorous grassroots movement. When the Labour caucus balked at even this limited reform, the Party was able to renege with impunity on its pre-election pledge to hold a referendum.<sup>16</sup>

### *Britain 2011*

The conspicuous shortcomings of plurality in Britain have continued through the three elections since 1997, culminating in a hung Parliament after the 2010 vote. In those years, in an exception to Rodden's generalization, the system had a demonstrable bias in favor of Labour and against the Conservatives, who nevertheless emerged with pluralities of both votes and seats in 2010. Thus Ingredient 2 might have been satisfied again, this time with the Tories as the aggrieved party; however, few in their ranks had any desire for a new electoral system. Partly, this was due to their usual institutional conservatism, but they also probably calculated that two causes of the pro-Labour bias were correctible by

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<sup>15</sup> The Conservative member ultimately dissented from a key recommendation (that district MPs be elected by the alternative vote). The non-partisan member, a high-level civil servant, had been Private Secretary to Jenkins when he was a member of Cabinet. In contrast, only one member of New Zealand's Royal Commission had a partisan history--Whetu Wereta had been a Labour activist--and her appointment was therefore controversial.

<sup>16</sup> It also helped that much reformist energy went into other constitutional changes that NewLabour did carry out, including MMP elections for new legislative assemblies in Scotland, Wales, and London.

other means. These were mal-apportionment, which had been partly addressed in 2005, and tactical voting to the mutual benefit of Labour and LibDems. The latter could be expected to abate as the Conservatives moved back to the center under David Cameron's leadership while the Liberal Democrats under Nick Clegg sought to revive the old Liberals' policy of equidistance between the two major parties. The third and biggest cause of "bias," low turnout rates in Labour's safe constituencies, was no reason for Conservatives to support proportional representation, because PR would give Labour an incentive to mobilize its previous non-voters.<sup>17</sup>

In any case, the Conservatives agreed to put electoral reform on the agenda because of a motive not present in New Zealand: a referendum was the price they had to pay to form a majority government in coalition with the Liberal Democrats. The Lib Dems' bargaining position was weak, however, because the distribution of seats gave them no realistic path to government via a pact with Labour. Thus the most that Clegg could secure was a Conservative promise to hold a referendum on the alternative vote (AV), rather than MMP or STV, which most Lib Dems had long desired. Moreover, Clegg failed to get the Conservatives to agree to support AV, or even to remain neutral. As the vote approached, the popular prime minister, David Cameron, delivered "several powerful interventions into the debate" on behalf of the No campaign, which prevailed by an overwhelming 68-32 margin.

With such a lopsided vote, the defeat of reform cannot be attributed solely to the absence of any one of the nine conditions present in New Zealand, but in fact only two of them obtained in Britain (1 and 5). The absence of the other seven amply accounts for the negative outcome: (3) Cameron was an unabashed opponent of change. The new leader of the Labour opposition, Ed Miliband, personally supported AV, but his caucus was so divided that he could not campaign for a Yes vote. (4) The referendum was not launched under the imprimatur of any impartial group with prestige and legitimacy, but instead originated as "little more than a politically convenient compromise." (Curtice 2012, p. 222) (6) Britain's venerably pro-STV Electoral Reform Society did take the lead in the Yes campaign, but "they were left with the difficult task of generating enthusiasm for a change about which they themselves had their doubts." (Curtice 219) Clegg himself had earlier described AV as a "miserable little compromise" and only "a baby step in the right direction." (Vowles 2013, p. 255) Many who might have been active supporters of any true PR system either opposed AV or sat out the campaign. (7) All luck seems to have been bad--especially the initial election outcome, which gave Cameron a strong hand that he played skillfully. (8) The Yes campaign sought to capitalize on voters' anger with politicians after the MPs' expense scandal, but that was a relatively small-potatoes matter that had already blown over.<sup>18</sup> (9) Efforts at

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<sup>17</sup> For a breakdown of the pro-Labour bias, see Johnston and Pattie 2011.

<sup>18</sup> Anger about the Great Recession evidently did not affect the vote. Bankers rather than politicians were the main villains in that drama, and policy failings could not fairly be blamed on plurality elections. STV Ireland and PR Iceland suffered worse

impartial public education were extremely weak compared with New Zealand.<sup>19</sup> Public funding went partly to subsidize headquarters for designated Yes and No campaign organizations. The Electoral Commission produced a brief TV ad to inform people that a referendum was being held and delivered an information pamphlet to all homes. The pamphlet's prolix explanation of AV (eight times as long as that for FPP) increased the No vote among those who read it. The advocacy campaigns (especially the No side) disseminated false or misleading claims that the Electoral Commission had no power to regulate. In contrast, the NZ Referendum Panel was not only a source of accurate, impartial information but also served as an authoritative referee, several times blowing the whistle on advocacy groups when their public statements were incorrect.<sup>20</sup>

### *Canada*

During the 21st century, significant moves toward electoral reform have taken place in Canada at the federal level and in five of the ten provinces--British Columbia (twice), Ontario, Quebec, New Brunswick, and Prince Edward Island. Thus far, all have failed. I have too little space, time, and knowledge to examine those seven attempts in any detail. In particular, I know next to nothing about reform processes for the federal Parliament and in New Brunswick and PEI. I will, however, offer a few observations about the presence or absence of New Zealand's nine ingredients in the other four cases.<sup>21</sup>

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financial collapses than Britain. AV Australia weathered the crisis well, but so did SMP Canada.

<sup>19</sup> The next four sentences draw on Vowles 2013.

<sup>20</sup> It is worth quoting Jack Vowles at length on this subject, because he has uniquely deep and first-hand knowledge of both the NZ and UK referendums: "If low knowledge among voters remains a matter of concern under conditions of representative democracy, it can only be more of a concern under conditions of direct democracy. And the concern can be magnified further when the subject of a referendum is something about which few ordinary citizens would be expected to have knowledge, such as electoral systems....Provision of accessible and accurate information should therefore be a major priority in the conduct of such referendums....[A] more civil and informed referendum debate [in Britain] would have been more likely had there been a more visible and sustained official information campaign that might have drawn more on electoral systems experts, and thus discouraged the campaigns from making misleading arguments and claims." (Vowles 2013, pp. 254, 261)

<sup>21</sup> Massicotte 2008 provides an excellent overview, on which I rely, but he wrote before the referendums of 2007 and 2009.

The robust presence of ingredient 1 provides the backdrop to all the Canadian reform efforts. Thanks to regional variations in voting patterns, Canada has had a multi-party system for nearly a century, albeit with a shifting cast of characters, except for the historically dominant Liberal Party. Unfavorable outcomes resulting from SMP elections have included the usual litany: under-representation of smaller parties, pluralitarian legislative majorities, wrong-winner governments, and minority governments. In addition, Canada has been distinctive for the frequency of "wipeout" results, in which the vagaries of plurality elections suddenly deprive a previously major party (often a governing party) of all or nearly all its seats. Although such outcomes helped put electoral reform on the agenda, provincial counterparts of parties that were "minor" in Ottawa frequently became major parties able to win control of some provincial assemblies. Those parties and their supporters provided ambivalent and inconsistent constituencies for reform.

A second generalization is that Ingredient 8, massive discontent with politicians and political outcomes, appears not to have developed in Canada. As Massicotte (2008, p. 137) put it, "There is nothing in Canada at present like the sheer rage that New Zealanders felt at their politicians when they supported MMP in 1993." At the federal level, SMP elections could be blamed for one very serious adverse outcome. This was the exaggeration of regional differences, particularly disagreements about the status of Quebec, which for at times threatened to break up the Canadian federation. Although this concern spurred many intellectuals to look at alternatives to plurality, it seems not to have had much effect on decisions about electoral systems at the provincial level. The absence or weakness of Ingredient 8 may have hurt the reform cause, but it was not the only missing ingredient, as a closer look at particular cases will show.

### *Quebec*

As In New Zealand, ingredient 2 precipitated a reform effort in Quebec, when the Parti Quebecois (PQ) won a majority of the National Assembly in 1998 even though Liberal Party received a plurality of the popular vote. This wrong-winner outcome reflected an ongoing structural bias against the Liberals, as their vote is concentrated in the Montreal area. When the Liberals regained power in 2003, the Charest government took advice from outsiders, but retained control of the agenda-setting process. In 2004, it presented its own draft bill, which proposed an attenuated version of MMP in which electors in 77 SMDs ("divisions") would cast just one vote, but those votes would also be counted for parties in order to allocate 50 list seats. Rather than distribute the compensatory seats province-wide, one to three list seats would be allocated to "districts" comprised of two to four divisions. Thus district magnitudes would range from three to seven, with five the typical value.<sup>22</sup>

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<sup>22</sup> National Assembly 2004, Massicotte 2004.

This plan seems to have been intended to greatly reduce (though it did not entirely eliminate) the existing bias against Liberals while preserving the dominance of large parties. At every choice point in the design, the bill chose an option that benefited large rather than small parties. (Nagel 2005) When the government held hearings on the bill before a select committee that consisted of nine legislators and eight citizen representatives, the "vast majority of those who appeared supported MMP with province-wide compensation."<sup>23</sup> After the hearings, the citizen and legislative members of the select committee were unable to agree on the specifics of a plan, though the two reports they issued both agreed on the need for MMP and rejected all the features proposed by the government in its draft bill. In the end, no action was taken.

Thus in Quebec, ingredients 3 and 4 were missing, so the reform effort stalled. Political leaders facilitated the consideration of reform, but were not willing to surrender control or subordinate their partisan interests. As a result they were unable to establish a focal plan. The possibility of a referendum was discussed, but in the absence of an agreed-upon proposal, there was no point in scheduling one even if the government were willing to turn the decision over to the people. An advocacy group for election reform (the Movement for a New Democracy) was organized in 2001, and presumably was active in testimony and debates, but it lacked an attractive, legitimated focal proposal to rally around.

### *British Columbia*

As in New Zealand and Quebec, electoral reform got on the agenda in British Columbia after a major party suffered a wrong-winner defeat. In 1999, the New Democratic Party (NDP) won a majority of seats even though the Liberals outpolled them 41.8% to 39.5%. In 2001, following an NDP scandal, plurality's wheel of fortune swung hard the other way, delivering a 77 to 2 legislative majority to the Liberals on a popular vote of 57.6%, compared with the NDP's 21.6%. This wipeout result no doubt cooled most Liberals' interest in reform, but Premier Gordon Campbell nevertheless stuck to a pre-election promise by asking the legislature to establish a citizens' assembly--160 ordinary citizens, chosen by near-random selection, who would spend months learning about electoral systems and, after deliberation, decide whether to propose a possible replacement for FPP. After narrowing the choices down to STV and a version of MMP, the Citizens' Assembly decided to recommend STV.<sup>24</sup>

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<sup>23</sup>Massicotte 2008, p. 133. I was among them, although my invited testimony also emphasized that the draft bill was a considerable improvement over Quebec's existing first-past-the-post system.

<sup>24</sup> BC's novel use of a citizens' assembly has been much studied and admired. See especially the chapters collected in Warren and Pearse 2008.

Up to this point, reform in British Columbia benefitted from the robust presence of Ingredients 1, 2, 3, and 4--assuming that Premier Campbell was acting, as Blais et al. (2008) believe, primarily on the basis of a principled commitment to an innovative and impartial agenda-setting process. In addition, the legislature agreed to submit the CA's proposal to a referendum; however, it stipulated that enactment would require a 60% positive vote over all plus majority approval in at least 60% of ridings. This supermajority requirement may have been the price that Campbell had to pay to win consent for the legislation from members of his caucus who were wary of reform. Thus, ingredient 5 did not fully obtain--BC adopted a method for enacting reform that took the decision away from politicians, but that process had a strong status-quo bias. As for Ingredient 6, Fair Voting BC and Fair Vote Canada provided organizational leadership for the YES-STV campaign, but they had little money. The smaller KNOW [NO] STV campaign raised even less. Cutler et al. (2008, p. 169) estimate that all interveners combined spent less than \$85,000, four-fifths of that on the Yes side. Many alumni of the Citizens' Assembly campaigned as speakers for YES-STV, but they had to finance their own efforts. A public education campaign did little to fill the gap. The BC government had budgeted \$5.5 million for the Assembly process, but only \$800,000 to inform voters about its recommendation. The government sent every household in British Columbia a copy of the CA's report, but the mailing occurred five months before the referendum. (Ratner 2008, pp. 145-6, 159) Political parties stayed on the sidelines, providing no cues to voters. Newspapers were split on whether to support or oppose STV. Nevertheless, on election day, STV won 57.7% of the vote and carried 77 of 79 ridings. This result, though better than the vote for MMP in New Zealand, was not sufficient, given the 60% supermajority requirement.

The 2005 result in British Columbia suggests that reform can sometimes win despite the absence of one or more of the nine ingredients that were necessary in New Zealand. Cutler et al. (2008, p. 177) show that Yes votes were strongly associated with knowledge of the Citizens' Assembly and STV. Survey respondents who knew nothing about both the CA and STV voted yes at only a 51% rate; whereas 72% of those who knew something about both voted Yes, with the other combinations in between. Only 52% of respondents knew anything about both the CA and STV. Thus it seems reasonable to infer that a better campaign of public education would have nudged the Yes vote over the 60% hurdle. If so, reform in BC in 2005 could have won despite problems with either Ingredient 5 or 9, but it did not survive shortcomings on both. In addition, Ingredients 6, 7, and 8 were much weaker in BC than in New Zealand, if not absent altogether.

The 2005 outcome was embarrassing to Premier Campbell; critics pointed out that 57.6% of the vote in 2001 had given the Liberal Party complete domination of provincial government, but 57.7% of the vote for STV in 2005 constituted a defeat.<sup>25</sup> He promised to hold a new referendum on STV, retaining the same supermajority decision rule, but this time with better provisions for public

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<sup>25</sup> Most of the following account is drawn from Pilon 2010.



education. The government decided to award \$500,000 subsidies to officially recognized Yes and No campaigns, with another \$500,000 for its own impartial effort. (In contrast, recall that the New Zealand Referendum Panel had a much bigger budget than the two advocacy sides combined.) The Yes side devoted most of its money to grassroots efforts, whereas NO-STV put their money into polling and focus groups early on, followed by heavy television and radio buys in the last three weeks before the referendum, which had been postponed to coincide with the 2009 provincial election. NO-STV's strategy proved more successful in what had become a low-salience, low-information vote. Memory of the Citizens' Assembly had faded during the more than four years since it had disbanded, and the 2005 provincial election produced a more normal outcome, reducing concern about systemic failings of FPP. The Yes vote plummeted to 39.1%. A few days later, Premier Campbell "declared that voting reform was no longer a priority for his government." (Pilon 2010, p. 84)

### *Ontario*

As in British Columbia, it was a Liberal government that launched the reform process in Ontario. It is unclear whether the Liberals felt they suffered from a competitive disadvantage under plurality (Ingredient 2). They had lost the previous two elections (1999 and 1995) to the Progressive Conservatives, but neither was a wrong-winner result. However, the PC victories were pluralitarian--in both contests, the Liberals and New Democrats combined received a majority of popular votes, so it may be that, like Tony Blair, the Ontario Liberals thought that SMP split a natural center-left majority. The Liberals had also suffered an unexpected wipeout defeat in 1987, when the New Democrats took power in Ontario for the first (and last) time. LeDuc (2009, p. 26) notes that there was New Zealand-style concern about elective dictatorships, as both the NDP and PC governments had taken strong policy actions despite their lack of majority support in the popular vote. In any event, when the Liberals returned to power in 2003, SMP treated them well, as they won 72 of 103 seats with only 46.4% of the vote.

Whatever their motive may have been, the Liberal government in 2005 announced that it would establish a BC-style Citizens' Assembly with power to make a recommendation that would be put to a referendum at the time of the next provincial election in 2007.<sup>26</sup> The Ontario CA appears to have functioned in exemplary fashion. It produced a recommendation many political scientists would applaud--unadulterated MMP with two votes, 90 SMDs, and 39 province-wide lists seats assigned on a compensatory basis with a 3% threshold. Thus ingredient 4 was fulfilled in Ontario.

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<sup>26</sup> Perhaps Premier McGuinty acted as a disinterested reformer (ingredient 3), or perhaps mighty Ontario could not abide being overshadowed by British Columbia's innovative action.

From there on, the reform process went off the tracks, as ingredients 5, 6, 7, 8, and 9 were all conspicuous by their absence. Although the provincial administration committed to a referendum, it followed British Columbia's example by requiring a 60% supermajority plus geographically widespread support. A pro-MMP campaign existed but lacked funding and apparently made little impact. According to LeDuc (p. 39), "the anti-MMP campaign was also largely non-existent;" but that did not matter so much, because Ontario's major newspapers strongly opposed MMP, often with scathing or misleading arguments. The public information campaign conducted by Elections Ontario provided no corrective. It was mainly directed at informing voters there would be an important referendum. Voters seeking information about the substance of the proposal or pro and con arguments were merely directed to various websites. Except for internet access, the Report of the Citizens' Assembly "suddenly became unavailable to the public after the campaign began." (LeDuc, p. 36) On election day, 63% of voters chose to keep first-past-the-post. Post-election analyses showed that lack of information about the proposed new system was a major reason for pro-FPP votes. (LeDuc, p. 38)

### *Lessons from the UK and Canada*

This quick review of failed reform attempts in Britain and Canada suggests four conclusions.

First, when partisan interests shape reform proposals, because politicians are directly or covertly involved in shaping them, the resulting plans tend to be too complex, watered-down, and obviously tainted to inspire agreement or enthusiasm among potential advocates of reform.

Second, even when politicians appear to surrender control of a decision on electoral reform, as in permitting a referendum, they may stack the deck against reform by establishing super-majority decision rules, failing to provide the impartial information that voters need, or campaigning actively to defeat the reform.<sup>27</sup>

Third, although all eleven ingredients may have been necessary to the success and survival of MMP in New Zealand, the experience of British Columbia in 2005 suggests that electoral reform elsewhere might succeed without one or more ingredients. Nevertheless, the absence or weakness of multiple ingredients in all the British and Canadian failures suggest their general relevance.

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<sup>27</sup> In the 2005 Prince Edward Island referendum on MMP, manipulations in favor of the status quo went even further. Besides declaring that he would feel bound only by a 60% Yes vote (even though the Commission on PEI's Electoral Future had recommended a standard majority rule), Premier Binns held the referendum in isolation of any election, shortly before the onset of winter, with only 10% of the normal polling places open, and without lists of electors. (Massicotte 2008, p. 132)

Fourth, the UK and Canadian cases all point to the special importance of an ingredient that scholars often overlook or underemphasize when they try to explain the adoption of MMP in New Zealand. That is Ingredient 9--the existence of a well-funded, impartial, factual, and imaginative public-education campaign.

#### **IV. Application to the U.S.**

This section will be especially terse. The U.S. situation is familiar to most workshop participants, so I offer only a few thoughts that I hope will stimulate a wider discussion. I doubt, however, that I can say anything that Rob Richie and his colleagues have not already thought about long and hard, and put into practice wherever and whenever they can.

1. *Obviously deficient outcomes under plurality.* Because significant third parties tend to be rare and short-lived in American politics, disproportionality has generally been lower and less conspicuous than in New Zealand, Britain, and Canada. Nevertheless, some openings have occurred and others might be promoted: (a) Third parties have played an important role in several states, and FairVote and its allies have concentrated reform efforts in them--e.g., Minnesota, Vermont, and Maine. (b) The contortions involved in trying to correct under-representation of African-Americans and Hispanics helped inspire reform efforts in the 1990s, and that under-representation continues today. (Recall that the goal of fairness to Maori was a major reason for electoral reform in New Zealand.) (c) Much attention is already fixed on the problem of unfair districting, to which SMP is more vulnerable than any other electoral system. Thus far, concern has focused on redistricting processes and criteria, rather than on the more fundamental problem, so continued educational efforts are needed.

2. *Competitive disadvantage of a major party.* The wrong-winner outcome of the 2000 presidential election helped spur the National Popular Vote movement for reform of the Electoral College. However, the bias of the Electoral College toward the Republicans turned out to be transitory; in the three elections since 2000, the advantage has been with the Democrats, although it was not crucial in any of those contests.<sup>28</sup> A more enduring and truly structural disadvantage for Democrats exists with respect to Congressional and state legislative districts in many of the larger states. Recognition of those biases is hindered because so many legislative elections are uncontested, but awareness can be promoted by using estimates based on votes in presidential or other statewide elections, as FairVote has done. The second need is to promote understanding that neutral districting processes and criteria may not greatly reduce, let alone eliminate, partisan bias in many states.

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<sup>28</sup> Awareness of this change among Democrats may help account for the slower progress of NPV legislation in recent years. On the other hand, if Republicans finally realize that the Electoral College does not systematically help them, more of them might join the movement.

Chen and Rodden (2013) contend that intentional gerrymandering has less effect on this problem than does human geography, as Democrats tend to be concentrated in urban areas, while Republicans are more dispersed. Thus it would be better to devote reform efforts to changing electoral systems rather than to attacking political control of districting, noxious as it can be. Of course, if neutral districting reforms do succeed, the underlying structural problem should become more apparent; but going by that route could add extra decades to the reform process.

3. *Disinterested leaders able to facilitate reform.* Intervention by leaders who rise above partisan or individual interest is hard to foresee, but Geoffrey Palmer and (perhaps) Gordon Palmer offer an existence proof to counter the dreary assumptions of rational-choice models. Low-key efforts to educate and cultivate emerging leaders could lay the groundwork for their help at later junctures.

4. *A proposing body that establishes and persuasively justifies a focal option.* Unlike the non-partisan Royal Commission in New Zealand, elite commissions in the U.S. tend to be appointed on a bi-partisan basis. As a result, they either deadlock or produce least-common-denominator recommendations. The citizens' assembly model offers an alternative way to achieve impartiality and legitimacy in proposing a focal reform to put on the agenda. California's Proposition 11 in 2010 established a smaller, jury-sized group, the Citizens' Redistricting Commission, to set legislative boundaries. Courts offer a third option for an impartial intervener, as the apportionment revolution of the 1960s showed. However, judicial intervention is better suited to declare the status quo unacceptable than to propose a specific new electoral system. Thus, courts might provide a functional substitute for Ingredient 2, if disadvantaged parties are unable or unwilling to get the reform ball rolling.

5. *An alternative process to enact reform.* States and localities that provide for the initiative or referendum will usually offer a better chance to enact reforms. However, the National Popular Vote movement shows that ingenuity and imagination can sometimes find new paths to reform around seemingly insurmountable institutional obstacles.

6. *A determined advocacy movement.* I greatly admire Rob Richie and his colleagues in FairVote and its state affiliates. They advocate a wide portfolio of reforms, which has both advantages and drawbacks. In the drive to enact any particular reform proposal, FairVote will be an invaluable nucleus and intellectual resource; but success will of course require developing a much larger and therefore highly diverse coalition focused on a single objective. The National Popular Vote movement is an example.

7. *Good luck.* Luck is inherently unpredictable, but reformers can seek to structure debate in such a way that opponents will be pressured to put short-term political advantage ahead of their long-term structural interests. And, of course, when errors are made, they must be exploited.

8. *Massive political discontent.* Public approval of politicians, especially Congress, has already sunk to historic lows. The question is whether people can be convinced that electoral reform offers a remedy for deadlock and polarization. I will have to more to say about this in my second paper for the workshop.

9. *A campaign to educate the public.* Developing a firm and level informational playing field for reform decisions will be a tough problem in the U.S. Fairness is the cardinal virtue in New Zealand. FairVote's name tries to evoke the same norm, but among Americans the most important value is freedom or, more pejoratively, unbridled liberty.<sup>29</sup> The establishment of the Electoral Referendum Panel by a National Party government, most of whose leaders opposed MMP, epitomizes Kiwi fairness. In contrast, the Supreme Court's *Citizens United* decision shows how willing some Americans are to subordinate fairness to freedom (though one might question how well five justices represent American political culture, as opposed to their own ideology and the interests of plutocrats). Nevertheless, the preceding review shows, I believe, how very important this ingredient is to the enacting of electoral reform whenever voters are asked to decide by referendum. Thus efforts to establish a well-funded, impartial, accurate, and imaginative campaign of public education must be pursued. If government will not answer the call, perhaps foundations or a sympathetic billionaire could step in!

10. *Effective implementation.* Electoral administration in the U.S. is a decentralized mess, with deliberately crippled federal involvement, frequent partisan control in states and localities, and wide variations in the competence of officials and volunteers. If we can't be sure of fair, honest, and competent conduct of simple plurality votes, what hope is there for more complex reforms? Still, in some places, elections administrators are honest and able, so reformers can work with them. Elsewhere, it may be necessary to address the electoral system and elections administration simultaneously.

11. *Multiple elections before reconsideration.* The survival of MMP in New Zealand shows the importance of using a new electoral system several times before subjecting it to fundamental reconsideration (as opposed to technical fixes). In contrast, voters narrowly repealed IRV in Burlington, Vermont, after only two elections. In Aspen, Colorado, repeal of IRV (or a complex and unusual version of it) came after just one election. It is thus potentially crucial to build into reforms agreement on a sufficient number of elections (three, I would suggest) for voters and politicians to learn how to use the new system, and hopefully for all parties to know that they can succeed under it.

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<sup>29</sup> The historian David Hackett Fischer (2012) has made this case in a 600-page volume that compares New Zealand and the United States.

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