



**National Council of
Women of New Zealand**

Te Kaunihera
Wahine O Aotearoa

National Office
Level 4 Central House
26 Brandon Street
PO Box 25-498
Wellington 6146
(04) 473 7623
www.ncwnz.org.nz

23 February 2000

S00.05

**Submission to the Justice and Electoral Select Committee
on the Electoral (Integrity) Amendment Bill**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organization representing 46 nationally organized societies. It has 36 branches spread throughout the country, to which women from some 150 societies are affiliated.

This submission has been prepared by the Parliamentary Watch Committee of NCWNZ. Because of time constraints it was not possible to consult the wider membership of NCWNZ before writing the submission but an item on this Bill has been put in the NCWNZ Circular. Comments received as a result will be conveyed to members of the Select Committee hearing submissions on the Bill.

Comments on individual clauses:

- **Clause 4. Purpose**

The writers of this submission support the first purpose of this Bill, as set out in Clause 4(a) – to enhance public confidence in the integrity of the electoral system. There is a belief within NCWNZ that the reputation of Parliament, as well as that of the electoral system, has suffered as a result of members defecting from the political parties for which they were elected, in most cases in order to join other political parties. NCWNZ considers that the level of cynicism towards politicians that this behaviour has generated among the public, at least as expressed in the media, is a dangerous development which if allowed to escalate could threaten participation in the democratic process in our country.

NCWNZ was deeply concerned at the damage that was done to the proportionality of political party representation in the last Parliament by the defection of members of Parliament from their parties. The maintenance of proportionality as determined by electors is a fundamental plank of MMP, which is New Zealand's political system, and when, after an election, a member of Parliament ceases to be a member of the party for which he or she was elected, the whole balance of the House is upset and the will of the electorate negated. NCWNZ therefore supports the second purpose of this Bill, as set out in Clause 4(b) – to enhance the maintenance of proportionality of political party representation in Parliament as determined by electors.

- **Clause 5. Member resigning from political party**

This clause proposes amending the principal Act by inserting after section 55, **How vacancies created**, a new section, 55A.

When considering this clause we discussed whether a distinction should be made between list and constituency members of Parliament. One point of view was that while list members get in only because they are on a party list, constituency members may have a personal following within their electorates, as well as any support they may be given as representatives of a political party, and this might give them valid grounds for remaining in Parliament even if they cease to be members of that party. The writers of this submission decided, however, that this argument had little merit. There was still the issue of maintaining proportionality, and in any case most electors vote for a candidate in the context of his or her membership of a political party, not predominantly for



personal reasons. This is shown by the failure of most party defectors to get elected when they stand as Independents or for another political party. We therefore support the proposed new section 55A(1) under which this legislation will apply to both constituency and list members.

The writers of this submission accept that the resignation of a constituency member from his or her party could have more far-reaching consequences than the resignation of a list member. The latter would merely be replaced by the next person on the party list but if a constituency seat becomes vacant, a by-election is likely, and a representative of a different political party from that of the member resigning might be elected. This, however has to be regarded as part of the democratic process.

We would like some further consideration to be given to S. 55A (3) as there appears to be a risk inherent in the procedure set out in this sub-section. S. 55A(2) states that a member of Parliament's seat becomes vacant if the MP "ceases to be a member" of the political party for which he or she was elected. S.55A(3) however indicates that an MP's resignation from his or her party is recognised if and only if the member concerned notifies "the appropriate person" (normally the Speaker) accordingly. The requirement that a member should personally and formally resign echoes that in S. 55(1)(f) of the principal Act and is appropriate, but the situation could arise where a member of Parliament who has for all intents and purposes ceased to be a functioning member of the party for which he or she was elected refuses to resign formally. As under this Bill notifying the Speaker is the only way he or she can be deemed to have ceased to be a member of the party, he or she could presumably still stay on as a member of Parliament even if refusing support to the party for which he or she was elected.

It is important that this legislation protects a member's right to express his or her views during debate within the party, without jeopardising either party membership or the right to his or her seat in Parliament, but a balance needs to be found between this individual right and the responsibility of the member to act within the framework of the party for which he or she was elected.

Another issue which may need clarification is how S. 55A(2) applies if a member of Parliament is expelled from his or her political party. The member would then have "ceased to be a member" of the political party but the question arises whether such an expulsion would automatically create a vacancy in Parliament, or whether under S.55A(2) the member would still have to submit written notice of resignation; the member may choose not to do so.

Having regard to these points, the writers of this submission consider that some mechanism may be needed whereby an official of the political party concerned is required to notify the Speaker if a member of Parliament has ceased to be a member of the party for which he or she was elected. In that event, the Speaker could possibly seek from the member a formal notification of resignation from the party.

We note that **Clause 3. Expiry** is a 'sunset' clause under which this Bill will expire after two general elections. Its provisions can therefore be trialled without necessarily becoming permanent legislation and this gives time and opportunity for the matters we have expressed concerns about to be more fully examined, even if they are not addressed before this Bill is passed into law, as we would prefer.

Barbara Glenie
National President

Anne Holden
Convener, Parliamentary Watch Committee