

PUBLIC HEARINGS ON THE 2012 REVIEW OF MMP

AT AUCKLAND

ON 3 MAY 2012

HEARD BEFORE ELECTORAL COMMISSION BOARD MEMBERS

SIR HUGH WELCOMES PETER BUCHANAN

SIR HUGH: I see your submission is in the name of both you and Dr Campbell, Peter Campbell.

PETER BUCHANAN: I was actually supporting his submission, it was – my submission was essentially was in support of his submission and that was the – and the thrust of my appearance today, perhaps insomuch on the MMP election process which is covered adequately by Dr Campbell's submission but more so about the voter participation because what is of concern to me, um, is that the election turnout has deteriorated and no matter what system we have with MMP, the critical factor for any election success, any election to be successful is participation by the bulk of the eligible voters and so perhaps I'll use this opportunity this morning to address the aspect as to why we should, or you should consider compulsory voting, because I believe that you are mandated to consider all aspects of MMP.

And I understand that subsequently to my initial submission, you would have received an electronic copy of the paper written by Dr Lisa Hill and Jonathan Louth from the Clinical School of History and Political Studies at University of Adelaide and also this morning I've also provided a small supplementary information to you, to progress the argument as to why compulsory voting should occur in New Zealand.

So the, so perhaps if I go the comments that are covered by Ian Campbell and just concentrate on the compulsory voting alternative. And I think it's pretty well covered on page 2 of the Dr Lisa Hill and Louth manuscript that, that they've addressed the studies and effectiveness of compulsory voting, that they indicate, various other studies indicate that some (inaudible 09.18.02) or miscalculated due to imperfect use of atypical cases or methodological error known as ecological fallacy, and they've, through their research, have canvassed a number of alternative methods for raising turnout and they're suggesting that using social norms, that the problem's best addressed by mandatory means.

And I think this has been notably successful for the Australian experience where they've now got a 95% turnout in the last election and I think we should – perhaps in context of closer economic ties with Australia, perhaps where they've got policy then there's no reason why we shouldn't adopt that policy in New Zealand also.

I've heard on news media, there's viewpoints that people are opposed to compulsory voting. I've tried to make my submission evidence-based and also perhaps by appearing before you, there's maybe questions which you may wish to raise which I may be able to address and in the context of today's political environment where we've got huge strategic decisions made by our politicians in regard to public assets being sold and that's on the pretence or assumption that they've got a majority from the election, that they are mandated to sell these strategic energy companies but their analysis would indicate that they've only enjoyed 35% support of the eligible voting public and this is contrary to perhaps the fundamental principle of a democracy where we've got a Westminster system which due for a number of reasons, there's a very poor participation.

0920

And I don't know if you've heard the, the recent articles on the National Programme, Insight articles as people explain as to why they are not participating in our electorate, why they're not voting. And my viewpoint, my

analysis is it's really, um, it's abysmal and that's apathy and perhaps there's no reason why the state shouldn't provide some guidance to the eligible voters as to remind them what their obligation, as a country, as part of the citizenship requirement, we should support the Westminster system which so many other countries do not have and are fighting for, that compulsory is perhaps the most cost-effective and simple alternative and that's what I'm suggesting to, to your, to the Commissioners, that we, well, some effective action be undertaken, which is not going to be costly and is going to be effective.

The argument, or common argument presented by people who do not want to vote is saying well I'm being forced to vote but really, in the ballot paper, they're not required to fill out the ballot paper. And my secondary suggestion is perhaps for these people who are consciously opposed to voting, or to our democracy, there should be a, a sort of a standard response in the ballot paper saying, along the lines, um, that they have no confidence or they're opposed to the election voting process. And that way we can actually quantify their reasons as to why there is an opposition to our democratic system. So that's about the thrust –

SIR HUGH: So you would advocate the ballot paper actually having a no-vote option in it, not just relying on voters to spoil the ballot paper if that's the way they felt.

MR BUCHANAN: Absolutely, yes. And I think that will be productive because at least it's engaging the, um, um, voter who is opposed to our system and to capture that. And there some capture and some engagement, some engagement leads to the capturing of that particular type of voter.

MR PEDEN: Thank you Mr Buchanan. I suppose – I might just make an observation in response to your concern about turnout, to make the obvious point that the Electoral Commission is also very concerned about the downward trend in turnout, and we recognise that compulsory voting is a policy option, and the Commission is looking at ways in which the trend can

be turned around. It's not going to be a quick or simple undertaking. It's a long-term generational trend.

I suppose in thinking about compulsory voting, as I say, it's a policy option, it's something for Parliament to consider. One thing that you should be aware of is that the Justice and Electoral Committee has launched an inquiry into the conduct of the last election. One of the things that they're specifically looking at is turnout. The deadline for the receipt of submissions to that inquiry is tomorrow. It's the 4th of May. Have you made a submission to that?

MR BUCHANAN: I have considered that, but –

MR PEDEN: Well, I would suggest that you do so.

MR BUCHANAN: Okay.

MR PEDEN: Because you've obviously got a very strong view that I'm sure the select committee would like to hear. The – I would suggest to you that one of the things to think about is some of the – as I say, it's an option, compulsory voting, but I think New Zealand needs to think carefully about the implications of it before going down that path, and considering other options. One of the things about the Australian situation is that they certainly have a high turnout, but they have a lower rate of enrolment than we do, and they have a very much higher rate of informal voting.

0925

MR BUCHANAN: Enrolment's compulsory.

MR PEDEN: Enrolment is compulsory in Australia, but the difference in Australia, obviously, is if you enrol the election agencies are able to impose a – what is actually quite a significant fine on you if you don't turn up to vote, so as I say, they are struggling to get people on the roll. In New Zealand, we have a very high rate of enrolment, higher than Australia, and what that means is that at least we are in a position to communicate with registered

voters. We know where they are and we can get the information to them to enable them to participate, so as I say, I don't think it's quite as straightforward as saying, "You have to vote." We need to think about how we can make our Parliament, our democracy, and our vote valuable to New Zealanders again, and I'd certainly like to explore the carrot approach before we resort to the stick. So my own personal view.

MR BUCHANAN: Yes.

MR PEDEN: Now, are you in a position to respond to questions about the MMP aspects of the submission?

MR BUCHANAN: I'll try my best.

MR PEDEN: Because I just had one question around your – the proposal on by-elections. I just want to give you, I suppose, a practical example and just test how strongly you hold this view that list members shouldn't be able to contest by-elections, because if you recall the Mana by-election at the end of 2010 where a sitting list member contested it, she had contested the electorate in a previous general election. She was a high profile candidate. She contested the general election after the by-election, and I'm just wondering whether it would have seemed odd to the supporters of a party –

SIR HUGH: And she was a list MP.

MR PEDEN: And she was a list MP. Wouldn't it have been odd that she not contest that by-election if she was the party representative that the electors, the Mana electorate were used to seeing represent that party?

MR BUCHANAN: I would, um, concur with your view.

MR PEDEN: Thank you. I just wanted to test that.

SIR HUGH: Would you envisage compulsory voting having a criminal sanction for non-compliance?

MR BUCHANAN: I believe in Australia there is a fine, but my understanding was that there wasn't – that the fine was minimal. It wasn't significant.

MR PEDEN: Well, I was lucky enough to be able to observe the Queensland state election, and speaking to the Commissioner there, the penalty has recently been increased. So it's a \$150 fine, which would certainly give me pause for thought, and if, after three notices, you still haven't paid it, you lose your driver's licence, which would give most people pause for thought, I would have thought.

MR BUCHANAN: Well, we're progressing from a nanny state to ...

MR PEDEN: The Australians take it very seriously and, you know, their political culture is – I mean, I accept that compulsory voting there has contributed to a culture in which voting is absolutely accepted as something that everybody does, and it permeates the media, but they do – one of the consequences is being one that, if you want to avoid it you just don't enrol, and secondly I have questions about the engagement between parties and citizens and the incentives on parties to actually get out and connect with voters.

MR BUCHANAN: Perhaps can I make a comment, just thinking aloud, you're saying about using a carrot and making it compulsory, perhaps the other alternative is to make it compulsory without any fine initially, and then, or a very minimal fine, to put the electorate on notice that they are expected to engage in this process, and then subsequently there'd be an opportunity to increase.

0930

SIR HUGH: All the other examples you give of compulsory participation and citizenship responsibilities do have sanctions behind them. Jury duty arises

out of a summons, and people can be fined for not doing it. It doesn't happen very often, but they can be. Giving evidence, again, arises of a summons. Compulsory education doesn't, that's true. Payment of taxes, you can both be fined and incur very savage penalties, but on payments there are sanctions looming in the background of pretty well every one of those compulsory citizenship responsibilities. So compulsory voting I think would have to have some kind of enforcement or sanction behind it to make it bite.

MR BUCHANAN: Yes, I agree.

MR PEDEN: And I absolutely accept your analysis of the right that voting constitutes. That's the type of right that involves an obligation on the citizen to exercise that right. You agree with that?

MR BUCHANAN: Mhm.

SIR HUGH: Professor Roberts, do you have anything?

PROFESSOR ROBERTS: I just wondered, Mr Buchanan, if you – I don't know if you wanted to deal with something that was in Dr Campbell's paper. I get the impression in Dr Campbell's paper the thresholding proposal is not a percentage threshold but an actual number of votes threshold, like the figure there is given 33,000.

MR BUCHANAN: Yes.

PROFESSOR ROBERTS: And so you think that that would be, you know, set a target in the number of votes. Below that number of votes you do not qualify for a share of all the seats. Above it, you do. Is that right?

MR BUCHANAN: I agree with that, yes.

PROFESSOR ROBERTS: I just wanted to clarify.

SIR HUGH: Dr Arseneau?

DR ARSENEAU: And again, I'm not sure whether this is something that you can respond to, but I was interested in the discussion about that it's desirable for voters to be able to pass judgement on parties' selection priorities, so are you talking about re-ordering the list, are you interested in more democratic practices in terms of how the list is drawn up?

MR BUCHANAN: Is this with reference to Dr Ian's Campbell's submission?

DR ARSENEAU: Yes.

MR BUCHANAN: I'm not ...

DR ARSENEAU: You don't have it? Do you personally have an opinion on whether voters should be able to re-order the list or perhaps have more access to the development of the list within parties?

MR BUCHANAN: Well, I think it's really driven by the political party system and that can change and it's variable between different parties, so I'd expect there'd be quite a bit of variation, but my thoughts are that once the list is established through whatever mechanism the party determines, then it should be adhered to.

MR PEDEN: Can I just check, Ms Vickerman, would select committees accept submissions by fax or email?

MS VICKERMAN: Yes, we do.

MR PEDEN: Are we able to provide a contact just in case you did want to make a – it would just be a case of taking a submission and emailing it or faxing it to the select committee, who can perhaps just provide a contact for Mr Buchanan.

MR BUCHANAN: I would use that opportunity, thank you.

SIR HUGH: Thank you, Mr Buchanan, and Dr Campbell, for the submissions and the interesting thoughts put forward. Thank you, too, for coming along earlier than originally expected.

MR BUCHANAN: Thank you again for the opportunity.

SIR HUGH: The next submitter, Mr Miller, is not due for 10 minutes, so perhaps we'll take a break, shall we.

HEARING ADJOURNS: 9.34 AM

HEARING RESUMES: 9.38 AM

SIR HUGH WELCOMES ANDREW MILLER

ANDREW MILLER: Okay. Tena koutou katoa. So in my written submission, I've presented a number of ways in which our electoral system can be improved, and I've also discussed a number of other proposed changes to MMP and why they could have unwanted adverse effects.

So if we are to assess different modifications to the electoral system, it's helpful if we have criteria and properties that we can assess those modifications against. So I'll start out by discussing the properties I think our electoral system should have and then I'll talk about how a number of possible modifications and how they fare against those criteria, so one important property of a good electorate system is the degree of proportional representation that it gives. So proportional representation means that both the majority and minority groups get to have their say in Parliament. The fairest outcome would be if every possible viewpoint that people have was represented in Parliament with influence in proportion to the percentage of people who hold that viewpoint.

However, because there are almost as many distinct viewpoints in the country as there are New Zealanders, the only way that you do that would be to have direct democracy where every New Zealander was essentially a Member of Parliament, and obviously it's very difficult to reach that extreme of representation, so practical electoral systems require people to align with parties or candidates that present the closest approximation of their viewpoints.

The impact of an electorate system change on proportional representation can therefore be assessed by how closely groups of people holding a particular viewpoint can get representation approximating their viewpoint and how well

the proportion of representation aligns with the proportion of electors being represented.

So one of MMP's strengths is that it is a proportional system, and the fact that electors choose to keep – chose to keep it in the referendum suggests that proportionality should be regarded as one of the most important criteria to assess electoral system changes against.

Another criterion which I think is very important is that the electoral system should minimise the occurrence of situations where an elector will, by voting for their sincere, true first preference, decrease the chance of being represented in proportion by a party with viewpoints close to their own, compared to if the elector voted for a candidate other than their sincere, true first preference.

The reason this property is so important in electoral systems is because if it doesn't hold, some members of the public will vote for their sincere first preference even though it's against their best interests. Others will vote insincerely but even then this might not result in the outcome that they wanted. Now, the reason being that effective strategic voting often requires knowledge of how everyone else is going to vote. However, this then becomes a question of double and triple-guessing who else is going to strategic vote and so on. It also depends heavily on potentially biased sources of information, such as polls that are carried out before the election, and so this gives various people undue influence on the process.

So therefore minimising the need for strategic voting by minimising situations where voting for a sincere first preference harms an elector's interests is an important criterion an electoral system modification should meet.

Now, there's obviously a number of other criteria, but those two criteria that I've just listed are ones that are relatively useful for this, for considering changes today, so I'll be using those two criteria.

So my first suggested change to MMP that I made in my written submission was that – is one that will both help achieve better proportionality and less need for strategic voting, and that change is simply to drop the 5% threshold entirely, so that there's no threshold on the percentage of party vote that's needed, and so this would effectively create a threshold of 0.83%, being one one-hundred and twentieth of Parliament. This would reduce a major cause of wasted party votes that reduces the proportionality of the system that only electors who vote for parties getting – so under the new, under my proposed change, only electors who vote for parties getting under 0.83% would waste their vote as opposed to electors who vote for someone under 5%, so that – and because it's a lot easier for a party to get over 0.83%, it's likely that there'll be a lot – there'll be far fewer wasted voters, and so that means that voters will be able to feel more confident voting for their sincere first preference.

0945

In addition, electors in electorates where an electorate candidate is from a party that isn't likely to get over 5%, they will no longer have a strategic reason to vote for the candidate if that candidate isn't their sincere first preference, so it will also remove another need for strategic voting, so that's perhaps the change that I feel the most strongly is needed.

So while we're on the subject of the threshold, I think it's worth talking about some of the other proposals. So I think that lowering it to something lower than 5% is better than nothing, even though I'd prefer it went all the way down, and I think that raising it would make the system less proportional and would create more need for strategic voting.

Now, I think I should also address the common objection or one of the most common objections that I've heard to getting rid of the threshold, which is that – which is the claim that getting rid of the threshold would give undue power to kingmaker minority positions, essentially. And so I've done a number of simulations, and I don't agree that this fear that removing the threshold would lead to this kingmaker situation is well-founded. In fact, from what I've looked

at, increasing the number of independently-acting small parties in Parliament is more likely to decrease the influence of any one small party.

And so I've put together a chart, and hopefully you can see that okay. So it's just showing, essentially, if this is how Parliament's makeup could look if there were only three different parties. I've got two with 40% and one with 20%, so you just really need to see the approximate proportion. And so there's actually four ways – there's four different ways that those three parties can form a Government. One of them is that all three parties form a Government, and there's two different options where two of the three form a Government to get a majority. And so as you can see there, there is – essentially there is no difference in the leverage that any of those three parties have, even though one of the parties has got twice as many votes, and so this is under our case where you haven't got many parties because you've got a high threshold.

Now, and so I think it would be then – and so what that shows is that having a high threshold doesn't stop the kingmaker situation happening, but if we now consider a case where there is a lower threshold and there's far more parties in Parliament, and so let's say that there's 10 parties in Parliament and the percentage of representation of each of those parties is 26%, 24%, 15%, 15%, 4%, 4%, 3%, 3%, 3% 3%, so that's 10 parties, they add up to 100, if you do the maths on this composition of Parliament, there's 521 different combinations of parties that could form a coalition agreement and get to 50%. And 77.5% of those combinations involve the party that got 26%. 71.4% involve the party that got 24%. 62% involve the party that goes 15%. Well, the first party got 15% and it's obviously exactly the same for the second party since it's completely symmetric. Similarly, 54.7% have the first party to get, the first party that got 4%, and 5.36% involve the first party that got 3%, or one of the first – sorry, it involves, if you choose a particular party that got 3% then 53.6% involve that party.

Now, so what that shows is that with the small number of parties in Parliament all parties will have equal leverage, but with a large number of parties in Parliament, the larger parties will have – sorry, yes, but with the larger number

of parties in Parliament, the larger parties will have more options and more leverage and the smaller parties will have fewer options and less leverage. And for this reason, removing the threshold will actually make it less likely that there'll be a kingmaker situation occurring.

So now that I've dealt with my suggestion of removing the threshold, this brings me on to my next suggestion, which is that electorate MPs are selected using a preferential voting system like single transferable vote, so the design of MMP is such that the selection of electorate MPs is essentially a sub-system of the electoral system, and you can really make an independent choice about how that sub-system operates within the broader framework of MMP.

So at present, electorate MPs are selected using a First Past the Post system, or a First Past the Post sub-system, and First Past the Post notoriously deviates from the principle that the system should ensure that it is in the elector's interest to vote for their first preference candidate, because it suffers from the problem of vote-splitting. If 60% of people like stone fruit, for example, and 40% like melons, and you have an election where pear, plum, oh, sorry, actually, peach, plum and watermelon are running, then there's a good chance that peach and plum will split the vote and get 30% each while watermelon will win with 40%, even though they're actually a minority.

0950

MR PEDEN: You have explained that very, very well in your written submission, Mr Miller. It's very clearly set out. Sir Hugh, would you – I'd like to ask you some questions about the things that you've just been talking about. On your point about more parties in Parliament not having reducing the concern about the kingmaker effect, have you got any evidence beyond mathematical analysis that that's actually the case, because I suppose my limited awareness of overseas examples would suggest that the contrary is true.

MR MILLER: Right. Well, I have heard of it working in other countries. It's not really an area that I have much expertise in, in terms of what's happened in overseas countries. But I do suspect that it's likely that there's other factors at place that can cause instability in other countries as well.

MR PEDEN: I'm sure that's right, and I suppose that was really what I was wondering about, because certainly the mathematical analysis is informative, but humans aren't quite as rational as mathematics would prefer. There are other factors that we need to take into account. With your proposal around preferential voting, you're advocating that irrespective of where the threshold was, so if there was a 0.83% threshold, which is your preference, would you still propose preferential voting on the candidate side of the paper?

MR MILLER: Yes, I think that that's essentially an independent sub-system, so I think that it addresses a different problem, which is how the electorate MPs are selected. Yeah, so obviously part of the need for it might be reduced by reducing the threshold, but there's also other good reasons to have that type of sub-system.

MR PEDEN: So as I understand what you're proposing, we have the same ballot paper.

MR MILLER: Yeah.

MR PEDEN: A voter would tick the party vote?

MR MILLER: Yes.

MR PEDEN: Sign the paper with just a tick, and on the candidate side of the paper they'd be invited to mark it 1, 2, 3 as their preferences?

MR MILLER: Yes, with the same candidates that are running.

MR PEDEN: I suppose the question in my mind would be how you think, from a voter education perspective and a simplicity of the voting system, what impact that would have on voters and on, for example, the rate of informal voting in New Zealand which is currently very low compared to other jurisdictions.

MR MILLER: Yeah, so I think that it partly depends on the number of candidates that are going to be on the ballot. If you have a huge number of candidates on the ballot, people might not – might find it a bit daunting.

MR PEDEN: I suppose what I'm thinking about is, you know, we explain to voters that on one side of the paper you mark the paper with a tick. On the other side of the paper, the same piece of paper, you're using a different system. You have to number 1, 2, 3. How do you think voters would find that?

MR MILLER: Yes, well, I think that some voters could find it more difficult, but one way that you can actually address that that's quite commonly done is you say that if someone just ticks it that counts as a 1, and you don't have to rank anything below it, 'cos if you don't rank them it means that they're last-equal, essentially.

MR PEDEN: All right, that's one thing. What about if they numbered it on the party vote side? What would be the rule there?

0955

MR MILLER: So there could be rules like the number 1 is just treated as if it was a tick.

MR PEDEN: Because you're really doing quite – you're exercising a different judgement, aren't you, when you number 1, 2, 3, than you are numbering a tick?

MR MILLER: Well, I guess choosing your first preference, so – well, if you're voting sincerely and you're putting a tick in your sincere first preference, that really is equivalent to putting a 1 in there. It's just that you have to keep going after that and raid everyone else who comes second. I would suggest that you don't have to do that, because that would – you would get a higher rate of informal voting if you forced everyone to number all the way down to the last candidate than if you allow people to stop when they ...

MR PEDEN: I've noted with real interest your comments on suffrage, and just on the point about your submission on the treatment of people with mental illnesses, I wonder if you're aware that the – it isn't actually the effect of section 80 of the Electoral Act that if you are suffering from – if you're confined because of a mental illness that that removes your eligibility to vote. It doesn't. It's only in those circumstances where the criminal justice system intercepts with the hospital system, in effect, and you are, but for your mental illness, you would have been in prison, that you are denied the right to vote. So I just wanted to make that point. But that was the point I wanted to check, thank you.

SIR HUGH: Dr Arseneau? Mr Miller, I'd particularly like to thank you for your treatment of dual candidacy in list MPs standing in by-elections. I thought it was very attractively put forward. The universal suffrage aspect, Mr Peden's covered some of that. Your disqualification from registration really only occurs if there are Court orders against somebody, and of course that's part of an adjudicated process, so putting it colloquially, you have to be fairly sick to have one of these orders against you, really incapable of managing your own affairs, and that, as you mentioned in here, is a pretty small proportion of patients. But I have to say that personally, like you, I have never quite understood why an offence against the criminal law resulting in imprisonment brings with it disqualifications under electoral law. I've never understood that. Anyway, Dr Arseneau, have you any comments?

DR ARSENEAU: I was intrigued by your suggestion of lowering the voting age to 16 as a potential way, as way, of universal suffrage. Could you just

speak for a couple of minutes about why you think that would be a good thing?

MR MILLER: Yes. So the reason that – it's, obviously the age at which things like that kick in are to a certain extent arbitrary, but at the same time we have already in New Zealand the Human Rights Act, which sets the age at which discrimination becomes illegal at 16, and so that does seem like a reasonable age. I think people at the age of 16 are able to at least decide where they want the country to go, to some extent, and so I actually think it would be appropriate that people from 16 up were given the right to vote. I think that 18 does seem a bit high to me, but obviously there are certain values judgements in there.

SIR HUGH: Professor Roberts?

PROFESSOR ROBERTS: Well, first of all, I'd like to thank you for a very interesting and thoughtful submission. I just want to ask one question in light of your arguments in favour of voters casting a sincere first preference vote rather than a strategic vote, and I think that's been the main importer of a lot of your conclusions, why then do you say that there should be no change to the idea of closed lists? What happens if a voter likes a party, is reasonably happy with the list, but is forced to cast, in effect, an insincere vote for a list because a candidate that they think should be more highly ranked is too low, or vice versa?

MR MILLER: Right, so the reason that I would prefer that parties continue to have the power to choose their procedures for setting their lists is that it avoids the case where you have people insincerely saying that they're going to vote for that party so that they can influence the list and then not voting for that party, because what can – what happens, at least in other countries, is that people will participate in the list ranking process of, say, the opposite political side – opposite side of the political divide to where they stand to try and weaken the list so that it's less likely to win, and so I think that that's perhaps a more important concern, and I think that it should be the case that

political parties try to make their list ranking process as democratic as possible and as inclusive as possible. I just think that the decision on how that process is run should be made by the political parties so that they can control things like insincere voting to try and adversely impact the list.

PROFESSOR ROBERTS: I appreciate your concern while the parties are in the process of compiling their lists. I mean, I don't think, and I didn't take it, that you were advocating or anybody is really advocating that we have open primaries where Democrats can choose a Republican candidate, which happens in some US states. But once the list has been compiled by a party, in effect the law is a suck it and see. You just have to accept it. You see no reasons at all for saying, "Okay, here's the party list, but I actually like the woman at number 5 to be more highly ranked, I'll give her my preference"? Wouldn't that be in accord with your principles?

MR MILLER: Well, I think that that probably wouldn't be MMP any more. It's probably going beyond, so certainly if I could see something that – yeah, if there was an alternative that worked very well that didn't have all these problems, then it might be a good thing, but I actually don't think there's any practical system like that that I am aware of, anyway.

PROFESSOR ROBERTS: Okay, thank you.

SIR HUGH: Well, thank you, Mr Miller, for a most interesting submission and presentation.

MR MILLER: Thank you for hearing me.

1000

SIR HUGH WELCOMES CIMINO COLE

CIMINO COLE: Okay, thank you very much. Because I hadn't presented that mock-up of a party list ballot paper as part of the submission, I'd like to just speak to that. I gave a hint of the format that that might take in the submission, but by actually mocking up one that, based on the last election, I'm suggesting that it actually could, giving voters the ability to tweak the parties, the party lists, would be a practicable and useful addition to the, to our democracy. The – I've arbitrarily limited the number of placings to 30. Much beyond that is somewhat meaningless, and the suggestion is that rules could be devised that would determine which of those placings were used by a party, the National Party, for example, had 75 placings on its list, but a lot of those are meaningless because they're safe seats, so I think it would be entirely manageable.

1005

I also suggest that a – possibly a vast majority of voters wouldn't be interested in participating in list rankings so that it should be, in fact, an optional option for voters to choose to dive in at that, to that depth, and further, that if a voter particularly wanted to participate in the entire listing process, then some form of special vote or special arrangement be allowed or provided for whereby the whole tablecloth ballot paper could be made available to that person to painstakingly rank every ranking for that party if they so desired, but I believe the vast majority are only interested in one or two placings. They're either incensed that it's too low or too high, and the spectacle of Stewart Nash, for example, being so low on the party list that he ends up being Chief of Staff briefly, and that's all, as a case in point.

The other thing I wanted to mention about the mocked-up ballot paper is that it brings in the concept of voters being able to make a preference or indicate a preference for the coalition. I believe the two elephants in the room were the lack of preference voting in our MMP system, and I was interested that the previous submitter was obviously addressing that. I think that's a huge

deficiency, but the elephant behind that elephant, obscured by the former, regards coalitions, effectively voters are having to guess or second-guess parties and I'm sure when there was some a clamour to replace First Past the Post it wasn't from a desire to make the parties even more powerful than they already were. It was a widespread discontent with the two parties, the all-powerful two party system, and we've swapped that for the all-powerful coalition system.

The other thing I needed to speak to was that in that mocked-up ballot paper, in the coalition band, you'll notice in each case grand coalition are written in, and I believe that should be mandatory so that in effect the only party, the only coalition groupings that voters be allowed to, or those that have been agreed to by the parties, some parties, notably New Zealand First, refused to – made it clear that they were only going to be in opposition. So be it. And a party may wish to indicate that they're only prepared to be in Government or in opposition, but grand coalition, I believe, is – should be the default that the voter be allowed to express a preference for.

MR PEDEN: Can I just ask what you mean by a grand coalition in this case?

MR COLE: A – the inclusion of all parties, all representatives, in Government.

MR PEDEN: So every Member of Parliament would be in Government?

MR COLE: Yes, and also free to vote against...

MR PEDEN: Has that ever happened anywhere in the world?

MR COLE: Frequently in wartime.

SIR HUGH: I was going to say, except in wartime.

MR COLE: I believe the public is deeply cynical about the two-party and now the two-coalition system. Nobody's fooled by "Your policies are wrong

because we're the opposition", or, in other words, all your policies are wrong, all ours will be right, and if the – if National loses the next election, for example, then we will have potentially 45% of voters not participating in Government in a meaningful way.

MR PEDEN: So if the majority of voters voted for a grand coalition, what would be the effect of that on the parties elected to Parliament? Would they be obliged –

MR COLE: They would be obliged. Parliament would elect the leader.

1010

MR PEDEN: With the paper that you have put before us, Mr Cole, the, it's providing for an exercise of the preference vote at the party vote people, that's the top line.

MR COLE: Yes.

MR PEDEN: Then you have explained that there is an opportunity to rank in terms of coalition preferences and a voter would have the opportunity to rank each of their preferences, so that their –

MR COLE: Yes.

MR PEDEN: And then when it comes to the party lists, again they are able to rank each of the party lists?

MR COLE: As many or as few, the default would be the party list. So any vote the voter, any ranking the voter offered, works to modify the emphasis slightly but the party's rankings.

MR PEDEN: And if we had, as we have had in some elections, 19 parties contesting the party vote. We have had 19 parties across the belt paper?

MR COLE: They would be B side, that would be the B side.

MR PEDEN: The one thing I did want to just understand was that you mentioned that you've arbitrarily decided upon a list published list size of 30.

MR COLE: Yes.

MR PEDEN: You've numbered the circles, some start at one, some start at four, some start at three. Is there any –

MR COLE: Yes there are, those seats that are safe by –

MR PEDEN: Who decides that seats are safe?

MR COLE: Formula or a number.

MR PEDEN: The Electoral Commission.

MR COLE: The point being that if that doesn't suit, if the published lists or the published ballot doesn't suit a voter and they want to participate in the entire list, then by request they should be able to.

MR PEDEN: Yes because as you mentioned. There are some that has got 75 members and I couldn't quite follow the rationale for, given what the objective behind your proposal appears to be, to be arbitrarily stopping at 30> Because if the idea is that voters want to be able to express a view about where somebody should be in the list and if a party is put a candidate at number 75 and their mum thinks they should be number 1. Shouldn't they be able to –

MR COLE: Yeah absolutely and that's what I say. If it doesn't, what I am suggesting is a pragmatic approach, that would address the needs of the vast majority of voters so that at the poll they could elect to take the paper that allows them to do that ranking. If they are the mum of the candidate and they

want to elevate from number 75, then they can request the full table cloth or multi sheet ballot.

MR PEDEN: And so just one last question. Under Labour, the voter is marked at 1224. What kind of rules would you –

MR COLE: Sorry I foolishly –

MR PEDEN: Which is something that will happen. What would you see the rules being there, basically we would accept the placement for Mr Nash but anything beyond that, the voters' intention isn't clear and so we would, it wouldn't be a totally informal vote, we would rank Mr Nash accordingly but that would be the only numbering that we could accept from that voter?

MR COLE: Yes the, as mentioned at the head of that column.

MR PEDEN: Yes.

MR COLE: The effect of that voter casting, re-ranking three of the candidates is that the balance would automatically re-order, so rather than asking the voter to painstakingly go through and re-order the whole list, the computer does that. They simply address the ones that they are interested in.

1015

MR PEDEN: Yes.

MR COLE: And the system re-ranks the ballots.

MR PEDEN: Sure. So when –

MR COLE: So that then becomes their vote.

MR PEDEN: So where somebody is ranked two twice.

MR COLE: Oh did I do that, did I?

MR PEDEN: Yes.

MR COLE: Oh that can be. It's a good point, and I am glad I made that typo wherever I made it. In that – sorry which? What a useful – fortunately STV in its more elegant implementations, can routinely cope with multiple use of the one ranking. So a person could rank a number, 111 or a number 222. The system can –

MR PEDEN: How would the system distinguish?

MR COLE: I am not the mathematician that devised these.

MR PEDEN: Because presumably the voter's isn't clear and you would go as far as the voter's intention is clear and then you would –

MR COLE: Well no I believe it wants to be as simple and intuitive as possible so that if a person is ranked 2 and 2, then that is taken as an equal preference for that particular voter. Yes, I can't see any reason why that would be bad. And in fact, one of the down sides of preference voting is that it sounds to rank them all one, two, three but when you actually come to use these things, often there might not be a lot in it between a couple of candidates. So I don't see any reason the voter should arbitrarily be asked to choose between two candidates, if they equally support them.

SIR HUGH: What happens if a party fanatic goes out and writes one against every candidate?

MR COLE: Well in effect it means that their vote, their ranking at the party list has been so diluted by their own actions, then it has no effect.

MR PEDEN: I suppose my last question will be. Is what you are advocating to us is an enhancement of MMP?

MR COLE: Absolutely. Absolutely I think –

MR PEDEN: It's not STV?

MR COLE: No absolutely. I, while I am hugely enthusiastic about STV for local body elections. The reality of central government elections is that the parties play a huge role and usefully play a huge role in the process. So we don't go back to a situation where the voters' preferences for party are less than is total as we can, or as comprehensive as they can be made. The threshold is an issue, of course but that's why I believe it is very important that the parties be ranked, so that those of us that are interested in supporting minor parties, aren't penalised because they drop below the threshold of whatever that may be.

MR PEDEN: Actually on threshold. Can you explain what you see as the benefit of a graduated threshold?

MR COLE: It's – I guess it is a compromise between having a fixed threshold, at say 5% and no threshold and because I, I think it is possible that a no threshold system would work. I mean, the sky might not fall but we have got the sky fairly high at the moment at 5%. Stephen Todd's suggestion for having graduated, I think is a very elegant answer to that whereby the party gets some representation at say 3% but only gets full representation at say 5%.

MR PEDEN: I am just trying to understand how that fits with the principle of proportionality. I mean I accept that a threshold, an absolute threshold is arbitrary but it is an arbitrary element to a graduated threshold too.

MR COLE: Yes, yes, that's right. So that's what I'm saying. We can either have that very arbitrary 5% and um, but that clearly is problematic or we can have no threshold which many consider to be highly problematic or we could

have a lowered threshold, or the graduated. The graduated is arguably more proportional than a fixed threshold, no matter how low.

1020

MS HURIA: Just some points on clarification if I may. Basically this system is allowing non-party members to rank members in other parties.

MR COLE: In the party that they have expressed a preference for.

MS HURIA: Oh I see.

MR COLE: So if they bother to do others.

MS HURIA: Because there is two there and two here at the top.

MR COLE: Yes, the voter has in this hypothetical, has given their first party preference to Māori, second to Green, third to Labour.

MS HURIA: So are they allowed to rank in the first three, the third parties?

MR COLE: In this example, or in the example of last year's, the last election, because the Māori party vote wasn't used, then that vote is party preference, would be transferred to Labour.

PROFESSOR ROBERTS: The Green.

MR COLE: The Green, thank you.

MS HURIA: Okay that was the first point. Excuse me, the other point is, I come from Christchurch and our Local Body elections and our DHB elections, we tend to as people from Canterbury, vote in people who have worked in the media basically.

MR COLE: Yes.

MS HURIA: Because people recognise their face really. And so what this is suggesting is, what my fear for this might be, and that is why I would be keen for you to answer that, is really the people will take the trouble to tick, they – I suggest probably wouldn't be doing the study of all these people in terms of ranking and you are saying, well they can just pick out the ones they know, but the risk around that, from my experience of Christchurch, might just be they pick people who have worked in the media or have had a very high public profile which doesn't necessarily relate to their ability to be a good MP.

MR COLE: Yes certainly. And just to comment on those Health Board elections, I think they are hugely problematic because the lists are so long and the fact that they are, what is the term for it. They are a single ward election and I think they are a disaster. It makes it really difficult for people to participate meaningfully in those and there is, I think, for that reason a heightened. I think it makes the issue that you have raised particularly problematic because they are trying to find six or however many candidates, from a list a mile long. I think it is an awful mistake. They should have been broken up into areas I believe.

MS HURIA: I mean thankfully that is outside our scope.

MS HURIA: No, No. But would the same principle not transfer to that?

MS COLE: Yes I do understand your concern and I am sure there would be an element of advantage to those list candidates that do have a high profile for whatever reason but the down side of our current arrangement is that on one hand, we have an electorate where there is great familiarity, or tends to be with the candidates, particularly the incumbent and in an electorate such as Rodney where I am from, often the other candidates are completely unknown because there is no point in them standing against the National incumbent. So you have got that one extreme where at the electorate level, where there is enormous recognition for the candidates and then at the other end, you've got your only, you are voting for the party and have absolutely no

democratic choice unless you become a party member or even better, a party activist and for some of us, that's ruled out.

SIR HUGH: Thank you Mr Cole, thank you for all the work you have put into your proposal.

1025

MR COLE: You're most welcome. And thank you for the generously long hearing and all the other dealings I've had with the Commission, by email and phone, they've been a breath of fresh air. It might not be the last submission I make in my life. Thank you.

SIR HUGH WELCOMES JULIET YATES

JULIET YATES: Good morning. Thank you very much for hearing me, Sir Hugh, members of the Commission. The supplementary information I have is based upon the, discussions within my community and with people who are concerned about the current operation of the party list system and I have come up to suggest to you there is an alternative way of ensuring representation of minority parties.

I would just introduce myself by saying that I, I have got a genuine in a democratic system. I have studied many forms of representation and I, for 21 years, as a member of the former Auckland City Council, I represented a very large ward of Eastern Bays which is almost the same size as a Parliamentary constituency at the present time. I stood both as an independent against a, a prominent majority party and then later joined that party. So I am aware of how to become known in an electorate, a very large one, and to gain credibility, and to stand. So that's my basic inference.

When I chaired the legislation committee of Auckland City, I did visit Wellington from time to time to speak to select committees. I am a qualified lawyer and as such, I am familiar with the select committee process and the advantages it offers in scrutinising pending legislation and in giving opportunity to all interested people, including minority parties, to make submissions.

SIR HUGH: Perhaps if you'd just give us the opportunity, Ms Yates, to read the balance of page 1 and then I see you intend to speak about two particular –

MS YATES: Yes.

SIR HUGH: Could you just give us a moment?

MS YATES: Yes, certainly sir.

SIR HUGH: Thank you. And then over to page 2 and you address us on the particular points you wish to cover.

MS YATES: Certainly. I begin with the concept of democracy whereby the representatives are elected by the people and the electors know who was standing and had the opportunity to meet with the candidates and we would organise Meet The Candidates Night to meet about 20 candidates in the national elections from time to time and, you know, this was an opportunity. I realise that candidates don't hold their own public meetings but I think they should be available to speak to members of the public who are interested.

The party list, or the list candidates diminishes that democratic aspect. Party faithful may be rewarded with a list seat because of loyalty or fundraising capabilities. So it emphasises party discipline and party policy and I think that that person, if in Parliament, is not necessarily the best candidate when it comes to looking at new legislation.

I have a couple of quotes from papers but just to move on quickly, I will state that accumulating power or support from minor parties shouldn't be at the expense of democratic principles. The party vote can be retained but exercised simply as a vote. The outcome of my proposal is that after an election, the election process itself will be simple for the people. They have two votes: one for a candidate, they have a list of candidates; one for the party of their choice.

1030

The party votes are accumulated and there will be percentages. Instead of each percentage giving more Members of Parliament, each percentage will be exercised by the party leader who has the party seat in Parliament so that in a debate, the voting – members will be voting, the individual MPs, and then the party leader may decide to exercise the party vote, stand up and say "I'm now casting the party vote which is 10% more in favour of this proposal." It means that each minority party can then have the influence which the people of

New Zealand, the electors have given to them without the problem of saying, well, we don't who the candidates were on the list.

So I've overcome that difficulty of who, how to know who you're voting for because they'll know who the party is, so that's why the percentage vote would operate as a party vote. Conscience votes would be as they are now, and the leader would have to cast the party vote according to his party policy which the party itself would vote on and the majority in that particular party would prevail, which is a democratic way to do it.

Of course, from time to time, parties may need to change their policy because of new information, you know, world events, and it should be made public. For example, the Purple Party has now changed its policy on electrification of trains, you know, so they would make a public statement. Everybody's got websites, there's no problem, you could have your 10 policies on your website, just as you would have at each election time. Your declaration of donations should be on the website, updated day by day. You know, this is not difficult technology and most electors are quite familiar with going to the Internet and finding out the information they would like to see.

So in order to exercise the party vote with care, parties must stand up to public scrutiny so that this would mean that instead of a huge number of minor parties, the parties would have to make certain statements so that people know how they are, where they come from, whether they split off from another group, or whether they're promoting something which may be unlawful.

I have even suggested a restraint of trade agreement within the party so that the party who selects candidates, puts them often into safe seats, is not then faced with that person deciding to leave the party midway through a period of, in Parliament and then set up a splinter group. I don't think that adds to the democratic process. If a person, an elected MP disagrees with something that is happening in Parliament and disagrees strongly, of course they should resign, just as a director of a company would resign if they disagree with what

the Board is doing. You know, we do it everyday. We don't immediately set up a rival company to use the technology which the business is promoting.

Candidates for constituency seats can carry out their own publicity campaigns at present. I believe that this system would lead to more scrutiny of political parties and more ethical behaviour.

Threshold: I just mention that the people to whom I have spoken in my local community, nobody agrees with the current threshold. Some people suggest higher. I do not wish to go into this, simply to say that we would like to have it reviewed.

1035

Now, if the paper which I sent in on MMP review said we had to disregard the number of seats in Parliament as well as the Māori seats so if I disregard that, my system of the party vote would mean that the size of Parliament would be reduced. Therefore, the answer to that is to increase the number of constituency seats so that there will be 120 persons elected to Parliament with maybe 10 seats allocated as party seats. So it would mean more constituencies and the outcome of that is, it means it is easier for the electors to get to know who the candidates are and I use my own personal experience to show that that would be so.

MR PEDEN: Can I just check Ms Yates?

MS YATES: Yes.

MR PEDEN: With your proposal, because I could see that the effect would either be, you would have really fewer members of Parliament and it would depend upon the number of electorates.

MS YATES: Yes.

MR PEDEN: Which would mean wouldn't it, that the party leader would need to win a constituency seat. Wouldn't that be a problem for minor parties?

MS YATES: I think it would be and that's why I am suggesting there would be a percentage of seats in Parliament which are retained or available as party seat, a party leader seat.

MR PEDEN: Okay.

MS YATES: Because you see, even if the party got 3% you still need the leader to say, you know the Purple party exercises three votes in favour.

MR PEDEN: So there wouldn't be a list as such would there?

MS YATES: No, not –

MR PEDEN: But there would be a mechanism by which, say a party leader contested a constituency seat, weren't successful, they would nevertheless be allocated one of the –

MS YATES: Yes.

MR PEDEN: - party seats in Parliament.

MS YATES: So there would be a new kind of threshold. Instead of the – the threshold would be as to the size of the minority party, I mean if you only got 2% of the electorate votes, Parliament might say that's too small and you would have to have 10% cut off. I have listed what I think are a number of advantages there and I am suggesting that this proposal would result in, or could result in substantial savings, it could preserve democratic process.

Above all, I am proposing something which I believe would be a lot simpler than complex systems of proportional representation. It would be easy for the public to understand and I think that that would increase the public interest

because in the local elections, people have often said to me, we can't vote for X, Y, Z because we don't know who they are, so they don't think it is honest to vote for unknowns. Whereas in the party list system as it is at present, virtually they are voting for unknowns in many cases.

SIR HUGH: Thank you Ms Yates for coming along and presenting it to us.

HEARING ADJOURNED: 10.38 AM

SIR HUGH WELCOMES ALAN McCULLOCH

MR McCULLOCH: Thank you. Mr Chairman, members. I did, you may have thought I laboured what your duty is but I think it is very important because I have made submissions to many commissions and groups, who took not the slightest notice because that wasn't the thing that they wanted to do. Not because, I am not saying that I am the source of all wisdom, but I have some experience of life, having turned 80 the other day and my sons gave, my three sons gave me a brand new lawn mower.

And I have been involved in local government and regional government and sat on fire boards and boards of governors and I have been a mayor but all this adds up, is not my importance but the fact that I have had experience in these things and I am extremely disturbed about some of the things that are happening in our country, some of which has come to light very recently and so I hope you take my first block of words in the spirit in which they are intended but I am serious about your response.

SIR HUGH: You have our guarantee that we will consider everything, from a completely independent point of view.

MR McCULLOCH: Point two about the threshold. I thought about this further and I thought if you had 10 parties and they each got 4%, so that would be 40% of the party vote and they wouldn't have any representation in Parliament. 40% and that is not impossible. In fact, if you look at the last or the one before that, particularly, you will see that there were a huge number of people who were totally unrepresented and so I think well maybe 2% would be a better indication of the will of the people because that is what proportional representation is about. It is about putting people in Parliament who are going to represent a point of view, that you hold dear to and if they say that. And by-elections, point three. I think personally if there is a list member and they want to stand for a by-election I don't think they should have

the choice of saying, well even if I lose, I am still going to be here. I think if they are going to stand for a by-election they should stand down and the next list member in their party should take their place.

SIR HUGH: Well can I put to you Mr Peden's repeated example. Hekia Parata was a list MP, stood for Mana in 2008, stood for Mana in 2011, she stood in the by-election between those two. Should she have had to resign as a list MP to stand in the by-election?

MR McCULLOCH: Yes.

SIR HUGH: Despite being –

MR McCULLOCH: I don't remember the case, but as I said, yes.

SIR HUGH: Okay.

MR McCULLOCH: What the growth population has to do with the ratio, I for the life of me, I don't understand that. So the population rises, so the subdivisions increase and the numbers of members, voters increase in the electorates. The party lists. At present we seem to have a situation where the hierarchy of the party decides who should be on the list and what their order should be. I did belong to a political party by chance where we actually, every paid up member actually had a vote on the order of the people on the list and there was no problem with that, and it worked perfectly well. Political parties, the hierarchy, you know, they take possession, oh we created this and this is our and the members, the paid up members are simply minions of the whole thing. They should have a more important part.

Point five is something that hang on, at least one of you is old enough to remember where members of Parliament had to actually be in the House unless they were paired because of some, you know, when they passed a law, they had to be there and so they should have to be there. They are there, supposed to be representing the people and these select committees

and what have you, I have made representations to lots of select committees, sometimes I have been listened to and sometimes not. That's not the point. The point is, when you are enacting law, real law, that is going to affect every person in the country, then the members of Parliament should have to be there or they should have to have some really, really, really cogent reason for not being there.

1100

What is happening at the moment is a disgrace in my opinion but it is lovely for the members of Parliament and they should have to be there when law is being enacted. And they should have to take responsibility by their personal vote, as they used to. You know we talk about why some of our kids aren't doing well. It's because of truancy. Parliament is the perfect example. Truancy. And while that may seem, you know, jocular, it's not actually. There's nothing jocular about it. It's a disgrace and it must stop.

Now we come to Māori seats and I understand something I've read that you're not going to dirty your hands with it, you've been told not to, told not to.

SIR HUGH: It isn't a question of dirtying our hands, Mr McCulloch, Parliament has passed a law which says two topics are beyond our capacity consider –

MR McCULLOCH: I understand that.

SIR HUGH: - one is the number of MPs in Parliament and the other is Māori representation.

MR McCULLOCH: I understand that.

SIR HUGH: We're just obeying the law.

MR McCULLOCH: Nevertheless, how many people were in the house when they passed the law? At any rate, um, it's a matter if it's not dealt with, it's a festering sore. 17 years of my life, I was school teacher and one of the

schools I taught at was Wesley College, down in Paerata. It was 52% Māori. I expected every one of those boys to do their very best. Nothing to do with them being Māoris or non-Māoris or Islanders or what have you. The (inaudible 11.01.24) all came there.

I expected those boys to do their best and so did every other teacher at the school and I've been delighted over the years to meet doctors, accountants, fishermen, concrete workers, who have found their niche in life by hard work and not by somebody telling them that, um, they're inferior, they can't hack it with the rest of the world, the rest of the system, therefore they have to have some special treatment. It's disgraceful and if school teachers treat children like that, and I know a lot of them do, then we have the terrible results that end up in jails, in Courts and all sorts of things.

I was interested enough in this matter, in the early 60s I went with my family to South Africa, lived there for two years, to study apartheid and the end result of it and the causes of it and there's nothing quite like divide and rule, divide to rule, I suppose you should say. But in democracy there is only one basic principle and that is equality under the law and if you set up a situation where you say well, to a group of people, it doesn't matter whether you vote or not, you're going to have your representatives at any rate, well how many of them are actually going to vote? Have you had a look at the statistics? Not very many.

Any rate, no matter what Parliament said, I think that you have a duty to say something about the special Māori seats because in a democracy doesn't not permissible and the fact that Parliament deliberately, with malice of forethought, excluded it is all the more reason why you as honourable people should say what you think about that exclusion. Thank you very much.

SIR HUGH: The two exclusions, the two exclusions as I understand it were because the two topics are before the Constitutional Review Committee.

MR McCULLOCH: Sorry, I didn't quite catch that.

SIR HUGH: The two exclusions in our Referendum Act were because those two topics are before the Constitutional Review Committee. So if you views on them, perhaps you should send a submission to the Constitutional Review Committee. We can give you the access if you wish.

MR McCULLOCH: Yes. Having said that, my, I understand exactly what you're saying. I hope you understand what I'm saying but I believe you are duty to be as citizens of this country.

SIR HUGH: Thank you Mr McCullouch. Mr Peden?

MR PEDEN: No, your submission was very clear, Mr McCulloch, thank you. No questions.

SIR HUGH: Ms Huria?

MR McCULLOCH: Thank you.

SIR HUGH: Just a moment, we might, the political scientists, do they wish to question you? No. Thank you Mr McCulloch, thank you for your contribution.

SIR HUGH WELCOMES MATTHEW CALVIN

MATTHEW CALVIN: Thank you. So today I'd like to – well, first of all I'm an Honours student in economics and maths at the University of Auckland, and I'm not affiliated with any political party. This is just a personal submission. So today what I'd like to talk mostly about is my comments about the party vote threshold. I think a lot of other things I've got in my submission are sort of value judgements, and I don't have any significant arguments on top of what I said in my submission. I'm still happy to take any questions on those if you have any, but basically what I said in the submission was you may want to not have a fully proportional distribution of seats according to a party vote because you, because that might give smaller parties disproportionate power in relation to their party vote. So I described sort of how the balance of power index works, generally explained why you could have some situations where even though a party has significantly fewer seats they're going to have more ability to be able to influence the law.

So what I've done since then was I wanted to see what actually does happen in these situations, how much power do these parties have, how much power do these minor parties have in relation to their party vote? Is this power being distributed proportionately or not?

So the first thing on page 2 is just showing seat allocations, and that's basically how MMP works. We've got a very proportional distribution of seats. The main places where it isn't proportional are where parties get under 5% and don't get an electorate seat either, so you can see on the lower axis you've got the Conservatives in 2011 and New Zealand First in 2008, which received less power and fewer seats than you would expect if you were allocating this in a purely proportional fashion. But otherwise it's a generally proportional allocation of seats.

So then you sort of want to start thinking of in a perfect world how would you distribution power? It's not often possible to distribution power as a function of

party vote. To be able to count it in every situation you'd need to get an infinite number of seats to be able to do that, so that's not going to be possible. But ideally we do want some sort of proportional relationship between these. We want a linear relation starting at zero and trending upwards as the party vote increases. So basically what we want is if you've got a small party like ACT or New Zealand First you want the votes for them, a certain number of votes for them to increase their power by about as much as those number of votes will increase the power of one of the bigger parties like Labour or National, and the reason you want that is to make sure you can't get strategic voting, that people aren't voting against their preferences because it gives that party more power.

So what I've got here is I've got basically the normalised index for each party that made it into Parliament and a couple that didn't listed as, compared to their party vote in each of the last four elections. So on slide 4, you've got the party vote and then you've also got one that's excluding Labour and National, so that's just showing how the small parties work. And I've done that again for 2005 and 2002.

The main result here is just that you have power among the minor parties being distributed somewhat proportionately, but you've got a big gap between this. In our current situation, the minor parties do have more power than they would proportionately have. All the major parties have less power than they should have proportionately. Those two interpretations are somewhat equivalent. That's basically because you don't have the sort of straight line relation in these graphs.

1110

So what I did then was I worked what would have happened if we had a 2% threshold, how power would have changed and that is shown on slide six and the main result of that is it wouldn't have made a huge difference. You would have three situations where parties didn't have any power, they would get some power, so that is conservatives 2011, New Zealand First 2008 and United Future in 2008, basically because they were too small to be able to

influence any votes in that Parliament. But you don't get a significant, you don't get minor parties getting power in excess of their party vote if you have a 2% threshold and you assume people would have voted the same way. That's a fairly strong assumption, you can't make the assumption that people would have voted the same way but it is very difficult to try and work out what would have happened if you did, if you had a 2% threshold.

So without being able to get any reliable data on the New Zealand situation of what would have happened there, I decided to have a look at some other countries that have different systems and see whether they generally tend to become more proportional or less proportional as the threshold goes lower. So, yeah. So I looked at New Zealand, Sweden, Spain and Israel because they had a 5%, 4%, 3% and 2% threshold respectively and they were somewhat similar.

To some extent, Spain did become different, we looked a bit closer at it. Basically because they were allocating power, proportionally in each province but not proportionally nationally. So yes I have got some limitations of what is happening there. And yes, Sweden has a similar sort of distribution to New Zealand, you can probably look at those yourself and see what is going on. The main result that we get is that as the threshold goes down, it does become somewhat more proportional, and then when you get to Israel, you get an incredibly proportional distribution of power, you get almost the ideal situation happening in those elections.

So what sort of is the reason for that? In my submissions I should have mentioned that small parties can get power in excess of their party vote. So what sort of the reason that that isn't happening in Israel and what sort of seems like the most likely reason is that you have got a proliferation of small parties. At the moment New Zealand doesn't allocate power proportionally, particularly well, in part because we have a very small number of parties, the number of coalitions is very restricted. So if you look at Labour and the Greens, they have got the same power, in any coalition that could pass a law, that has Labour in it, you could substitute the Greens for Labour and you still

have enough votes to be able to pass any law assuming you just wanted a simple majority and not sort of a super majority. So in that sort of sense, Labour and the Greens are the same size and you also have that New Zealand First and the Maori Party, also are the same size in terms of determining coalitions.

So this is something that we see in a lot of New Zealand elections, it happened in 2011, 2008, 2002 and 1996. And the reason why Israel doesn't have this situation happening is they have got a whole lot of fairly small parties, so that means that if you took the situation like currently, Labour would be able to get these extra few parties and be able to get over 50% whereas the Greens wouldn't be able to. Labour has more options open to them because there are these number of smaller parties.

MR PEDEN: Mr Calvin, can I just check before you go on that I have properly understood you. You described Israel as the ideal example and by ideal, did you mean a paradigm of an example of a proportion of distribution of power or that a proportional distribution of power is what we should be seeking to achieve in electrical system?

MR CALVIN: Both, I think Israel does have proportional distribution of power and also for reasons I am going to get into next, I think that proportional distribution of power is good and even though Israel may not have some other reasons that might have some other reasons why they are problematic, those problems aren't due to the threshold as such, it is because of the nature of the political climate there, that would mean that under threshold, they'd be having those problems.

1115

SIR HUGH: So you're going on to explain why a large number of small numbers in a Parliament might be a problem in Israel in terms of stability and government, but you're going to explain why you don't think it's a problem in New Zealand?

MR CALVIN: Yep, yep.

SIR HUGH: Good.

MR CALVIN: So, one of the sort of things you have if you've got all these, if you've got a whole lot more options opening up is that what each party can demand has to become more reasonable. If you've got a situation where a party has to go with one smaller party to (inaudible 11.15.31) government, that party's going to be able to make fairly large demands on what they'd want in a coalition whereas if you've got a situation where you've got a whole lot of smaller parties, you've got more options for being able to reach that 50%, what each, if any party makes any demand that's too extreme, another party come in and say we'll have a sort of less stringent demand and you'll still be able to make that coalition.

So if you've got this sort of large, large marketplace for coalition partners, what each coalition can demand has to go down. It's the same as what you would have in a market situation where you've got one seller compared to several sellers. Yeah, they start competing with each other and you end up with less, yeah, less demands from these minor parties.

The other thing is that the lowering of the threshold isn't increasing proportionality as such. It's rather the fact that we're getting these larger number of parties into Parliament. So if you look at Lithuania, they've got a, I think they've got a 4% threshold but they don't have, they do have a lot of parties because politically, they didn't – politically, they hadn't had a system of two strong parties so when they moved over to democracy, it ended up, you ended up with a whole lot of small parties gaining fairly large representations. And that's sort of, in part, because voting has a whole lot of (inaudible 11.17.03), a whole lot of situations where given everyone else's vote, you're happy with your vote but that might be different depending on what other people's votes were.

Yeah and also Austria is a situation where you've got a, um, lower threshold than New Zealand but most parties tend to be fairly large so you don't get this proportionality of power. I don't think it's unreasonable to think that if you lower the threshold you'll get more parties coming into New Zealand Parliament.

The next slide is showing that this isn't just a two-off event, it's happening in a lot of elections. And the, Israel is often held up as a problem of having a whole lot of minor parties because their governments will frequently collapse mid-term. The reason for that is often said that these small parties make overly large demands which cause governments to collapse. And if you look at history, half of the Knessets have collapsed in less than their four year term. But these parties aren't wielding excessive theoretical power, they're wielding party in proportion to their party vote. So either we've had some sort of problem with how we've computed power or there's something else going on in Israel that means we can't compare it to another country. And although that is, looking at the power is important, it, there are, it seems like it's more likely to be cultural differences than a problem with this method as such.

So yeah on the 21st slide I've got a list of why the last five Knessets that collapsed before their time was up did. And if you look at them, they've got a whole lot of leadership changes and then a lot of Palestinian issues where basically the major party has been trying to do something with Palestine and then you've got a whole lot of minor religious coalition partners breaking off and saying "We can't support that."

The other thing that you've also got there is that most of these Knessets have lasted more than three years. It's only towards the end of this period that they begin breaking up. And so you've got, if you look at those sort of reasons, it's because you've got a large ultra-orthodox vote that, that hasn't gotten in because of the threshold. They've gotten in because they are a significant power in Israeli politics. The power that they wield is proportional to their support. That has, you've got political divisions over Palestinian issues,

you've also got frequent leadership changes where the leader will want to take the party in an entirely new direction mid-term which can cause problems.

New Zealand doesn't have any of these very significant concerns and also even if Israel, even if New Zealand did end up with these, if you had a three year term, you would still have most of these Parliaments being able to survive that long before a vote happened again.

1120

So, my conclusion is just that we have a significantly low threshold justified on quite a few reasons. We have got more proportional distribution of seats, more proportional distribution of power and parties are able to gain power in excess of their popular support, so you get – at the moment you've got that situation where you've got the sort of, fairly steep slope there and then you've got a discontinuous jump, so that the major parties get less power than you would expect them to get proportionally. So if you lowered the threshold, it seems likely that you are going to get more proportional representation without giving too much power to these minor parties and yes, that's the main gist of what I have got here.

SIR HUGH: I would certainly like to study this at our leisure Mr Calvin. There is a lot of material there but I have no questions at the moment.

DR ARSENEAU: Can I just say thank you very much for the submission. Really interesting, thought provoking.

SIR HUGH: Thank you Mr Calvin, thank you for giving us your time and the benefits of your work.

SIR HUGH WELCOMES PASAN JAYASINGHE

PASAN JAYASINGHE: Good morning, the additional submission is actually my final submission, I apologise for any inconvenience and there should be an attached sample ballot form, just as a reflection of what is in my submission. I won't have time to go through all of the points and I will just address what are personally the most important points to me and those are the issue of the threshold, the electoral method used for selection of the electorate vote and the issue of the ordering of candidates on party lists.

Firstly in my submission I have recommended that the threshold currently sit at 5% be removed and I specifically recommend that the threshold be set at the rate of one seat in Parliament, which I believe is .83%. I realise that this might be quite an extreme recommendation and I express my general recommendation that the threshold be set as low as possible. My reasoning for this recommendation is that I believe maintaining the threshold at 5% level, disenfranchises a large number of voters in New Zealand. There are many examples, one of them being the New Zealand First party in 2008 who received 33.1% of the vote but could not make it into Parliament and disenfranchised about 95,000 electors which I believe is unacceptable. I believe also that maintaining the threshold at a 5% level has an undesirable deterrent effect on voters seeking to support minor parties that might be on the cusp of the threshold because they would believe that if they do not, if there is a chance that the party might not make it, if they are polling at say, about 4% or 5%, that they might as well support larger party just to make sure that their vote counts and doesn't get wasted.

I submit that the arguments against lowering the threshold are quite unpersuasive, these arguments mainly stem, I think, I believe, on the supposed instability that allowing a host of minor parties to make it into Parliament would cause the formation of government.

Some of these arguments are supported by a reference to countries such as Israel with really low threshold but I believe that's quite unpersuasive in the New Zealand context because the institutional and cultural – political, cultural differences in New Zealand are quite different to Israel and that even if there was a proliferation of fringe parties, that they would not exert too much of an influence because several successive governments formed under MMP have shown that New Zealand parties are quite adept at forming coalition governments and that these smaller parties do not exert too much of an influence and if they are seen to be causing instability or causing unreasonable demands, it is clear that the voters will punish them in successive elections. Those are my arguments for lowering the threshold. I am under the impression that most of the submissions to the Commission, ask for the threshold to be lowered slightly, to perhaps 4% but I still maintain that this might be too high and that even at the 4% level, it will be quite difficult for quite a number of parties to make it and that the 4% level would still disenfranchise a large number of voters.

SIR HUGH: There has been a range of percentages suggesting, I think I would be right in saying, retention of 5% is in the minority of the submissions but the range goes both above and below the 5%.

MR PEDEN: Thank you Sir Hugh. If your submission on what you think should happen to the threshold, 5% threshold is very clear. If the 5% threshold remained at 5% or was lowered by a smaller amount, what would be your view on the one seat threshold?

MR JAYASINGHE: I am in agreement with one of the goals of the one seat exception, which is that it does ensure a certain level of proportionality but I don't believe that this is affected quite uniformly, it basically depends on the luck of the party and winning electorate seat. If the threshold is not to be lowered too lowly, that is, if it is say about 4%, I would still be mildly in support of the one seat threshold being retained but my general submission is to remove the one seat threshold and lower it as low as possible. If say, the

threshold is lowered below about 3%, then I think the one seat threshold should go.

SIR HUGH: Mr Jayasinghe, your initial submission of course focussed on the threshold. I see that your expanded submission here deals with the other issue before us. Can you summarise your views on those?

MR JAYASINGHE: Yes.

SIR HUGH: We may need to come back to you if you don't mind when we look at the full submissions.

MR JAYASINGHE: So in my final submission, I submit to remove the electorate seat exception, to lower the threshold as low as possible.

SIR HUGH: We understand that dual candidacy on page 5.

MR JAYASINGHE: Yes dual candidacy on page 6 I say that the law not be changed.

SIR HUGH: Oh I see, thank you.

MR JAYASINGHE: And on the issue of –

SIR HUGH: The order in question?

MR JAYASINGHE: The order in question I recommend –

SIR HUGH: An open list I see, para 5.8 Just give us a moment to read that paragraph. So that's an order in process by preferential vote at the election.

MR PEDEN: And so this would be an example of what you would see the ballot paper looking like.

SIR HUGH: This is the example is it?

MR JAYASINGHE: Yes.

SIR HUGH: I see, thank you. Overhang looks like the status quo. Ratio, status quo. Other issues, I see, preference, all right, thank you. Dr Arseneau?

1130

DR ARSENEAU: Thank you very much. I've only had a quick look through the extended submission and it's very well argued. Particularly I do like the section on your reasoning on dual candidacy, so I just wanted to say thank you.

SIR HUGH: Professor Roberts?

PROFESSOR ROBERTS: I'd like to say thank you also for the extended one and the illustration of a ballot paper. Up until today we've been missing illustrations for ballot papers. Thank you. Just one question. You lead through to your recommendation in 2.18. "I recommend the 5% threshold be removed and the recommendation is for the threshold to be set at the rate of one seat in Parliament." Under the formula used to distribute seats in Parliament, and all proportional representation systems have to have a formula for distributing seats into whole numbers, you know, actual full Members of Parliament, the actual proportion of the votes required to get the last seat in Parliament, the 120th seat, is in fact half, roughly, the 0.83. It's about 0.42 of a percent. Are you saying, "Yes, you recognise that, but the line should be 0.83, which is one one-hundred and twentieth," so you would distribute – a party that got half a percent of the party votes would not get a seat under your proposal. It would under the current formula.

MR JAYASINGHE: I admit I'm not exactly conversant in the formulations, but I think 0.83 would be fine.

SIR HUGH: Thank you, Mr Jayasinghe. If on detailed perusal your extended submissions we'll need some further help from you, if you wouldn't mind us getting into touch with you. Thank you for taking the trouble.

MR JAYASINGHE: Can I make a final comment? Just the most important issues in the submission were just lowering the threshold, changing the electoral system for the electoral vote, and the ordering of the candidates on party lists.

SIR HUGH: Yes, we understand that, thank you.

SIR HUGH WELCOMES MARAMA WADDELL

MARAMA WADDELL: Your Honour and the Committee, I'd just ask for indulgence just for a moment to acknowledge the presence of (inaudible 11:33:00), who is acknowledged as quite an advocate in Aotearoa Māori society.

MS WADDELL ADDRESSES THE COMMITTEE IN TE REO

MS WADDELL: She has come as a translator. I personally acknowledge her because she was a trailblazer for my medicine when I was first acknowledged with cancer so I'm most humble to be in the same Court as she today. Thank you, Your Honour.

SIR HUGH: Thank you very much. We've received your submissions and we've all read them. The format we've adopted is to invite those making submissions to speak to the main points within the quarter of an hour or so allocated. It might be a little longer in your case because we've dealt with the subsequent submission, and then members of the Commission have the right to ask you some questions, as do our political science advisors to your left.

1135

MS WADDELL: In addition to my submission today, I'd like to add more regarding the administration in Wellington. If you have further questions about my submission today, will you who are sitting on the panel direct your questions to me personally by my landline. This was not clearly clarified by the administration in Wellington. So here I am today. If there are some questions from Wellington, please direct them to me, I am sitting here right now.

MR PEDEN: The – you recommend that the threshold, the 5% threshold be lowered to 3%. Can you please explain why you prefer 3%?

MS WADDELL: In elections past, most political parties featured 3% and didn't reach the 5%. It is difficult for political parties to achieve the 5% threshold.

MR PEDEN: Do you have a view on the one seat threshold? So where a party wins one electorate seat even if they haven't reached the threshold, the other threshold, they're entitled to an allocation of party seats. What is your view on the one seat threshold?

MS WADDELL: Despite your explanation, I still prefer the 3%.

1140

MR PEDEN: Right. Thank you.

MS WADDELL: [And by the way she's not really clear about the words. I tried to explain it that if you get one seat that entitles you to a percentage of that 5%. She's still not in favour of that.]

MR PEDEN: Okay, thank you. That's –

MS WADDELL: [Oh now she understands.]

MS HURIA: On your page – can't see a page number, there's a question around voters and to alter the order of candidates from the list and the – your submission is less because it's more democratic and I understand that principal but I just wanted to ask if you have any views around the practicality of people coming to know those people on the list, because they're quite long, in order to be able to rank them?

MS WADDELL: Forgive me ma'am but I am a bit deaf so can you speak up please?

MS HURIA: I'm interested in your view what you think about the public ranking list candidates because of the difficulty around the public knowing the qualities of each of those candidates, knowing who they are.

MS WADDELL: I think it can be summed up like this, that give credit to the public. They may know a candidate much more than the party or other interested parties and so in essence, your answer is yes.

SIR HUGH: Ms Waddell, in your submissions you raised two questions about first, who posed the issues for the Commission to answer and answered a summarised in our paper and secondly, you've suggested that the Māori seats should be equal in number to the general seats. The answer to the first question is that Parliament when it passed the Referendum Act set out the questions that we were required to look at. So we're doing just what Parliament has told us okay?

1145

However, Parliament said there were two matters that we weren't allowed to look at. One of those was the fact that Parliament has 120 MPs. The second was the whole question of Māori representation. The reason why Parliament said we weren't to look at those two questions is because they are in front of another committee, a committee, this time of Parliament, called the Constitutional Committee. So if you want to put your views forward about the number of Māori seats in Parliament, you should make your views known to the Constitutional Committee, and we can give you the contact details. I understand it will be a little time before the Constitutional Committee is receiving submissions, so you need to keep an eye on the newspapers or other media for that, but when the time comes, they are the people who can look at that question. For us, it's outside our scope. We can't look at that.

Now, I'll just see if our political scientists – no, they don't wish to ask you any questions. So on behalf of us all, thank you both for coming along and particularly you, Ms Waddell, it being something of an inconvenience for you

to come and speak with us today. We understand that. We certainly appreciate your contribution.

1150

MS WADDELL: Greeting to you and thank you for this opportunity.

SIR HUGH WELCOMES PETER TASHKOFF

PETER TASHKOFF: Thank you, all of you for this opportunity, to speak to you today. I do have some points I would like to make, I would also, just first of all, just to give you a little bit of my background in this context which may sort of colour some of my views. I have actually been a board member of a political party, I was a board member of the ACT Party for some time. I was also a member of their rules committee which was charged with managing the constitution of the ACT, so I am familiar with the constitution of the ACT Party. I am also very familiar with the process of list selection that went on within that party and had a great deal of interest in other parties to selections as all. I have also been a list, you know, selected for the list and been quite highly ranked on that list and I know how that all happened so I have got a perspective on that as well.

I would just like to talk about the coat-tails rule first. I think that as long as we have rule in place, then we have got a structural incentive for political parties to gain the system. Not only is it a structural incentive for political parties to gain the system, which in itself is a very negative impact upon political, you know, the open politics in New Zealand but it also has a great deal of flow-on impact into the supporters of those political parties and it engenders a great deal of cynicism at that level and I really think that that in itself is also a very bad impact of this rule. People who in their normal lives would act in a very moral fashion, are quite happy to act very cynically in politics and this rule is one of the rules that is very cynically used. It is my view that it really should go and if it were to go, then we would see a great deal of negative impact removed from the political space, not just in the parties but also, you know, people who support their voters.

But I am thinking more in terms of, you know, voters vote for on the day, I am thinking more of people who are entrenched in their views about a particular party. For instance, if I was a National party supporter, I would suspend my moral judgement about Epsom, but I wouldn't do that anywhere else in my life, so it is actually not very good for the country as a whole, to be engendering

this kind of cynicism in politics, is my point and I think it is something that can easily be removed. If it was removed then we would have a much more honest thing going on and you know, the ACT Party as you know, has maintained itself in Parliament through Epsom, it is not the only party that has capitalised from this rule.

It is something I have never agreed with and if the rule was abolished, parties would have to rise or fall upon their own merits, not upon these gerrymandered kind of game-playing and I think that's actually, many people wouldn't agree with me who are involved in politics and I am not currently involved in politics but I actually think it is healthier for parties as well, because it takes away that whole "We have got to win a seat thing and don't worry about the members." It actually means people have to get out there and get their message across and I think that's a far healthier thing. So that's my view on the, the coat-tails rule.

1155

In terms of the 5% being the minimum, I don't actually have a strong view. I know some people do have views on that. It may be a little high for New Zealand. I do like, I do think that there is benefit in having more than just a main set of parties in Parliament. You know, if you took the 5% rule, well, if you just left it in there you'd have, well, I guess you'd have four parties in Parliament now, the Greens, New Zealand First, and the two main ones. Would that be right? I think so. So you do, you are going to keep some level of, of a, you know, representation of different views. If it was dropped a bit, then, say it was dropped to 3%, the Conservative Party probably has a good run if it manages to maintain its, you know, support that it got last election. I don't know, I don't have a view either way on that so I just wanted to make that point. Let's leave it up to the other submitters to give you their views on that.

List selection is an area that I do have a strong view on but I was really really surprised on becoming involved at a Board level with ACT Party to discover how the list selection works, especially in the context of what I had understood

to be the law relating to the list selection which required a democratic process to be followed. I believe that's true. Certainly in the case of the ACT Party and I think probably in the case of most parties, I have this sort of view that maybe the Green Party is a bit more honest and open, I don't know for sure, I've never been involved with them, but really it is actually a rule that is paid lip service to, absolute lip service. And once again, it's another rule that is just engendering a great deal of cynicism.

So the ACT constitution requires this to happen. A poll in the members must occur for the list. That poll is then consolidated and ranked. And then it is submitted to the Board. The Board, the Board members who are in the list selection committee, and you're only on that list selection committee if you're not submitting to be a list member, but it's a little but confusing, you can – the minute your list placement is given, you can go on through the selection process now. So if you're – for instance if I am select – if I'm on the Board and they go "Your list number," I can't actually have a say on the list. But if they say, "We're putting you at list number 40," I've now got my list selection, I can now come on and judge 39 to one, that's the way they do it.

Now that's not an issue in itself. The issue is that the Board members are meant to individually create their own lists, they're meant to take input from what the members have said, but it's just an input. Those Board member lists are then meant to be consolidated to a master list and that master list is meant to be the basis of the list selection. Now what actually happens is this: the members list comes in. People may or may not read that, generally it's probably not even looked at. The Board members all have a parochial view of who they want to get in. They walk into the room and they horse-trade until they get a list out. And that's what happens. There's absolutely no democracy in it whatsoever. I suspect it's not different in many other parties.

The major issue that I have with the, well, I have a number of issues with the way the lists are under the domination of a very small elite group in any political party. One is I just don't think it's very fair, I don't think there's much of the democratic process into it. I don't think it actually helps political parties

because there is actually no reason to be a member of a political party in New Zealand because you actually have no say unless you're in the inner circle and part of that group. Then you're going to have a say. But that's not from being a member, that's from actually having the contacts and getting in there.

If the members actually had a say in list selection that was incontrovertible, then there'd be a need, there'd be a reason to become a member of a party and that would make parties healthier and would make politics in New Zealand healthier, in my opinion.

So in the first place, I think that the democratic selection should really be there at a primary level in parties. I'm not saying that the Board can't set a pro forma list and I think they should because the argument is that – and I, Ms Huria, I know you made the comment to the previous lady about, people don't know these. You get it in party as well, oh the members don't know them. We, the Board people know these people so we should choose. Well, there's no reason why the Board can't choose but then it should go to the party for the final say.

And most people, to be honest, will just tick and go yeah, I trust you, I'll take your say. But other people say no, I want that person there, I want that person there. And that should be the final say at a party level in terms of setting the primary list in the party and that will take away a lot of the domination of politics that small party elites have got because at the moment if you want to get on in politics you have to play the game and the minute you don't play the game you're out and that's it unless you happen to have been fortunate enough that while you were a fair-haired person, you got put into a seat which is a strong seat for your party and then it's difficult for them to get out. But that's not a list issue, that's a, you know, solid in the seat.

1200

But for a list member to get ahead with a political party you play the game, and I don't think that's very, very healthy at all, in my opinion, whereas if it was

up to the party members to first of all set the primary list, you actually have to show yourself to those party members as supporting the values that the party is meant to support, whatever party you're standing for, and then those members, you have to make yourself known. You have to get out there to do some work and those members would then be able – you could rely on those members to support you through, so I think it's a very healthy dynamic of the candidates engaging with members and representing those members.

Right, that's the first level. Take it through to the ballot box, there's no reason at all why the voter, having chosen a party for their party vote, could now not re-order the list vote at the ballot box level. The same arguments apply. Do they know them, do they not know them? But the thing is, you don't have to order 60 people. You can only order the top five and, you know, that might be of an incentive to keep things – I actually think, I actually believe it should be in place. It's a right that New Zealanders should have to do that. The lady who spoke to you said, "Trust people to know," right? Yes, I believe that as well, and you can tick the box, I think the majority of people would say, "I accept the party's nominations," because it's come through a process. Most people will not want to think, "Do I want to go 1 to 10?" but a lot of people will go, "No, that person there needs to be higher, that person there needs to be lower," and it's an exercise of power that I believe New Zealanders should have the right to do that.

In practical terms of how it could happen at the ballot box, I've actually given that some thought as well. Now, it is possible, and it's possible at a party level, using the tools which most parties have got to set up electronic voting that can very easily rank these things. The problem with electronic voting is that it's open to abuse. If it was – if there was somebody who had made some changes in the programming, how would you verify it? So you actually have to have, if you were going to have any kind of electronic voting which would enable these things to be fast, for instance, just moving people up and down the screen in the order you want, you also have to have a paper validation, so the person could look at the paper and go, "Yes, that's what I wanted," and then it can be verified.

Now, just based on rough estimates, I think that can be put in place in New Zealand for around about 25 million dollars, to put a system in place, and the cost of it is actually in the printers and the booths, because you need to satisfy both privacy, so the printer has to be in the booth, and also verification, so you'd have to have a printer, because the person has to look at the paper, look at the screen, "That's what I want," and then later on a random sampling can be used to go, "Yes, that was it, no one's hacked the system and skewed the figures," which, you know, it seems like a strange and unlikely thing, but I'm sure it happens all around the place where, you know, these kind of systems go and you have to guard against it, so at a practical level I think it's very possible, and also 20 million dollars is 20 million dollars, it's a reusable system so it will work across more than one election, so the cost can be spread.

MR PEDEN: Can I just ask, if, for any number of reasons, we'd be able to go down the route of e-voting in polling places, can you see a manual way of achieving what you ...

MR TASHKOFF: Sure. The local body elections have it now. The last time I had a local body election that had a ranked list in it, I can't remember what it was for, a DHB or something, it's there now. I only mention the electronic option because it makes things just so much cleaner and crispy and easier, but it's not electorally mandated.

SIR HUGH: The local body option, however, also includes a public dialogue, doesn't it, so Joe Bloggs tells you what he's done and why you should vote for him. Are you going to have that in a general election?

MR TASHKOFF: I'm not sure whether there would be – whether you'd want people to be in the voting booths for that amount of time to educate themselves, but there are people – it's a little bit – this may seem like a strange example, but it's a little bit like shopping for food. Most people don't go hunting around for the bargains, but the fact that some people do means

that you're getting competitive food prices everywhere, and the same kind of thing applies to this as well. Most people are not going to change the rankings, but the fact that some people will, will have an effect beyond just the changing of the rankings in my opinion.

1205

SIR HUGH: Do I take it from what you are proposing that – and this is where we have had some submissions to us that said, if voters can rank parties right across the ballot paper, then all the Labour party people will put John Key right at the bottom of the National list etc and vice versa. Would you see the ranking process only within the party for whom you voted?

MR TASHKOFF: Absolutely. I didn't explain that point very well. It had been part of my thinking, you know, how do you avoid that? And the way you avoid is, if you have ticked party vote National, you can rank their list. You can't rank anyone else's. Because, of course that's what you would do, if you hate the other people you will put David Shearer at the bottom, really.

MS HURIA: Can I just ask. In terms of the list ranking, are you suggesting that we look at legislation being more prescriptive, around how parties go about that process?

MR TASHKOFF: I haven't actually seen a piece of legislation but on your website, it says I believe, I haven't looked at it for some time. It says that the list ranking and parties must be democratic.

SIR HUGH: Section 71. There is a section in the Electoral Act.

MR TASHKOFF: What I'm saying, is enforce that because it's actually just given lip-service at the moment. People go, "Oh we took a poll, so it is democratic." But that's not democracy.

MS HURIA: There is a – the section in the Electoral Act actually does include people who are representing for example, party voters making that selection, so it does have a number of categories.

MR TASHKOFF: I haven't seen the detail of that, I have only seen the wording on the site. I am presuming from what you are saying, that the board is representing the voters so they can – yeah, that's rubbish, that's absolute rubbish and that is the situation we are in now and that leads to this small elite group governing what goes on in parties, the disengagement of members, that's why parties have got no members and it is just not healthy.

PROFESSOR ROBERTS: Thank you for a very interesting submission. In some countries, for example, trade union elections, professional body elections, have to be conducted by an independent state agency. Would you envisage that the party elections for the list position, should be independently conducted and monitored?

MR TASHKOFF: Interesting question. I suppose I had envisaged that if the requirement was that it be conducted in a genuine, democratic one-person, one-vote situation, it would be self regulating, because if it didn't happen, people would complain it and it would all come out. So I didn't envisage that there would need to be a separate panel doing it. I don't see anything wrong with that, apart from it possibly being a cost on somebody to do that. You know, for instance for the ACT party to do a primary, if you want to call it that, it is at their cost, irrespective of what their percentage of voting is, they have to fund it. But if you had a third party doing it, now you have to have, okay, can I start a political party tomorrow and get this part, get this thing and spend some money and rank my candidates and do my campaign. I am not in favour of state funding of political parties and that's one of the reasons why every, you know, all my thinking is around how can parties be made more successful and they have got to appeal more to members, so they fund themselves, rather than turning around to the state all the time and saying we need some money.

DR ARSENEAU: I also want to thank you for your submission. It really was thought provoking and in particular for me, the thought provoking thing was when you raised the issue of electronic voting. I mean I just was hoping I could get you to clarify that for me, a bit. So are you saying that people would go into the polling booth and be able to do electronic voting there, or are you advocating electronic voting from home?

MR TASHKOFF: No I did it from the booth because I still thought you would need to do a few things. Firstly you would need to validate the person as they come in, as they do now. But secondly you would need to validate the vote itself, because the minute you move anything into an electronic medium, it is open to somebody abusing it, by some means, the term is hackers but it is probably a bit more sophisticated than that, if you wanted to askew a vote in your favour, so you need to have a verification of the electronic vote and the only verification you can have is a signed piece of paper. So that is why the \$20 million comes in, because you are in a machine with a tablet, you are in a booth with a tablet and a printer, and you vote on the tablet, print out the thing, and go, yeah that's my vote and then you hand it in.

1210

DR ARSENEAU: And I've visited the United States through a congressional election and because they've had difficulties through a number of elections with machines and they, in certain states they introduced that notion that you actually got a piece of paper so that people could walk away feeling confident that the vote was actually what they intended it to be. So there, you know, examples of that in the United States but I guess my question is does it make it that much easier than just doing a paper ballot?

MR TASHKOFF: Maybe not. I was more, I guess I was thinking more in terms of the user experience, if you like. So here I've got a paper ballot with 60 names and I'm having to go one to 60 or one to five. And I've got to one up here and then two down there and three. With a monitor screen I just go "I want that guy at the top, no he can come down, that one can go there." And you can do that on a touch screen.

DR ARSENEAU: So it's instant, they can see –

MR TASHKOFF: And you can see what your rankings are. So it's user experience but it's really not a requirement. Just come back to your bit of paper though, the person, by all means, can walk off with a copy of the paper but a copy of the paper must also be kept because the screen could be lying to them. So there has to be a verification later on that that guy was actually what's written on the paper.

DR ARSENEAU: And the point is a person can look at the piece of paper and feel confident that the machine has spewed out –

MR TASHKOFF: The right thing.

DR ARSENEAU: - what exactly they were, had intended to do and then pass it in as a vote.

MR TASHKOFF: In fact, it would be a real issue for them to walk off with a piece of paper.

DR ARSENEAU: Yeah, they wouldn't walk off but they get a chance to look at it.

MR PEDEN: They would need, they would need to put it in the box because of course one of, people think that the secret ballot is a right that they have. Actually, it's a right that the, the state has because it means you can't prove to anybody else, the person who may have bought your vote, how you've voted.

MR TASHKOFF: Oh right, I see, I see what you're saying, yeah.

PROFESSOR ROBERTS: I'll just say, in a lot in the United States, it's the paper ballot that is put into a machine so that that's the validation process. So

that if, if there's questions about the result, you can go back to the physical ballots.

MR TASHKOFF: Go back to the paper. That's it, yeah, it's the same concept.

PROFESSOR ROBERTS: Yeah, yeah.

MR PEDEN: Just on your suggestion of the 20, 25 million ballpark –

MR TASHKOFF: How did I get to that? Yeah. So I sat down, I thought right, couple of hundred dollars for a tablet. I went online, found some prices for some printers. Counted the number of polling places in New Zealand, it's somewhere online. I figured there was half a dozen booths per polling place or something like that. This is some months ago, now. And then I just threw the numbers together and I thought okay, what could it be done for and that's the number I came up with. And the cost is actually in those printers and tablets that are in every booth.

MR PEDEN: There'd be a fair bit in coming up with the software and...

MR TASHKOFF: The software's not difficult. I mean, CiviCRM has got this software out there now. But you can't rely on an open source product like CiviCRM, you've got to write your own and I'm sure if you did this, let's say it happened. IBM and everyone else would be out there dropping five million dollar price tags on the software but actually the software's not difficult to write, the software's the smallest part of it. I'm in IT, by the way.

SIR HUGH: That would probably have to be an integral part of it because otherwise you're buying X-thousand printers and tablets for one day's use every three years.

MR TASHKOFF: You could probably knock the software off for under half a million dollars is what I'm saying though so that's the smaller part of the thing and it's actually the hardware that –

MR PEDEN: And it's the support of getting those machines at two and a half thousand locations around the country and making sure that –

MR TASHKOFF: Yeah I don't know if I factored that in or not, I think I might have, I can't remember.

MR PEDEN: And probably every booth in two and a half thousand polling places.

MR TASHKOFF: I may have factored that in because to be honest I looked at this and I thought, "What could I do this for?" and that's the kind of number I came up with. But it's not been validated at all, it's just ballpark.

MR PEDEN: Oh no, no. It seemed a surprisingly low number to me because obviously we've done quite a bit of thinking about this.

MR TASHKOFF: but when you think about the tablet, price of tablets and PCs though now, they're not a lot these days. It's just a matter of whether you could get them to work in concept, you know.

SIR HUGH: Just going back to the intraparty selection process you're talking about. Currently, section 71, one has to say, isn't terribly strong. It says, "Every political party should ensure provisions are made for participation in the selection of candidates by current financial members or delegates being elected or selected by, by members of the party or a combination."

MR TASHKOFF: But the Board can do what they like.

SIR HUGH: Yes. Every political party has to give us a copy of their, of their rules and we publish them on the website.

MR TASHKOFF: Yes.

SIR HUGH: What do you suggest we would have to include, assuming we're going to amend section 71 or propose an amendment, what are the minimum requirements we would need to put in there to ensure something more democratic than the process you've described?

1215

MR TASHKOFF: I actually submitted a more democratic process to that party when I was on the Rules Committee, surprisingly it didn't go through.

SIR HUGH: You've still got a copy?

MR TASHKOFF: I do have a copy and it's quite a, it's quite a detailed thing but –

SIR HUGH: Could you let us have a copy?

MR TASHKOFF: I'm absolutely happy to let you have a copy, so if I can just get an email address –

SIR HUGH: Yes, if you get in touch with Ms Vickerman.

MR TASHKOFF: At a higher level though, effectively it does this. At the moment, you have the members propose the Board dispose, switch around. The board propose, members dispose, that simple so instead of the party making a, instead of the members making a recommendation and the Board then finalises, and then whether or not it takes any notice of that is a moot point, just change it around. The Board makes a recommendation and it's the same with the ballot box. The parties making a recommendation but the voters beside.

SIR HUGH: Having had control over –

MR TASHKOFF: Control over, yes, so the final say.

SIR HUGH: – if not control, at least a dominating input.

MR TASHKOFF: Yes and in both cases there should be an option to select the recommended list, just one tick. Come to me as a member, “Oh yes, I’m happy with the Board,” tick it.

SIR HUGH: And in both stages of this process, but particularly in the electoral aspect of it, you select your top five, say, for party X. Do all the others on the list maintain their current ranking or are they all regarded as number 6?

MR TASHKOFF: No, sorry, saying no. The way that, if I can explain it in the way that CiviCRM works. CiviCRM is an open source programme that’s used by the ACT Party and the Green Party, and various other parties to manage their CiviCRM customer relationship membership management system and they have got these kind of voting modules in them so what happens is, is that if you, you know, one, two, three and I decide to make you one – sorry, what was it, one, two, three, then Ms Huria becomes two and you become three, so everyone just drops down a notch. So wherever, and if it was one, two, three and I decide to make you two, you’d just slot up and slot down so if you can think of a user interface on a Touch Tablet, you would just slide someone in between two other people and it will just adjust down like that, so all people below the point are just down one notch.

SIR HUGH: Right, okay.

MR TASHKOFF: Did I explain myself?

SIR HUGH: Yes, I understand that, thank you. Thank you very much, Mr Tashkoff. That’s a view from the inside which we relish.

HEARING ADJOURNS: 12.18 PM

HEARING RESUMES: 1.30 PM

SIR HUGH WELCOMES MURIEL NEWMAN

MURIEL NEWMAN: Thank you and thank you for the opportunity to make an oral submission today. I'm Muriel Newman and I run the New Zealand Centre for Political Research, it's a public policy think tank that follows the Parliamentary process and encourages debate on the topic issues of the day. We have a weekly newsletter that goes out to around 30,000 subscribers and we have about a million people visiting our website a year, so I have to say we are never short of feedback and we tend to have our finger on the pulse of public opinion.

But as well as observing MMP from the outside, through the NZCPR, I also had nine years of observing it from the inside as a Member of Parliament for the ACT and we, or I was elected in 1996 in that first MMP election. The first point I would like to make is that because the voting system is such a fundamental part of New Zealand's constitutional arrangements, it is imperative that the changes to the system are controlled by voters and that is a principle that I believe should guide all constitutional, major constitutional change and so accordingly with regard to this MMP review, once the government responds to the commission's recommendations, I believe or the NZCPR believes, that the proposed changes must be put to the public in the form of a binding referendum. In other words, changes to the voting system should only be set in stone if they receive majority support through a public referendum process.

The stated purpose of this review is to improve MMP and it seems to me that the most serious issue that New Zealand faces with regard to MMP, is when minor coalition parties are given disproportionate power to introduce quite extreme law changes that are not supported by the vast majority of the population. This doesn't occur very often but when it does, it greatly upsets New Zealanders and it happens when MMP coalition politics takes precedent

over the public good and when that happens, it is bad for the country, bad for democracy and bad for MMP in itself.

A case in point was the ban on smacking that happened in 2007. Until Philip Field resigned from the Labour party, from my understanding back at the time, no Parliamentary parties were proposing to support Green party's private members bill banning smacking, but once there was a resignation from Labour and Labour had to rely on the Green party for their support in the house, all of that changed and the end result was, that the country was given a ban on smacking, that the public were overwhelmingly opposed to and they sought very much as the classic case – MMP case if you like – of the tail wagging the dog. So what we propose is an MMP veto right for citizens over new legislation. Similar in a way to the veto right that exists in local electoral legislation regarding council decisions to introduce Māori Wards.

So if the council makes a decision to introduce Māori Wards, there is a process there, that enables electors to demand a binding poll on that ruling, if they gained 5% support of enrolled voters and what we are suggesting is that the commission looks at a similar mechanism as an MMP veto challenge, if you like so it would have a set threshold and a set time frame. Say 5% of the total votes cast at the last election, within a three month time frame of that particular law being passed and if the submitters can gain the 5% support in 2011, if we look at the last election, there were 2.26 million voters. 5% would be 113,000 signatures within a three month time frame which is quite a hefty hurdle and if the people who wanted the veto challenge to go ahead, could climb over that hurdle, then a binding referendum on the new law would be held if the referendum won, then the law would be repealed, otherwise it would be kept.

1335

It is a radical change, I realise that, but introducing a veto right for MMP would strengthen democracy and because it would give citizens a safeguard against unreasonable law changes, that would be brought about, especially if the thresholds for Parliamentary representation are lowered, and we get a larger

number of parties that have got smaller popular support and potentially they could have quite extreme agendas and potentially they could also hold the balance of power in an MMP Parliament. And so major parties might find themselves allowing law changes to go ahead, that they would never normally support in the ordinary run of the mill situation.

I think that the other important issue about this is that if main parties or all parties knew that bad laws could be challenged by an MMP veto, it would mean that the government of the day, the coalition government would put a greater focus on the public interest, instead of letting MMP politics override the good of the country and as a result of that, it could be expected that such a veto right was very rarely used but our voting system would be strengthened. There has been talk, in the past of course, about you know upper houses of Parliament and legislative councils and all sorts of things. This would be a modern way to provide a public safeguard into the future and as I understand in other countries with similar provisions, they are very rarely used because of the fact that all parties know that these results can be challenged if the law is too extreme.

With regard to thresholds. The NZCPR recommends that Parliamentary representation should stay at 5% of the party vote. Again our main concern is the disproportionate influence that minor parties can have. The 5% party vote thresholds provides reasonable protection for the public from extreme agendas. We also recommend that the electoral seat gateway for list MPs entering Parliament on the back of a member who wins a seat, should be abolished. We think there should be a single threshold for list MPs and that's the 5% party vote.

With regard to overhang, it distorts the proportionality of Parliament and for that reason we believe it should be removed. We believe that for MMP, proportionality should remain the defining feature. So if a party wins more electorate seats and its party vote entitlement allows it, then the additional seats should be forfeited and those electorates where a seat is forfeited, the second ranked candidate should win the seat. With regard to list rankings,

there are provisions in the MMP legislation to say that the list members should be elected by a democratic process but we think this should be strengthened in a realistic way so we have come up with a simple suggestion and that is to recommend that the board list ranking, which is the official ranking if you like, of candidates, be joined on the voting paper with the member list rankings from each political party. So this would be quite controversial as far as the parties are concerned but it would allow the public to see where the board, ranked a particular candidate in their electorate, and compare it with the way that the members of the party ranked that candidate, and those two could be quite different.

1340

The final point, the Government told us that there were two contentious issues that are fundamental to the way MMP works and that is the Māori seats and the size of Parliament, and that those two points can't be discussed at this review, because they're going to be covered in the Constitutional Review, but in case they're not, I would like to put on record that we believe that the Māori seats distort the proportionality of Parliament and should be abolished and we also believe that the number of MPs should go back to what it was at '99. In regard to that and really because this Commission is going to make some serious changes probably or possibly to MMP, we'd like to see a further review called within six months of the next election to check that the changes are working as well as it was hoped and to address the Māori seat issue and the size of Parliament issue just in case the Constitutional Review doesn't cover those issues adequately. Thank you very much.

SIR HUGH: We're not going to make any changes. We're going to recommend.

DR NEWMAN: You're going to recommend, sorry, I should have put that word in there, recommended changes.

MR PEDEN: Dr Newman, the citizens, well, first of all, in formulating your submission, can I just be sure I, I understood your introductory comments

about the way in which NZCPR works, so you've, you've got quite a membership. In the compilation of this submission, did you pole members to – does the submission represent the compilation of views that you, of members.

DR NEWMAN: Yes, the, in general, yes, it does. We've been looking at these issues probably since we started really, 2005, 2006 and we have, on regular occasions, asked the people on the mailing list, the subscribers if you like, what their views are on MMP, what their views are on issues like binding referenda or binding votes on particular issues and, in general, yes, I am speaking from the belief of the people who respond but, as you know, with a very large mailing list not everyone is going to respond to you but, in general, I have stated the feedback that I have received over those years.

MR PEDEN: mhm, with the citizens right of veto, the thresholds that you're suggesting are quite different from the thresholds that currently apply to citizens initiated referenda, which might have been thought to be the starting point –

DR NEWMAN: Well, I know that wasn't – yes.

MR PEDEN: – the thresholds you're suggesting are the number who voted the last election which, of course, goes up and down and 5% of that, and the result being a binding referendum –

DR NEWMAN: And a shortened timeframe.

MR PEDEN: And a shortened timeframe, wouldn't we – you'll be well aware of the costs of conducting a binding referenda which, presumably, we'd conduct by way of postal ballot, is that what you'd expect?

DR NEWMAN: Yes, I think that what I'm suggesting here is a, it's a beginning of an idea so the detail of it, of course, would have to be worked out in future. In other countries, where they have similar veto rights, it is 5% of the last

number of people who voted and it is usually around a three month timeframe, so it does appear to work in some other countries but, obviously, it would need looking at for New Zealand and whether or not you held a vote straightaway, whether you timed it to go with, for example, the Local Government Elections or whether there was a once a year referendum time, those sorts of issues would be on the table to be looked at.

MR PEDEN: I s'pose one consideration might be whether, given we have a three year term, the next Parliamentary election isn't seen as the equivalent of, not so much a right of veto, but voters giving their view on legislation which they don't like.

1345

DR NEWMAN: Yeah I think the problem is though, you still get saddled with it. So as a country, you get a bad law change happening and, you know, I raise the smacking issue simply because that was one that there was a, a referendum on shortly afterwards and it was very clear where the public stood on it and I understand from polls that have been done, the public's opinion hasn't shifted much.

But I am thinking to myself, especially if the thresholds are reduced, then we do get parties in Parliament that have got much more focused support rather than broad brush support and we've seen how the balance of power can shift so quickly in MMP politics and you just realise that, you know, the price that the country has to pay might be quite high and the country as a whole has no way of doing anything about that particular issue. And it may be that, you know, the broader parties will say "Yes we'll repeal it and so on" but oftentimes the distance, the timing distance between when the law is passed and when the next election is, and all of the other issues that arise means you still get left with what other parties, broad brush parties, would never have passed because it was seen as too extreme but because of MMP, we've got it.

And that's where, if we had an upper house of Parliament or some other safeguard, presumably the public would feel a little bit more settled that at least somebody was looking into it in that broader view.

MR PEDEN: Just on your last point about a follow-up review, you'll know that after every general election, the Justice Electoral Committee conducts a review. Would you say being an appropriate forum for the questions?

DR NEWMAN: No, and the reason why, if you remember with the MMP legislation, there was to be a Select Committee review in 2000. And if you recall, the Select Committee couldn't agree on whether or not to hold a referendum, another referendum. They couldn't agree on a number of issues because they were given terms of reference that said they, the Committee as a whole had to come up with a position that they all agreed on and they couldn't.

MR PEDEN: Yeah, unanimity.

DR NEWMAN: And I've seen that, I've had enough time in select committees to know that politics is the thing that rules in select committees. I know it's sort of not meant to but it does and my view is that it needs an independent body to have a look at it on behalf of the public so that we know it's the outcome of the Review is not subject to party politics as well. So I think it does need an independent body.

MS HURIA: Mr Peden took my first question but my second question is around the list rankings. Is your, just a point of clarification, is your submission that parties disclose the Board ranking of a candidate and members' ranking but not necessarily giving – which prevails?

DR NEWMAN: Okay, the Board ranking would normally prevail in terms of the party and who gets which position on the list. And so that has to stand firm, if you like. But what I'm suggesting is that on the voting paper, the members' ranking can also be provided. Now I read some of the discussion

papers about the various options surrounding this issue and they can get quite complicated where you ask the public to try and rank people and so on. Well, in general terms, people often don't know who all the people are so you end up with the one, the name they know gets put at the top of the list.

So what I was, what we've been thinking is that a better way to do it would be to simply place the members' rankings, which are often quite different from the way that the Board ranks members, I mean there's usually a lot of controversy within parties over this particular issue and in many cases the members' rankings are kept a dark secret because they don't want, you know, how the members rank the candidates to become known to the wider party or the public. And it seems to us that to actually place the members' ranking on the ballot paper would provide the public with, number one, an understanding of where the wider parties saw that person fitting in the hierarchy of list placings, and it would also give them a view of where they stood in relation to the party bosses, if you like, for a better word.

1350

And so the two elements I think are quite important because somebody could be a favoured person in a party because of their profile or because of the work they've done for the board, whereas another person could be really well liked by the wider party membership and maybe their local community because of the other good work that they do and so the two numbers, if you like, would give the public, as long as the public understand what the numbers mean, and I realise that's another challenge. But it would give them a different view.

MS HURIA: Does that make for a very confusing ballot paper if all the parties have down there, the two lists?

MS NEWMAN: I think it would be that Joe Bloggs is number six on the party list and then in brackets, it has got number 53 and so, the star says the member's list ranking and then, as the public you start to think, oh what is going on here, is this something I should be concerned about, so that is an extreme example obviously.

SIR HUGH: We are eating into your husband's time but just very quickly on the overhang. Do I take that your proposal is that you would say to a party, you won X-seats, your party list percentage only entitles you to X-minus three seats, sorry.

MS NEWMAN: Yes.

SIR HUGH: Three of you might have been elected by the electorate, you are right?

MS NEWMAN: yes, but if everybody knows the rules, what it would mean is that parties would campaign much more strongly for the party vote. Remember that this is a really important issue.

SIR HUGH: How do you select?

MS NEWMAN: Sorry?

SIR HUGH: If the party has got X duly elected MPs, do you say to them, well you have a ballot amongst yourselves as to who you are going to actually put into Parliament?

MS NEWMAN: No, let's think about a situation. So you have – just take a simple situation, where you have got a party with 10 list rankings and you have got number one who is elected in a seat.

SIR HUGH: You are dealing with the party ranking?

MS NEWMAN: No. So you still stand as candidates right, but say they have all got party rankings and you end up with a situation, instead of one, two and three getting elected. You end up with number one, number six on the list and number 10 on the list. But the list vote only allows two members, then you

would simply get the first one who is number one and you would get the second one, who is your number six, would be elected.

SIR HUGH: And your number 10 –

MR NEWMAN: And your number 10 would miss out because the party itself –

SIR HUGH: Tough bickies.

MS NEWMAN: Yes the party itself, only, as far as proportionality is concerned, is only entitled to two members. I mean it is quite radical, it is quite harsh, but it would retain the proportionality of MMP.

PROFESSOR ROBERTS: Well if I could follow that up. The obvious tactic for to any party would be to make its electorate candidates electorate-only candidates if they knew they were likely to win and they say, look, we are not even on the list. And so, take the Maori party in 2008, it won five seats and it was only entitled, on the party vote, to three seats, so there was a two seat overhang, which two would you take away from the party?

MS NEWMAN: Right. Well again, what we are talking about here is the principle and the mechanism that you would – I mean, you know commonsense would say that the ones who got the biggest proportion in their electorates, but you know, again this is something that could be worked on. I think it's the principle, I think this is what, in my mind, this is what this review is all about. It's looking at the principle of whether there needs to be change and whether change needs to happen and if it does, then the mechanisms are obviously quite complicated as we know with MMP. A lot of the formulae that were used were very complicated so what I am thinking is that the mechanism is what I am suggesting, might need to be changed and I am sure better brains than I, can come up with the actual detail of it.

SIR HUGH WELCOMES FRANK NEWMAN

FRANK NEWMAN: I won't take long at all. I think most of it has been addressed anyway but thank you for the opportunity to have a say. I was, just to give you a little bit of background. I was a councillor on the Whangarei District Council for two terms, I have served on the ACT board between 2002 and 2005, I have actually got no political affiliations, completely independent at the moment.

Firstly let me say, that the undercurrent of my submission basically is that I think we need to strengthen democracy by returning it to the people and away from the politicians. In my view the politicians can't be trusted with the democratic process because they have a vested interest in it. Just in terms of context, I would have liked to have been able to address the issues of size of Parliament and the retention or otherwise of the Māori seats. I won't go into that because I know it is not in your brief but I do believe that is pretty fundamental really, to representation in our country and I would find it difficult having a conversation on representation, without actually introducing that into the conversation.

Firstly in terms of the substantive issues that you can address. I would like to address the party list process that Muriel touched on. I have actually been involved in that process and I can tell you really that it's a scam and a scandal, the way people set their party list process. There is horse trading, there is bartering going on, you know, on the day the decision is made, the party membership is largely totally ignored and irrelevant in terms of where the list placings are finally placed, where the members are finally placed and hence I think the transparency would reveal that scam and introduce an element of democracy to it. It is obviously a difficult issue, I don't believe that the members of the public should rank the party list, it shouldn't be done at that end because to be honest, I don't think their interest is sufficient to warrant a wise choice. So I believe the best way to do that is simply to

introduce transparency into the process. It is not the perfect answer but I think there are no perfect answers in this area. So I believe the parties should be required to ballot members, its parties. It should be mandatory that they have a ballot so the members do rank the list placings, that those results are published and indeed that they are vetted and controlled through the electoral review process, whatever the normal process is, when you review your expenditure returns, use the same audit process essentially, to ensure that they have got a proper membership ballot taking place.

At the moment, the membership placings as Muriel mentioned are in secret, the members don't even know how they voted in terms of the rankings and they only assume that the rankings that result at the end of the day are somewhere near, what they themselves had wished for. I can tell you they are not actually close at all. Now, so that is the first point.

The second point is on the threshold levels and the 5%. In my view, 5% is fine, I wouldn't make any changes in that regard. I believe lowering it does run the risk, that you have a proliferation of minor parties, and in my view that would actually be bad news for democracy. Simply because, in my view, an MP should represent the greater good and not the interest of a particular sector. Now I may simply be fanciful and idealistic but I am going to stick to that attitude, in the hope that it will happen one day. I see too much of this, too many people are basically there, pushing their own barrow without thinking of the whole of New Zealand as a whole and what is best for New Zealand. So I think retain the 5%. In terms of the one seat threshold, I believe winning an electorate seat shouldn't necessarily carry any further people into Parliament. If you don't make the 5% you don't get any more members, it is as simple as that, 5% is the cut-off.

In terms of the overhang. I agree entirely with Muriel, that there should not be an overhang. People want less MPs, not more. I think most would be horrified to find actually that we have got more than 120 as it is. In terms of the mechanics, you know, you could use the rank, the list placing or you could

use the size of the majority to weed out, if you like, or cull out, any that need to be culled if there is an overhang.

1400

In terms of the dual list, the list MPs versus electorate MP argument, I again, wouldn't make any change in that regard. I think it's okay the way it is, in fact that they could stand for an electorate and on the list, I don't have a great issue with that. I think changing that would simply complicate the process and the MPs would simply jockey for position anyway. You would have people jockeying on the list and you would have them jockeying on the safe seats, so they will simply complicate the process, again for their own ends at the end of the day and I don't think you will have any significant change or improvement in quality.

In terms of referenda generally, it does come down to my principle of returning the power, if you like, back to the democracy, back to the people. And I simply believe that politicians actually, can't really be trusted because they do have a vested interest in the democratic process, so therefore they shouldn't control that process. It is a bit like the laws of Monopoly in my view. So I think anything that restores the power to the people, and certainly referenda does that, is good news in my view.

That's pretty much the sum total, I think the rest has pretty much been covered.

SIR HUGH: Presumably the proposal that you each make about publishing, the members' nominations and the party nominations, would have to be in statute otherwise we might run into privacy problems, mightn't we?

MR NEWMAN: Oh it would have to be in statute absolutely, because I believe it should be statute and should be audited.

SIR HUGH: It would have to be in statute otherwise we might run into privacy problems, mightn't we?

MR NEWMAN: It would have to be in statute absolutely.

SIR HUGH: We wouldn't want the process of publication to operate as a disincentive for people to offer themselves to candidacy, would that be right?

MR NEWMAN: The other way, is you could simply limit it to the top 20 if you are concerned about that, because really in reality, that's where the action is, at the top part of the list.

DR ARSENEAU: That was very clear, thank you.

PROFESSOR ROBERTS: Two very clear submissions, thank you.

SIR HUGH: Thank you very much to you both.

SIR HUGH WELCOMES HANS GRUEBER

HANS GRUEBER: May I take my written submission as read?

SIR HUGH: Oh yes, I should have said that.

DR GRUEBER: So I don't have to go over that again?

SIR HUGH: Not at all.

DR GRUEBER: And I can speak freely. You know the first thing, I am a little bit of a stickler and I had a little bit of a discussion with the gentleman on the right last time, when I complained that in the advertising, which generally was very good but first past the post was advertised as producing majority government, which is, in political science speak, correct but it is of course, advertising is addressed, not to political science students but to the great public who has not interest in those things.

SIR HUGH: Well whatever might have been the differences you had, FPP has been rejected by the electorate. We are looking at MMP, so you might care to confine your views to that.

DR GRUEBER: Yes but you know, the majority government, which is of course –

SIR HUGH: You only have a limited time Dr Grueber, please focus on MMP.

DR GRUEBER: So then my greatest concern here is that you will be wasting your time after what was reported about the submissions of the National party and ACT Party. They seem to have made up their minds in one very crucial point and the speaker before mentioned that the one seat threshold, which National and ACT want to keep and we might and you might do all this work and in the end it will not lead to anything and –

SIR HUGH: Those parties' submissions to date have been relatively brief. They made it clear they will want to make further submissions when we put out our proposal paper in late July early August. So there is –

DR GRUEBER: Okay, there's, there's still –

SIR HUGH: – I take it that there is no fixed point of view on that part.

DR GRUEBER: Yes, but I still want to address the argument they have put forward to keep the one seat threshold and that was, that it would produce stable Government. In itself, that is of course not the case. When we go back to the history why MMP was conceived, the way it was in Germany where I come from, and where it was introduced after World War II after the experience of the Weimar Republic where minor parties and there was no threshold. It was a pure proportional system without any threshold and so that led to a number of minor parties and which held governments to ransom. In the end, we know the result. The Weimar Republic democracy, Parliamentary democracy collapsed and we had the disaster of what happened after that, and so when the, mainly allies, gave us or in collaboration with the Germany partners, end up with an electoral system of MMP.

This 5% threshold was very important not to repeat the history of the Weimar Republic and when I hear now the National Party and so advertise or advocating to keep the one seat threshold, they basically advocating minor parties under the 5% to come into Parliament and then they said that leads a stable Government. It's exactly what led to the down, downfall of the Weimar Republic that we had too many minor parties under, really, one, two MP parties.

So the logic is non-existence of their, leads to a stable Government and I don't know if Mr Key would still say that after the events of, say, last week with his coalition partner. Also, and you heard that before, the hypocrisy of the National Party who opposed MMP more or less, even if there was not an

official party policy, that they now say, “Okay, but we want to keep it and no changes. Has to stay as it is,” all of a sudden they like it. What they – during the campaign last year oppose and I see certain hypocrisy in it and it’s almost as if they want to have another crack at it to keep the unpopular bits, like the one seat threshold and it is, you know, the whole process when Mr Key, before you even started with your process, he already said, “You know I want to keep the one seat threshold,” so I’m really concerned as all your good work will, in the end in the political reality, lead to nothing and that is of a great concern to me.

1410

So, now to the MMP, as we have it and what we want to change, there is, of course, the one, the threshold is the main thing, one seat, 5%. We have, in the past, seen what this one seat threshold led to and that was manipulation and not only by one party, it was a little bit, even if it didn’t have any affect when Labour helped Jeanette Fitzsimons in Coromandel, in the end they got over 5% anyway but then later it was National with the ACT Party and Epsom. And it is widely recognised that it is undemocratic manipulation and the results that ACT with fewer votes, party votes, got four MPs while New Zealand First with more votes, did get no –

SIR HUGH: It is a point that has been made to us repeatedly.

DR GRUEBER: You will know and I don’t expect that many answers, other than National and ACT would defend the one seat threshold. Then the 5% threshold, which was adopted from the German system even if the Royal Commission recommended a 4% threshold, and that is again, an example of really excellent work of the Royal Commission which the report is still the book, compared to electoral law in the world to go to. And they came up with 4% but the major political parties, of course, the ones in power at the time, they would rather have a 10% threshold. You know, the higher the better for the major parties and so they went against the recommendations of the Royal Commission and lifted the threshold to 5%.

I personally think that there might be room and thought as a give and take, if you take the one seat threshold away, then as a give, you lower a threshold down to 4% but not lower than that. But on the other hand, and that's what my friend Martin Leiding advocates, 5% has worked well, has worked well in Germany, has led to stable government there and there is really no need to tinker with it unless just, you know, to give a one seat threshold.

Then list MPs. The whole issue of list MPs, I think is a big, big red herring, put out there by people who never accepted MMP, or never understood MMP or both. It is, you know, just as an example, in New Zealand even in the media, there is a difference between list and electoral MPs.

In Germany nobody knows, nobody cares, in the media, you will never hear oh that's list MP, so and so, or that's member for so and so electorate. They all do the same job, if they have the same name, then, where they live, come from, but never is there any difference made and here the media blow this up, oh it's a list MP and there is – you might fall into the age group, there is a quirky television programme, I don't know if you heard it, it's now on some channel 11 or so on on Freeview, it's called *The Beat Goes On*. For the ageing baby boomers, for the 50 plus people. And there's one section, every week they have a section about list MP, so there is some joke or some story, or some demeaning thing about list MPs as if the list MPs would have, would be the only ones who do stupid things and if you – and you have been around when there were no list MPs, there were stupid people in Parliament and there are still stupid people in Parliament now or people who make silly mistakes and they are either list MPs or electorate MMPs and there's really no difference.

1415

So and also the misrepresentation that one lot is democratically elected, they're one in the electorate and the others are now which is, of course, not true. They are only elected because people voted for the party list and if they were interested, you know how the list reads with a number one, two and so it's all published before, beforehand and so the democratic legitimacy is

exactly the same. It was the same job, have the same democratic legitimacy, gets the same pay, there should really not be a difference. It is only a red hearing and that leads, of course, to the answers should list MPs allowed, be allowed to stand in electorates or other way round, should electoral MPs or candidates be allowed to have the backup of a safe party list ranking and, of course, they should because if you would introduce an apartheid system between the two MPs that you can either go into an electorate or on the party list.

You would have the same old system where people chase safe electorates and where only the marginal seats which can change in an election, no self-respecting politician would dare to go on there. He might lose and then he might lose totally out of becoming, having a chance to get into Parliament, so would rather go for the safe option of a safe party list ranking and there are, of course, parties who have no show ever to win electorate seat and all their candidates, which are in the top ranks and might get into Parliament, would then be prevented to stand in electorates.

So this must not change. The system, as is, is working well. It's just the perception that somebody makes, lost somewhere in an electorate but is still in Parliament is just a perception, does not say anything about the candidate. It only says something about the electorate and overall, the party list MPs are actually the better quality MPs.

When you really look at it and I was – and we come to the composition of the party list, the speaker before mentioned it, I can give you an example the other way round how the electorate candidates are selected. I have been living in this country for 28 years and I'm sort of always been politically very interested. I lived on the North Shore on a very safe National safe and you remember when George Gear, who held the seat resigned, so it was all of a sudden open – there would be another MP and it would be a National MP and one day a candidate came around to our house and we joked at, I'm not actually a National – “You sign up, if you sign up, I make sure that you will be on the selection panel,” and so it happened, my wife and I signed up and

instead of having one vote out of 30,000, we had all of a sudden one vote out of 100 votes, the Selection Committee and we pooled our votes, of course, and we won out of 50 and it was all manipulated. We went on the Committee and actually he was a nice guy. He was later actually elected and became a cabinet minister in the first term in Parliament, and it's, you know, as if there would be no manipulation of the system in electorates and we always hear the story how people, all of a sudden, join up and the result come out in electorate, candidate selections in safe seats which are the interesting one.

1420

So then, all of a sudden to say, "Oh, it's the party list." There's no difference and the selection of the party list I can only say, as far as I know, the best system in practice at the moment is the practice the Green Party has. They vet people, rank people but then they give it to the party membership and the party membership can, within a certain parameter, make changes which really happens, I think, only two numbers up or down they can change, but it's all open, it's all published, every member takes part and, of course, that is the prerogative of party members. It should not be public people who are, opposing Green parties can then rank their list. It's a crazy idea really if you think of it. If somebody's interested, join the party, take part in the political proposal but any primary system which is not, you know, and parties in itself cannot hold primaries in New Zealand, of course, but I think it's an unworkable idea and it's another red herring.

Then just one mentioned about party list candidates or MPs. You –

SIR HUGH: Dr Grueber, I'm becoming a little concerned that you've only a few minutes left of your allocated time. You haven't finished your own submissions nor come to Mr Leiding's.

DR GRUEBER: Yes, I'm all but finished but this list thing is really – you remember a German chancellor called, "Helmut Kohl." He was in power for 16 years. During the first two elections, he was, he did not win his seat. Nobody cared, but he did not shop around for a safe seat. He stood where he

lived and that was a red seat, there was a Labour seat and nobody cared if he came in through the list or through a party vote. Only in the third elections he then got elected in his own electorate, so just as an example.

Then overhang seats – of course if you are elected and from time to time there are overhang seats, but I think over a time that will reduce and it's only temporary that we have 121 or 122 MPs, and I think we can live with that and the other remedy against overhang seats would be to reduce the number of electorates. At the moment, we have, and for instance in Germany, there are 50% electorate seats and 50% list seats. At the moment, we have more electorate seats than list seats. It still works but if you reduce seats of electorates, then the chance of overhang mandates, overhang seats would be reduced and then there's the question of what happens and there's – the law understands the South Island/North Island balance. If it comes – what shall we do if this balance comes out of kilter? The answer for me would be it comes from the past.

The electorate should be, the electorate size should be increased and the number of electorates should be reduced because this system and we cannot often enough stress that three times New Zealand has voted for a proportional system and the proportionality is the thing they want, and the speaker before said an MMP should be there for the great or good and that's what he should be and not just the MP for Tauranga or the MP for Epsom, or whatever. Should be the MP for the greater vote and when we look at the size of the Māori seats, nobody should complain about the size of the seats. I think that's about it.

SIR HUGH: Do you want to cover Mr Leiding's submissions?

DR GRUEBER: Yes, Mr Leiding, the main difference is that he says it should stay at 5%, the threshold because of the danger of parties on the extreme or single issue parties or so to come into Parliament and that of course would be reduced if it stays at 5%.

SIR HUGH: Well he really opts for the status quo except he suggests a three electorate seat threshold.

DR GRUEBER: That would be another option, the three electorate threshold would be another measure to discourage parties to manipulate the one threshold rule as I do now because you know, you only would get an extra seat if the party list vote would be between 3.5 and 5% you would get, and no party would risk three of their own for the unlikely event.

SIR HUGH: I understand that. Mr Peden any questions?

MR PEDEN: No thank you Dr Grueber.

DR ARSENEAU: Can I ask you a quick question please and it was very clear. I was interested in this idea that in Germany, people don't think, differentiate between list and electorate MPs. Did that happen immediately or did it take a few elections before that happened? So I am wondering, if what you are concerned about here in New Zealand, has more to do with the fact that MMP is still relatively new and you expect it will change over time

DR GRUEBER: First of all it happened immediately, because we came from a different tradition, we came from the proportional tradition and then introduced, there was the British part of it, the electorate part. While in New Zealand we come from the British First Past The Post tradition but now we have the fifth election, or was it, how many elections?

SIR HUGH: It was the sixth.

DR GRUEBER: It was the sixth. And they are still going on in the media, there are still diehards who cannot accept that we have a proportional system now and they still hang on to the most important MPs are the electorate MPs, therefore it will die down over time, but in Germany it was never a difference because we came from the different history.

PROFESSOR ROBERTS: I just want to say that in light of his opening remarks, Dr Grueber will be pleased to know that I agree with his assessment in answer to Dr Arseneau's question. And just to add that, I can even name Mr Kohl's seat, it was Ludwigshafen.

DR GRUEBER: Ludwigshafen two, there were two seats in Ludwigshafen. But that is, they don't need to shop for safe seats because nobody cares.

SIR HUGH: We understand that point. Thank you very much Dr Grueber. Thank you for presenting, not only your own submissions but Mr Leiding's as well. Very interesting contribution.

DR GRUEBER: Good luck, hopefully they will listen.

SIR HUGH WELCOMES JOE BARBER

JOE BARBER: Firstly, I would like to say thank you for the opportunity of making a submission to the MMP review. Mostly I think MMP is not too bad, there is a few minor points that could do with a bit of tweaking.

The first point that I made in the written submission was thresholds and I believe that two criteria could be suitable. One is that you gain a seat, plus 2% of the party vote. The second criteria would be 3% of the party vote. I believe that 5% is a little high and 3% or a seat plus 2% is sufficient to keep out fringe parties who have a very, very small – I can't think of the word. Following. I think that's the main point of what – I can take it that my submission has been read.

1430

SIR HUGH: Yes.

MR BARBER: So that's the basic thing. It's not too bad. Balancing overhang. I believe that overhang should not be allowed to occur and the fairest way of re-allocating seats is to reduce the quotient to keep the overall size of Parliament at 120. Even 120 I believe is a little large, but that's the way it is at the moment and it's not too bad.

Keeping it 120, it saves extra costs of salaries and altering the mandatory seating and also reduces the costs of support services.

By-elections. I am quite happy with a list MP being able to sit in a by-election. If they have done as a list MP, then they should become reasonably well – better known and would stand a better chance then of gaining a proper electorate seat. That could give the party an advantage, an extra seat if they don't already hold that seat.

With regard to dual candidacy, I'm quite happy with that. Parties do need to be careful how they select their candidates and as will become a bit clearer later on group lists could be a little bit of a problem.

The question of electorate seat, list seat proportions, from the support information that I've received the situation is that 16 seats occur in the South Island and the seat, number of voters in each electorate is balanced out according to vote. Now, with the earthquakes in Christchurch and surrounding, and the people disappearing from Christchurch, that could reduce the size of the total electorate in the South Island, and 16 may be too great a number. The support information indicated that they didn't expect that sort of thing to be a problem for quite a few years, but I think if you're going to tweak MMP provisions should be made now to, in due course, reduce the number of South Island seats to 15 or even 14 to enable the increase in size of all the electorate seats and not have too many electorate seats with the loss of list seats.

The main purpose, point, of my wanting to appear here was the business of list ranking. I believe that voters should believe a fairly large say in how candidates are listed, are ranked on the lists. I can see that with approximately 450 total number of candidates in the list at the last election expecting a voter to wade through 450 people is totally unworkable, and I thought fairly long and carefully about a potential, reasonably practical way around it. The fourth page I've asked to be added to my submission gives a sample of how it could work. I suggest that the electorates should be grouped into, say, five, six, seven, eight electorates, possibly six is quite a good number, and I have put my sample group in terms of the North Shore, where I come from. I'm not certain whether those are all electorates but they just serve to indicate as names of electorates. And those six electorates all have the same group party listing, and as you see there from what I've put out, that would mean about 44 candidates for that particular group.

Now 44 is not too bad, it fits on one page, it's reasonably plain and where different numbers of electorates are grouped together, for instance the Māori parties, the Māori seats, you may want to group in one group, with seven in that group. However, they may also, and I think that question should be left to the Māori people to decide because some of them may prefer to be grouped with geographical areas, say like the northern region or the southern region or the central. Māori in the north may not have much knowledge of the people in the south, and vice versa. They may prefer to stick with geographical, but that's for them to decide, I believe. The number of votes tasked for each list candidate should be totalled for that particular group and then divided by the number of electorates within that group. If you have all the electorates with the same number of voters, that effectively gives you number of votes per electorate, or number of votes per eligible voter. And I think that then allows a reasonably accurate ranking of the candidates.

So candidates in one particular group can be fairly compared with the candidates in a second group and where candidates may have identical numbers of votes, I think the party can decide which has the superior ranking. I suggest that the parties may not be particularly keen on doing something like this. They tend to be fairly all powerful and I don't think they would be particularly keen on divesting themselves of that power. So I think it would be appropriate to allow them some say in the order of the lists.

I had thought that it could be possible to divide the candidates listings by the total number of voters within the group but I think that starts to get a little bit complicated and I think the method I have suggested is, a bit more workable. It is probably designed for electronic counting because to do this sort of thing manually might be a little difficult, I can see that. When I spoke to the MMP review person in Wellington about my time slot, I said to him, partly tongue in cheek, but partly seriously, "It's a pity that we couldn't have the electoral or the voting papers in the form of a Lotto ticket." That the Lotto ticket could be used, very tongue in the cheek, as a Lotto entry in which case you might get a lot more people making a vote than you would sometimes get, but the advantage of having it done –

SIR HUGH: Particularly if they might win \$26 million as a result of it.

MR BARBER: But the advantage of it, is that there are Lotto machines all over New Zealand, they are connected to a central source, it would enable vote counting almost instantaneously, very, very quickly, certainly and I would venture to say that within an hour of the polls closing, you could have a result, which would mean that the parties of the winners could start much earlier and hopefully finish a little earlier. But the person I spoke to was most intrigued with that idea and was going to follow it up and bat it around the office a little and see if something could be made of it. But the system I am proposing would require, I think, effectively computerised counting particularly when you look at the second option I've given there.....

1440

1440JB

... would require, I think, effectively computerised counting, particularly when you look at the second option I've given there for a, your selection of your party of choice. Currently, we can only vote for one party but using this system, you could, in fact, vote for one party or two members of one party, or a member of one party and member of another party, and you'd have to be aware that if you make a multiple vote, each of your votes would be divided by the total number of your votes, so if you made three votes, you would get a third of a vote for one party, a third of a vote for a second person in that party and the third of your vote in the second party of your choice. That sort of thing does start to need computers to total it up, but it does provide a better graduation of people's choices.

I believe there are a lot of people, for instance, who very much like many of the ideals of, say, the Green Party but the Green Party has never been in power and traditionally it's either National or Labour, and people may prefer to keep to the main parties but still like a particular person within the Green Party or within the Māori Party, New Zealand First. It does allow an individual a much bigger, easier graduation of expression which goes towards helping the proportionality of Government.

SIR HUGH: We understand the proposition, Mr Barber, I wonder if I might because we've only got a very constricted time allowance –

MR BARBER: Certainly.

SIR HUGH: I wonder if I might just open the matter for questions now.

MR PEDEN: In your regional lists, you speak about groupings either with tenuous boundaries or a community of interest, what did you have in mind for the community of interest?

MR BARBER: Community of interest would be, again, possibly the Māori Party. They are, have a community of interest. Generally, the electorates would be contiguous representing an area and any list MP from that area would have that area to respond to. That would be my preference and the community of interest really is, maybe if the Māori people would like it that way, they could have it, all their Māori seats as one group.

SIR HUGH: Wouldn't that proposition and the example you've given us there be more suited to a grouping of urban seats rather than rural seats?

MR BARBER: It would be, it would be, I agree. The rural seats would be rather extended. You could possibly increase the size of the group for urban seats and reduce the size for rural seats. That, I think, is a matter for the Electorate Commission to juggle the numbers and decide which way the things should go. This was –

SIR HUGH: I suspect you think we have greater power than we do, Mr Barber. It might be a matter for Parliament.

MR BARBER: Well, you can make recommendations, Sir.

SIR HUGH: Thank you very much, Mr Barber. Very interesting submissions, very thought provoking.

SIR HUGH WELCOMES DEBBIE HAGER

DEBBIE HAGER: I am the co-presenter, Mr Miller as well, yes. Thank you for coming to Auckland. I don't want to go over what's written in here. I'd like to address in just the last point that we've raised.

1445

I work in the community and at Auckland University and I talk to a lot of people about whether they're going to vote and why they have voted or not voted, and about participation in the democratic process, and try and encourage people to understand how participating through voting is actually participating in how laws are made in our country, so I just wanted to give that background so you understand why I'm saying what I'm saying.

And the sorts of things that I hear are that people don't vote partly because they don't feel that it has anything to do with them but, also, surprisingly still that people don't understand how to vote. They still don't get the MMP system, despite the fact that we probably believe that it's well-seated in society and well understood, so that's the first concern that I have, is that lack of understanding.

SIR HUGH: The people you are speaking to would be largely younger folk, wouldn't it?

MS HAGER: I work in the domestic sexual violence sector, so I'm speaking to a wide variety of people in the community.

SIR HUGH: I see, okay.

MS HAGER: It is young people don't understand but other people say they don't understand, but also I get concerned about the feedback I get, which I've mentioned in here, that list MPs aren't elected, and I'm sure you hear that all the time, and so we were thinking about how those issues might be addressed. And I think – oh, well, the way that we would like to suggest it's

done is through more education and more information provided to people so first of all, with the issue of lists, we do think that the political parties should organise their own lists because they understand the relative strengths of their candidates and we don't, and what they want their candidates to achieve. But we think that the lists should be ready – whatever it's called – at least two months before the elections and published regularly in a wide range of media so that people – and the purpose of the lists explained with the publishing of the lists – so that people understand proportionality specifically as it relates to what will happen with the lists, so that they can see them, they can think about them, they understand that when they give their party vote that's who they're voting for and I keep speaking to people who do not make that connection, and so I feel concerned about that, because it's such an integral part of our system, which I strongly support.

MR PEDEN: Can I just check there that the kind of media that you think would get through to the communities that you talk to, the people that you talk to, what – how do you information through to those groups?

MS HAGER: Like the local newspapers, you know, like the local suburban newspapers, provincial newspapers, Chinese language newspapers, those sorts of things which are more at a community level as well as in the national newspapers, on websites for young people.

MR PEDEN: Unless the people you're talking to – are they on the roll, do you know?

MS HAGER: With my students, they're virtually all enrolled, but they don't understand the system and they don't vote. With other people I haven't asked them if they're on the roll. So my second issue is just helping people at every election understand how to vote, so not making an assumption that because we have a system of MMP that people will understand how to vote, but as I've been thinking about this, what concerns me is that you have a brand and you have a kind of a brand – a way that you do your advertisements with the little orange man and all of those things, and I'm just wondering how much

pre-testing and ongoing evaluation those advertisements have had with young people, with people of different ethnicities, with Pacific people, with people who have lower literacy, with new, you know, people who are new to the country, and while it might be a cute, quirky little person, whether it, that cute, quirky little advertisement is actually something which is talking to the people who are not participating in voting, and so I wonder if some – there needs to be a quite in-depth evaluation of the advertising brand and the electoral brand before any more advertising occurs to ensure that it's not reaching those of us who already vote and who just want a bit of information. But it's reaching those who don't which is our concern.

1450

MR PEDEN: It sounds from what you are saying, that the kind of information that those communities need isn't the kind of information you can get across very usefully in a 15 second or 30 second advertisement anyway and that probably what we are needing, is a different kind of communication channel and a different approach, more of an outreach approach, do you think that would be fair?

MS HAGAR: I do. I think that would be fantastic, yes. I just feel concerned that people aren't participating because they don't feel that it has relevance to them so – I work at the school of population health and I teach health promotion which is about engaging communities in looking at the determinance of health and wellbeing and part of that, of course is about participation and so I have some concerns that the strategies that are being used to engage participation, are not very effective because the people who feel disempowered, people who are new to the country, people who are young, are not voting, are not participating and yet if those people continue to not participate, then Parliament doesn't represent their views. It's not working as a representative Parliament and so I think, it's not that MMP, it's not kind of the fault of MMP or anything. It is just that we are not communicating how to participate in a way that is engaging people.

MR PEDEN: Do you have a card that you would be happy to leave with us. I think that it would be useful to have further discussions with you on this point and obviously –

SIR HUGH: It is a bit outside the main topic of this review but a very important topic.

MS HAGAR: I've given the information to Louise. That's all I wanted to say, thank you very much.

SIR HUGH: Just pause a moment. Any questions?

MR PEDEN: On the matters within the scope of the review that you have submitted on, I think – well I did have a question around the threshold that you are proposing, 4% which is clear. Or two electorates and I wonder about that?

MS HAGAR: We talked to a lot of people. We obviously are part of the group who think that we don't like what happened in Epsom, don't like that kind of, being able to get in on one seat, where you are only representative of a small proportion of an electorate, not of a sort of countrywide vote and so when we know some people that say perhaps, no electoral seats. But if there is two electoral seats, it suggests that there is a party which has some policies which have relevance outside of a specific geographical area which is what can occur with an electoral seat, and so that was just our suggestion for how to overcome that problem. Yes.

SIR HUGH: I suggest that your idea about publishing lists might put time limits on and might be a bit of an adjustment in the event of a snap election.

MR PEDEN: Well yes indeed. Because generally we get between six and eight weeks notice in an election.

SIR HUGH: Last year was very unusual, knowing the election date?

MR PEDEN: You know, the party secretaries lodge the party lists at nomination day which is 25 days typically, 25 days before election day and that's, and they are working to finalise their lists upon until that point, but there is still the question about how it was within that period, we can make the information available to people.

DR ARSENEAU: Very interesting submission. I note that you talk about proportionality being so important and that you want fixed electorate lists, number of electorate seats. What would you do, how would you recommend dealing with the disproportionate growth of the North Island, for example, compared to the South Island. Would you want to get rid of the South Island quota, would you want to increase the size of Parliament?

MS HAGAR: I don't think I know enough about proportionality to understand, so this could be wrong, is what I am saying.

DR ARSENEAU: No, no, not at all.

MS HAGAR: It is just that if we kept growing the number of electoral seats that could decrease the amount of proportionality, so –
1455

DR ARSENEAU: Well, it could decrease the number of list MPs and then eventually that could have an impact on proportionality.

MS HAGAR: Yeah, so –

DR ARSENEAU: So to deal with that, would you want to increase the size of the House so that you could increase the size of the list MPs or ...

MS HAGAR: I'm not a person – we're not people who are, who think that there's way too many MPs at the moment.

DR ARSENEAU: Okay, great, thank you.

SIR HUGH: The lady at the back of the room, could you give us your name first, particularly when your remarks will be recorded and we need to have them transcribed.

KATHLEEN WELCH: My name is Kathleen Welch. I've been a permanent resident for eight years now, seven years.

SIR HUGH: Okay, now, what did you want to tell us or ask Ms Hager?

MS WELCH: A couple of comments. One is that if you're going to publicise information about this electoral system, there's – someone said there's 50% immigrants here, and I think you need to publicise it to immigrants, because I've been looking into this a long time and I still don't understand. It's the first time I've ever heard about the South Island proportionality thing. The other thing is about the thresholds and then the number 5. If just one person gets elected you would have them lose their seat, right? My question is, with the Epsom thing, why did only one ACT person go in? Why not more?

MR PEDEN: Because they did not win enough of – a high enough percentage of the party vote to warrant more than one seat.

MS WELCH: So what is the under limit on the party vote, I guess? I didn't know there was one.

MR PEDEN: The – in terms of the threshold there's a 5% threshold and then there's a one seat threshold. In terms of how many – what percentage of vote you need to be eligible for one seat, it's about, well, somewhere around 0.42% of the total vote, but I mean the – your question is – I had a marginal note down here around the fact that there usually isn't going to be a list member that you can take off the party that's benefitted from an overhang. It's going to be a party that's won an electorate seat and there's an overhang because they've won more electorate seats than their party vote entitles them to, so by

definition, they're not going to have any list seats to enable a compensation to be made, so what happens under our current system is that the other parties get their allocation of list seats and that's what generates the overhang.

And what some submitters have suggested to us, and in the interests of keeping the size of Parliament to 120, is that those other parties should not get their allocation of list seats, so the parties that have won the electorate seats, take the Māori Party as an example. They won three electorate seats. They were entitled to two seats under their amount of the party vote. They would keep all three electorate seats, but there would be one less party vote allocated. Instead of 120 quotients used to allocate votes – seats in the House you'd allocate 119. The net effect of that would be you'd still have a Parliament of 120. The Māori Party would have all three electorate seats that they'd won.

SIR HUGH: A party gets x% of the party vote. That translates to an entitlement to so many seats in Parliament. In the satisfaction of that number, any electorate seats they win are first taken into account and then the number is topped up from the list. In last year's election, ACT's percentage of the party vote only entitled it to one seat. They'd won an electorate seat and that was the end of it, the end of their entitlement. Understand?

MS WELCH: But what percentage of the total vote allows them one extra list seat?

SIR HUGH: I think you'd better talk to ...

PROFESSOR ROBERTS: Well, roughly 1.6 to get your second seat, to get a second seat. The closest of the three parties that got one seat to getting a second seat was the Mana Party. But it, too, only qualified for one seat.

1500

SIR HUGH: Anything else you wanted to ask, or put to Ms Hagar.

DR ARSENEAU: When people say that the list should be made by the party, or they should be made by the referendums, I think it would be very hard to know about all the people that are going on the list, of the 450 stood out, that number and the Parliamentary system is, obviously I am from North America in the US and I don't understand why it is all or nothing with Parliament and I am not used to that, so it would be very hard for me to choose a party to join and just be with that, just a comment.

SIR HUGH: Thank you Ms Hagar. Thank you for coming along and for your compassionate approach to voter education.

HEARING ADJOURNED: 3.01 pm

HEARING RESUMED: 4.03 PM

SIR HUGH WELCOMES ALLEN DAVIES

ALLEN DAVIES: Okay, well very firstly, of course. It was in my submission that, back when we first introduced MMP and the vote was there, I voted against MMP, I didn't want it and the choice of course, I was looking at STV at that time. It was possibly a choice and anyway when it came to the vote of FPP or MMP, I voted FPP and today I think, what a stupid person I was. I have discovered that MMP is possibly one of the best democratic means of representation that there has ever been and there is only a few to me, a couple of things that are wrong with it.

1605

Basically I think it's absolutely marvellous and the thing that I find strange is that you can have 4 ½% of the party vote and not get a seat in Parliament. I think that is wrong, totally wrong, I do believe that if you get enough votes for your party to get a seat in Parliament, you should have a seat in Parliament. So in other words I think it's one point something or rather, and if you get one point whatever it is, then you get a seat in Parliament and yes I know that when the commission designed MMP back in the beginning, or you know, put it forward as a means, they were concerned that you would have too many minor parties and bits and pieces in Parliament. Personally, if that is the make up of New Zealand, why can't we have it in Parliament as well, if that is the wish of the people. So that's my view, I think very strongly on that.

And it is completely strange that if you get one Parliamentary seat and a few more votes, you can have one, two, whatever it might be if other candidates come in with you, that works all right. Why not solve the party vote right in the beginning, if you have got the votes, you get the number of seats to match the number of votes you have got and that's my belief, very strongly on that. To me that's how democracy should work and yes, I can see we had some initial hiccups possibly back in the beginning but I think today, all of those problems have basically been ironed out as to how people can form a government, with

the people, the representatives that have been elected to Parliament. In fact, I have really got to the stage now where we have people talking about, you know, as if list seats were second class seats, as against electorate seats. That, to me, is absolutely crazy.

In fact, I wonder why do we even bother with electorate seats, why don't we just do it straight off the party vote and be done with it. Okay, yes it is important that people in an electorate, had someone they could turn to as their MP, although I have been at a meeting for the last three or four days in Invercargill and had four MPs down there today, telling us all sorts of things about local government, from the different parties. I've lost my train of thought there, it's (inaudible 16:07:33) when you get old isn't it.

But, you know, I do believe that there's not a problem there with, you know, with all these different people from different groups, providing, of course, that there is a party you have, that's the important thing and as I say, I do wonder about the need for electorate seats.

SIR HUGH: Sorry can I just interrupt you. What do you mean by "providing of course it is a party you have?"

MR DAVIES: Well, you get, you can only get a party vote if you have got a party. And the party you need 500 people to form a party, so once you've got that, then you're got a party and then, okay if you get the required number of votes, you can have a seat in Parliament, that's my belief. That's basically what it amounts to.

SIR HUGH: All right.

MR DAVIES: I don't know what else I can add to what I wrote initially, 'cos I really answered the questions on the –

SIR HUGH: Well I will ask the Chief Electoral Officer, Mr Peden, whether he has any questions?

MR PEDEN: I think your submission is very clear Mr Davies. I don't have any questions for you.

SIR HUGH: Mr Davies, can I just tease out with you a little bit about your presentation on thresholds. Initially you say it should be no more than 2%, then you said 2% gets the party a seat, and then there is a graduated response to 5%. But do I take it from what you just said today, you are really advocating for a 0%?

MR DAVIES: Well not a 0% because you have got to have at least that one point, whatever I can't think of the number at the moment, percent, to actually get a seat, which is the proportion you know, that you need of the vote to get that first seat. So possibly two, I did say initially 2%. After all, 2% sounds good, that will get you a seat plus a few other votes hanging there, hoping you get the rest. But since then, I've given it a little bit more thought, I thought, why not, if you've got enough votes for one seat, why shouldn't you have that seat?

1610

SIR HUGH: So the threshold would be the getting of an equivalent number of votes to win a seat if you were standing in a seat?

MR DAVIES: Basically.

SIR HUGH: Which would vary from election to election?

MR DAVIES: And from seat to seat?

SIR HUGH: And the difference between the general and the Māori electorates?

MR DAVIES: I don't think we're going to get those talks, though.

SIR HUGH: We'll not talk about Māori representation. That's outside ...

MR DAVIES: So one of our biggest problems today, of course, is that the Māori Party, of course, have won, what, four or five Māori seats but they've got very little party vote, so they've created this overhang by that, and that's one of the reasons why I think to myself, thought to myself, "Why do we even have electorate seats?" That could change the dynamics of the whole thing, of course, because then the Māori people would have to say, "Well, not much good putting them in an electorate because we haven't got one any more. We'll have to vote for the party now if that's who we want."

SIR HUGH: Well, the Royal Commission's concern about setting thresholds was that the possibility of proliferation of parties in Parliament.

MR DAVIES: Yeah, I understand that.

SIR HUGH: If you – if we adopted your proposal on thresholds mightn't we get a proliferation of parties in Parliament? We've had up to 19 parties standing in an election.

MR DAVIES: Yes, and how many of them, and Mr Peden might be able to answer this one, how many of them have got the percentage I'm talking about in the party vote?

MR PEDEN: Well, if there had been no threshold in at least one election I can think of, we would have had 11.

MR DAVIES: Eleven?

MR PEDEN: Eleven parties.

MR DAVIES: Okay. What I've also said earlier, too, is I believe that we have now matured, if you like, through this MMP system and hopefully we won't get the voters, actually, voting in – for some of these outlandish, way-out parties.

But then again, as I said, if that's the will of the people that that's how our Parliament should be made up then we really need to accept it.

MR PEDEN: That goes to the principle of proportionality.

MR DAVIES: Yes.

MR PEDEN: I suppose the other principle which our system encapsulates is around effectiveness of Government and Parliament and so I suppose that's what we're thinking about when we think about where the thresholds should be.

MR DAVIES: Well, how effective will Parliament be, yes. One of the things, if we go back in time, of course, is when we had First Past the Post. I didn't matter if it was the National Party or the Labour Party, there were only two that ever controlled the Government. They go in and they thought, "We're God, we're going to do it our way, we don't care." Today they can't say, "We're God," any more. We've got to consult with other parties. We've got to involve other parties, although the National Party, when they become the Government this time, were hoping to become God but they didn't quite get their.

SIR HUGH: Dr Arseneau?

DR ARSENEAU: Could I – thank you for your submission and thank you for racing to the airport to get here to speak to it. You mentioned preference voting, that you would advocate?

MR DAVIES: Yeah, I was looking at the Australian system as possibly what we should have here, but no, no, I think MMP is by far the better system. That's as I see it.

DR ARSENEAU: But were you advocating, though, preferential voting in the electorate side of MMP? Have I got the wrong submission? Oh, I've got the wrong submission.

MR DAVIES: Yes, you're looking at the wrong person.

DR ARSENEAU: Yes, I am. So you wouldn't advocate preferential voting?

SIR HUGH: A great recovery, Dr Arseneau.

MR DAVIES: No, you know, as I say, I really believe that MMP has been the best answer to giving people a well-balanced Parliament. That's as I see it.

DR ARSENEAU: It was the gentleman who had been scheduled before you and hasn't come.

SIR HUGH: Oh, okay, very good.

PROFESSOR ROBERTS: I'd just like to say, I have really enjoyed your submission and far too often in life generally one doesn't hear somebody say, "I was wrong about something." I remember Jonathan Hunt said that he had been wrong on MMP when he gave his valedictory speeches in Parliament. But I just want you, in light of that, to just think, do you think in 1993 New Zealand would have adopted MMP if it had been proposed with a 2% or even lower threshold?

MR DAVIES: I don't – at that time my honest belief is that there was very strong pressure from parties such as the Alliance Party, and they were the ones who really promoted MMP at the time, they were the main promoters of it, it was to have a go, if you like, at the Parliamentary system rather than, "Here's something that really works." The average voter out there didn't understand it and I don't believe they voted for it for any other reason than, "We're going to get those MPs." That's how I believe people voted, and rather than thinking about why – what was MMP that was better than FPP or

whatever, and I do believe that – and that's the reason why, as I see it, once again, it's all my personal view, that MMP came out on top is because that's what was being promoted by the Alliance at the time, and one or two others, I suppose, but they were main promoters of it, as a way of getting at Parliament.

SIR HUGH: Well, that ringing endorsement of MMP in our ears, Mr Davies, we'll thank you for your submission. Thank you for coming along in haste. We'll adjourn these hearings to the next public hearings which are in Christchurch next week.

HEARING ADJOURNS: 4.17 PM

