

**PUBLIC HEARINGS ON THE 2012 REVIEW OF MMP**

**AT CHRISTCHURCH**

**ON 09 MAY 2012**

---

**HEARD BEFORE ELECTORAL COMMISSION BOARD MEMBERS**

---

**SIR HUGH ADDRESSES THE COMMITTEE IN TE REO**

**SIR HUGH:** Welcome to day 1 of the hearings in Christchurch to the three people we have in attendance, one of whom, I gather, comes from the Ministry of Justice. This is day 5 of the public hearings we've been having on the MMP review. We've had two days in Wellington, two in Auckland, now starting on a couple of days in Christchurch. We have Hamilton and a video-conferencing day to go before we embark on our deliberations.

The Review, of course, is the latest chapter in the history of MMP in New Zealand, which began with the Royal Commission report a quarter of a century ago, the referendums in 1992, '93, the first MMP election in 1996, and the five subsequent elections we've had since that time.

The Review of MMP arises because in the referendum with the general election last year, about 58% opted to retain MMP as a result of answering Part A of the referendum paper, and as a result we, the Electoral Commission, myself, Hugh Williams, my deputy chair, Jane Huria, the Chief Electoral Officer, Robert Peden, are required to undertake an independent review of the MMP voting system, including a public consultative process to see whether there are changes to the MMP system which are necessary or desirable. We only have the power of recommendation to Parliament, and not the power which some people seem to think we should have, actually to change the law.

We've had so far something over 3000 submissions, nearly all online, and anyone who puts in a submission was entitled to be heard publically, and this is part of that process. By the end of tomorrow, we'll have had nearly 100 oral submissions, and we have a good number still to come.

We're required by the Referendum Act to address seven questions principally, the two thresholds, the 5% and the one seat threshold, the two matters concerning candidacy, whether a candidate should be able to stand both for an electorate and on a party list, and whether list MPs should be able to stand in by-elections, and three other questions, whether voters should have a greater capacity than they do, which is pretty minimal, to re-order a list on a party's list of candidates, what to do, if anything, about the overhang in our Parliament, which has resulted in slightly more than 120 MPs for the last two elections, and the question of proportionality, at what point might our voting system, because of the increase in the number of electorate seats and the corresponding reduction in the number of list seats, get to the point where we can't really say New Zealand has an MMP system any more.

There are two matters we cannot look at as a result of the Referendum Act. One is Māori representation, the other is the 120 MP in the House of Representatives, but that notwithstanding, some of the – quite a number of the submissions, actually, to date have commented, at least tangentially, on those issues.

We also have a rather limited mandate to inquire into other aspects of the MMP voting system. So far we've been fairly open about submissions on that topic although we may, in due course, find that some, at least, are beyond the scope of what we're entitled to consider.

We are taking a completely neutral attitude to the issues we have to consider. The existing legislation, of course, is the backdrop against which we evaluate the submissions and consider those questions, but we are completely open as to what, if any, changes we might think it prudent to recommend, and of course, although the public consultative process is an extremely important

part of the Review, the Review is not just a question of counting up submissions for and against and keeping score. We have a much broader brief than that.

The process we've adopted at the public hearings is to assure each person making a submission that we've all read the submission, which is absolutely true, that because we've got a very compressed timetable under the Referendum Act, we've had to limit most people to about 15 minutes, invite them to speak to us about the principal questions that they want to raise arising out of their submissions or any new insights that may have occurred to them as a result of these submissions online. We then have an opportunity to ask them questions about their submission, their proposals, and we also invite our political science advisors to our left, Professor Nigel Roberts and Dr Therese Arseneau of Victoria University and the University of Canterbury respectively, also to ask some questions. So I've just about taken up the extra time that we offered you, Mr Stephens. Welcome as the first person to make submissions. As we've just said, we've all read the submission. Would you care to address us on your main points?

**MATTHEW STEPHENS:** Thank you very much, Sir Hugh Williams, and thank you, members of the Commission, for hearing me speak. I'll be fairly brief, actually. I'll first apologise for some of the terrible grammar and punctuation that was in the submission.

0930

**SIR HUGH:** They're not being marked.

**MR STEPHENS:** For a start off, I want to address the party list issue. There's a very key problem that I found both at the first time that I voted in 2008 and again at this election, that there are a number of candidates who are past the 65 mark on the list and they are just not on the voting sheet when you get your party list, when you get the list in the mail or at the voting booth. And also the fact that non-list candidates are not listed alongside them and I think it's incredibly important to actually add these people in, just as a star

mark or with the full list complement, because regardless of whether a party chooses to have only 65 or whether they go up to 80, those people will be taken into account by the voter when they make their choice.

And we saw before the, before the elections there were a number of polls that indicated one party could have had people at the 66 to 68 MP mark and now obviously that did not transpire but if we look back, it could have. And that is a key issue that I think needs to be addressed.

On the list MP threshold issue, it is a case that 5%, it just, it isn't working under its current format, it's not fair on certain people who are voting for certain parties and I look at, particularly NZ First in 2008. That just wasn't fair for ACT to get that coat-tail of an extra four MPs but only get 3.65% while as the New Zealand First got approximately 4.2 from memory.

The, I would address this by introducing a second electorate to the coat-tail or looking at a form of disproportionate list MP selection below the 5% mark, so as to not – essentially to allow the system to work that represented, the representation is created but at the same time it doesn't affect the issue of creating a government mandate significantly. It also creates a good way of just allowing the voters to have a second opinion with the case that you need a second electorate to support you.

All too much of the time, we've seen our indepen- the minor parties in Parliament who have utilised the coat-tail based primarily in suburban electorates and they are based generally around the idea that the senior parties in Parliament, the parties that usually formed the government will more or less gift them a seat and that just seems to be a bit inappropriate and to the will of the voters who may not actually get the local representation that they would truly desire because they may end up having to vote for someone who will be a coalition or government partner for them.

So I would suggest, generally, to look at it from two options with the idea of a disproportionate, below 5% list MP system. Either to just go by saying instead

of using the current threshold at 5% equals seven, from 1% to 5% you get one MP for each percentage that you get, up to 5% when you get the remaining allocation back. Or you could take the option of doing it from 2% and 4% getting one MP and then two MPs at 4% and then getting the remain allocation back at 5%.

As a result, this would allow parties such as New Zealand First and the Conservatives to have attained representation when that, in the last election, the election previously, when they had not, at each of those respective elections. And it would have given them, based on the previous assertion of the 1% system, it would have given them 4% and two to three MPs, more likely two for the Conservatives.

And it would also, the system would also allow those parties such as the Progressives, the former party Progressives, United Future and ACT to be able to essentially be relayed to the rest of the country as they don't seem to be able to do, they don't seem to have that same capacity at present, they seem to have a capacity that they are very regionalised and as a result their impact, when they get into Parliament is national and it's important for them to perhaps have that second electorate option.

On by-election candidates, I feel quite strongly that no sitting list member of Parliament should be allowed to run in a by-election because essentially a list Member of Parliament should be treated fairly equally to an electorate Member of Parliament due to the basis that they both form a vote in Parliament, they both have a vote and therefore they need to be, this needs to be addressed, that they have to have that access, that feeling that they are on equal terms. They've – and the fact that they've been allocated a seat is quite important.

0935

I would look at, a good example of course being the Mt Albert by-election in 2009 where we had, we had Melissa Lee, MP. She ran and she was already a list candidate. We also had the Mana by-election where we had

Hekia Parata run and she was already a list candidate. I could go on on that but I will just leave it there.

**SIR HUGH:** they're actually list MPs, not just candidates.

**MR STEPHENS:** Oh yes, sorry, yes. Further, there are also a number of, at the moment we already see most list MPs do actually adopt electorates or groups of electorates as homes. I look at Jacinda Ardern as a perfect example of this. Over the last couple of years she has been quite active in the Central Auckland electorate and, you know, there are other, many other MPs are good, another good example would be Kate Wilkinson in Waimakariri and Clayton Cosgrove in Waimakariri respectively over the last six years. So that's all I'll really say on the by-election candidates for the time being.

With dual candidacy, it's, I believe that as long as they haven't entered the house, they should be allowed to have dual candidacy. So you can run on the list and you can run as an electorate Member of Parliament. However, once you enter the house, I believe that it's far more important that once you're there, you're there in that capacity that you've been elected to by the people of New Zealand. So, and I use the example in my submission of Louisa Wall. She was, she has entered the house three times, twice she was, she entered the house as a list MP for the close of two Parliaments and became a MP, an electorate MP. I think that it seemed a bit inappropriate, at least to me, that that was the system that we had. I felt that the basis that she had already been elected twice as a list MP by virtue, of course, of people dropping out, meant that she needed to, it felt more appropriate that she should have stayed in the list MP capacity.

**MR PEDEN:** Can you just explain why? I, I mean, I'm reading, I'm struggling to follow what you had in mind with the Louisa Walls example because, I mean, as you say, the first two entries into Parliament were as a result of list MPs leaving Parliament but the 2011 election, she contested an electorate seat –

**MR STEPHENS:** Yes.

**MR PEDEN:** - and she was successful.

**MR STEPHENS:** Yes that is entirely true but the problem that I see is that would she have been successful if she had not been in Parliament? And this is a point of issue that I find that people can be allowed to enter Parliament as a list MP during the close of a term and then utilise as essentially gain, utilise parliamentary expenditure to gain themselves access to additional media, essentially. And I just think it would be appropriate to introduce just a period that you cannot be a, you cannot run for an electorate if you're a list MP –

**MR PEDEN:** In a general election?

**MR STEPHENS:** Yes.

**MR PEDEN:** So you wouldn't be able to be a candidate at a general election if you had been brought into the house on the list?

**MR STEPHENS:** You could be, I would contend you would be a candidate for the purpose that you had been elected to, at previous one, but not a candidate for the other option.

**DR ARSENEAU:** So even if she didn't go on the list, you still wouldn't allow, you still don't think she should be able to run in the electorate?

**MR STEPHENS:** No, not unless she had chosen to decline. Now this is, let's say she was selected into Parliament a year out. Now I'm proposing a six month cut off. This is in order to essentially stop the issue of essentially that extra media attention. It's not fair on the other candidates, many of whom, you know, if you get into Parliament just before an election, you're going to get extra media attention, it's just a fact. And as a result it would be improper, I think, for that person to be allowed to contest an electorate. I think it would be

fine for that person to contest the list because that's what they were just elected to but not for the electorate.

**MR PEDEN:** Thank you, I understand your point now.

0940

**MR STEPHENS:** And on the issue of overhang, now this is one that does bother me a bit but, and I can't see an easy course here because we do end up going disproportionate if, if we do something in regards to limiting to only 120 full stop. So the idea that I would at least see is that looking at the idea of stopping a party which has already elected, which has the overhang, from being able to run in the case of a by-election, if their party has one. However, that would only remedy the overhang in light of that party, it would not remedy the overhang in the circumstances that an independent would be elected. So it's an issue that I can't see personally easily resolved. I'm sure other people will have better submissions on than I.

**SIR HUGH:** Quite a lot of have reached the same conclusion as you.

**MR STEPHENS:** The proportion of list to electorate seats, again, I don't see this easily resolved. From memory, it, there was a line of 70 to 50 drawn and once we reach that line there will have to be an issue, an issue to be addressed. I see it as possibly an idea that list MPs should be just allocated proportionally to the country rather than allowed to choose their home, that could be an option but yeah again, it's not an issue that's easily addressed, I've found without going into areas where this submission can't, ah, the Electoral Commission can't comment on.

**SIR HUGH:** Thank you. Mr Peden, any questions?

**MR PEDEN:** Mr Stephens, your first point about the thresholds, you've, you've proposed two alternatives. Of those, do you have a preference?

**MR STEPHENS:** Not particularly. I think, I think both of them would work essentially. One is slightly more proportional than the other which is important.

**MR PEDEN:** Which one do you see as being more proportional?

**MR STEPHENS:** I would say that the 1 to 5%, you get an MP for every percent, so it's half, essentially it's half proportional to more or less based on the way that we allocate proportion.

**MR PEDEN:** I suppose there's one thing I was just wanting to check. If proportionality is a driver that you're particularly concerned about, what's, what's the idea behind, I suppose you might describe as graduated proportionality? If, if 5% is too high, what's the rationale for saying to a party that's got 4% or 3%, if they can't have the full proportion of seats that they would have –

**MR STEPHENS:** Essentially – yes I understand that concern. Essentially the issue that I see is that they, um, parties that do go under 5%, that they are essentially minority groups, they are a minority party group and as a result it is important to recognise that in light of the passage of legislation in Parliament and recently we've seen and in the past, parties with only one or two MPs decide legislation rather than the parties which have 50 or more MPs. And I think it's important to allow those parties which are not in, are not able to get into Parliament to have that representation but at a reduced level so that it essentially doesn't effect as much the formation of a government.

**MR PEDEN:** Okay, thank you.

**SIR HUGH:** Ms Huria?

**MS HURIA:** No thank you.

**SIR HUGH:** Can I just put to you, Mr Stephens, the contrary case that's been put to us in relation to list MPs standing in by-elections which is that why should list MPs be debarred from candidature when so few other New Zealanders are, principally people with orders against them under the Personal Protection and Property Rights Act, that they can't manage their own affairs. It's a pretty restricted class.

**MR STEPHENS:** I think it's mostly about the fact that they are already Members of Parliament, that they've already been elected to a position in the house and as a result they should, that should suffice. To have, to elect, essentially, to say that they should be allowed to run for an electorate seat is to say that a electorate seat is greater than a list seat and while parliamentary funds allocation may indicate that, the fact is that at the end of the day, a vote in the house is the same vote for each person.

**SIR HUGH:** Some submissions have suggested that during the campaign period, a list MP who is a candidate in a by-election should be given more, take leave from the house, not participate in the house, a bit like public servants who have to take leave of absence if they want to stand.

0945

**MR STEPHENS:** The problem there that I see is that it's, it would be quite difficult for any list MP to just do that and it could affect the actual composition of government in the house as well which is a very important concern when we have had and currently have a one-seat majority governments. If you have one person who is in government standing, taking a leave of absence, what would that imply? Would that imply their vote goes with them? What if it's a conscience vote that ends up occurring? Do they still get to be a part of caucus in Parliament? Do they still get to issue media releases as a list MP or do they actually have to resign full stop? And if that's the case, do they then get their place removed from, do they get de-select- ah, unelected from Parliament and a new person steps in? I see far too many issues there to contemplate allowing the leave of absence idea because it just, it's just impractical.

**SIR HUGH:** That's a useful catalogue, thank you. Dr Arseneau, do you have any other questions?

**DR ARSENEAU:** I've asked my questions.

**SIR HUGH:** Oh you have? Professor Roberts?

**PROFESSOR ROBERTS:** Just very quickly, I want to understand your, the second of your two options for a threshold. Am I right in thinking that your, it's almost a graduated threshold –

**MR STEPHENS:** Yes.

**PROFESSOR ROBERTS:** - so that the Conservative Party's 2.65% of the vote, you would have said you got over two, but less than three, you're entitled to two MPs. The ACT Party, in 2008, it's 3.7% or whatever it was, would have said you're entitled to three MPs, not as the Sainte-Laguë formula says you're entitled to five. So you're not abolishing the threshold entirely, is that right?

**MR STEPHENS:** Ah yes, well, and essentially look at the current system where we say, um, if you get 4.9 you don't get any. So I just look at, it's, it's a better system, I mean it could be you could use the, a Swedish formula for it but I think that the system works even if the party gets 3.9, they're still getting three MPs in Parliament and that, you know, that's better than present.

**PROFESSOR ROBERTS:** So a party with 4.9% would entitle, okay, you've got four. A party that got 5%, of course, 5% of 120 is six, and therefore, you know, they would go to their full entitlement?

**MR STEPHENS:** Yes.

**PROFESSOR ROBERTS:** Okay thank you.

**MS HURIA:** I just had a quick question. Just with regard to the, the by-election candidates, do you see any infringement of people's human rights, being able to stand?

**MR STEPHENS:** Not at all because of the simple fact they're – to stand for Parliament while they've already done so and they're already there, so I see the issue more being whether you can stand, essentially, for something you've already got again, and use, and I just don't think that's fair, particularly when there are so many more New Zealanders and more, and there are many more people in political parties to do those roles.

**SIR HUGH:** Thank you Mr Stephens, thank you for your views.

**MR STEPHENS:** Thank you very much.

## **SIR HUGH WELCOMES MARK AITCHISON**

**MARK AITCHISON:** Okay first I should say that I believe that MMP has proven itself a great improvement over First Past the Post and is free of major faults but there are minor kinks in the system and they're especially related to the unfairness and volatility caused by the sharp cut off of the 5% threshold, the lack of voter influence on party lists and too much importance can be attached to one electorate if it can bring in with it a minor party that has been struggling below the threshold. But more seriously, there are perceived major problems in terms of stability and disproportionate effects minor parties can generate.

0950

Now, when an electoral system doesn't have major flaws and doesn't really produce instability, yet it's thought to be flawed and to have a problem with instability, then that system indeed does have a problem that needs to be looked at. It has been realised that the electoral system rules influence the way politicians react and there are plenty of examples in New Zealand political history to keep in mind. The joining of parties to make a single party capable of gaining seats is one common example. Then there are pressures to make it split or problems with, for voters, in having to judge what parts of their combined policy might they sweep under the carpet if they gain seats. I would also say that the present system encourages factions to split from a major party during the parliamentary term even though that causes fears of instability because they have a much smaller chance of being in Parliament for even a little while if they follow the ethical path of waiting for an election.

I should say, these aren't specifically MMP-related problems but they probably are more likely and certainly they are under the spotlight because of the change to MMP. So my submission alleviates some of the problems, the minor kinks of the threshold and party lists generate. I don't claim it does all of that and I think that there should be more done, more on that in a moment, but I definitely do like the idea of a, a, sharp, sorry, a soft cut-off rather than a sharp threshold just as the previous speaker was saying.

My proposed approach is unusual which is why I decided to speak here. It might not have been easily understood from the way I wrote and I think it's important in that it takes into account that the downstream effects of the rules, the effects they are likely to have on politicking. And I suggest this approach is likely to improve the maturity and stability of New Zealand's democratic processes while it gives more control to voters and more accurate proportionality.

Now, thresholds. The 5% threshold is unfair to minor parties and to voters but it's not sensible to do away with it entirely due to poor stability, for example Israel and Italy before they switched to Supplementary Member system with near pure proportional representation and no threshold. But the threshold has effects that often the public seems to identify with instability. A relatively large change in the number of seats can hinge on a few votes in a key electorate. This is what proportional representation should be trying to avoid. Moreover, it encourages politicians to do dubious deals that bring in question the ethics and stability of our democracy when they are looking down the barrel of falling on the wrong side of the threshold.

Minor parties have an advantage if they form themselves of a middle of a parliamentary term by splitting from the party that brought them into Parliament. Otherwise, how are they going to get into Parliament from scratch if they go through the honourable process before an election? There have been, there has been much volatility in minor parties, the splitting parties with half of the Māori party, you know, close to the threshold, continual renaming, amalgamation, and disappearance of minor parties at quite an alarming animated rate. That means less maturity and experience within these parties as parties, and often leaders, come and go. And also because they find themselves pressured into deals or extreme stances to gain popularity and yet can also be pushed close to extinction if they seem to be too close to the government they're supporting.

**SIR HUGH:** Mr Aitchison, can I encourage you to get to the description of your submission, which is, as – we're very eager to hear about.

**MR AITCHISON:** Righty-o. Anyway, so whatever reasonable level of threshold is set, the problem's going to exist. So in a nutshell, I'm suggesting that two or more political groups existing within a political party should be able to list themselves as separate options in the election. So that means two groups which, at the moment, might consider forming separate political parties, can combine to form one party as far as the electoral threshold is concerned. They can supply their own lists of candidates but they can also have some in common. Together they would have less risk of failing to meet the threshold in a part, yet they would not be under the same stresses and destructive forces that tend to splinter parties at present. Also it means that an existing party could represent alternative specialist policies at the election, for example for and against West Coast mining or something like that.

0955

In the past there's been issues like abortion and so forth that people try to say a vote for this party is a vote for or against free abortions or something. Now from the voter's perspective this is easy to understand. You see an option on the party list and your vote means exactly that. You don't have to think that, "Oh this party that combines recreational fishing and legalisation of polygamy is," well you know, "What am I voting for when I vote for it?" You can agree with one and hope the other is put on the back burner. Well, this way you actually vote for what you want.

From the perspective of minor parties, this reduces the effect of the threshold. Well, you might say, "This is something they can do already," I mean and they have done. Think of the Alliance with Māori and New Labour and Greens and so forth but they've done that without a law change. Why do we need to make any difference? Well the important difference here is each faction retains its identity and has a clear measure of the vote it is getting.

**SIR HUGH:** Can I just enquire there, Mr Aitchison, are you suggesting that the ballot paper should have party A and party B and an opinion that says, for the election, A and B are going to be party X?

**MR AITCHISON:** Maybe I should have produced a sample ballot paper I described in the written thing before but I think that there should be, for example, um, a dotted line or a coloured region where you might have, say, Labour, a plain, pure just Labour vote then the next one would be, say, Labour pro West Coast logging. Next one might be Labour anti West Coast logging, next one, then outside that dotted box there might be another area that has, um, the pro-polygamy party and the next one is the pro-

**SIR HUGH:** The anti-polygamy party?

**MR AITCHISON:** Yes, and the only thing the voter might need to really take notice of is that the dotted line or the grouping means that they are associated, as far as we're concerned, they are a party with formal party organisation and so forth and so those ones have agreed to be associated. They've got like enough minds to get on with each other but they don't have the same problems with trying to split off. They do keep their identities. They know what they're for and what they're against and if you have a separate list for pro-polygamy then they will get, you know, one or five or whatever pro-polygamy people in Parliament depending on actually how much support there is for that particular thing.

**MR PEDEN:** One thing I was trying to understand reading the submissions whether you saw the purpose of your proposal being to affect the result, so in other words, the proportion of seats that the parties, whether they were a component party or not received in Parliament or was it to reform the parties elected of the views of the electorates so that they understood better what their mandate was?

**MR AITCHISON:** Well, I do think it's both. I think that the system would still work if all that happened was that the particular factions or sub-parties have

got a – got feedback of how much support they've got because one of, as I said at the beginning, one of the problems being faced with the MMP system is not really a problem of MMP itself, it's the way that politicians behave and people say, "Well, this just happened since MMP came along." Well I don't think that's entirely the case but, still, it's something to look at so I think that it would have an effect on the way that political parties operate on the – well, first they would be under less stress to adopt weird actions because they're facing the threshold, there would be more chance that they'd be together but also encourages them to work together with a mature, experienced team rather than sort of come and go and sort of throw their toys out the cot and...

1000

**MR PEDEN:** Do you think you could have a go at a ballot paper?

**MR AITCHISON:** Yes.

**MR PEDEN:** For us and send it in and that might just help to explain –

**MR AITCHISON:** Righty-o.

**MR PEDEN:** – what you've got in mind.

**MS HURIA:** So just to make sure I've got this clear, you've got a plain, vanilla party and then you've got a series of other parties or sub-branches of that party, you have, like one issue and – but it doesn't have names attached to it but then you have another list of candidates who can ally themselves with one of those sub-parties or the plain one?

**MR AITCHISON:** Yes, yes.

**MS HURIA:** So if you're a candidate and you know, you maybe support four or five of those if there were that many, that might be the case? Is this getting quite confusing?

**MR AITCHISON:** One of the things I was thinking is that you would need to have some rule that stops a party from having too many options on the paper and one of the things I suggested, which actually should only be a suggestion of a way to do it, is to say for every 4% vote they got last election, they were allowed to have one extra name, one extra option on the list but I think that really the pressure would be on the parties themselves to not field too many options. It would basically lose them votes and would confuse voters and if they know it confuses voters, they're not going to go for it. Also think of – imagine if, say, Labour had an option, um, anti-fracking and National didn't have pro- or anti- options at all, they would think, "Well, Labour might be getting votes just because they've got this option. People will – that are against fracking will have a reason to vote for them. We'd better have an option too," and if it's a significant enough option, they would include it and if it isn't they'll go for something else. They might even have a freedom to frack option or something like that.

**MS HURIA:** Okay, thank you.

**DR ARSENEAU:** Thank you, it's an intriguing idea. So it sounds to me almost like you're combining a referendum each time with –

**MR AITCHISON:** It is a mini referenda, yes, that's right. Yes.

**SIR HUGH:** Thank you Mr Aitchison for your contribution.

**MR AITCHISON:** Righty-o, okay.

## **SIR HUGH WELCOMES JAMES CAYGILL**

**JAMES CAYGILL:** Thank you for taking the time to hear submissions. I know it's a long process and quite tiresome and repetitive. I won't take a great deal of your time going over the submission. There are a few thoughts that occurred to me this morning and reading other submissions online and I might just make those and go over –

**SIR HUGH:** Yes, of course.

**MR CAYGILL:** – less well articulated points in my submission if I might and then leave it to questions.

To me I think there is a fundamental truth about MMP that needs to be understood and isn't well articulated and I haven't, in many years of talking about MMP articulated this way until reasonably recently and that is that MMP as a system really tries to balance national support for political groupings or poli – you know, political ideas, with local geographical support. FPP on the one hand, you know, goes from local gov – conglomerates local geographical support for anything and creates majorities that way. MMP goes halfway to, I guess, what we tend to call a fully proportional system although I actually find that language kind of pejorative because it does, in a way, reject the notion that local support, local geographical constituencies are in their own way democratic.

1005

So those things, local support versus national support, you know, overall national support are held intention and I think it's important when considering any changes to MMP that we remember that and that we don't try to confuse this situation by adopting a change that sort of muddies those waters. They are two clear tensions and it's best that they're kept that way.

For the vehicle though, I do not support changes to, ah, the way by-elections are contested. I think the question that Ms Huria asked the previous submitter

is the best one. It does quite simply just infringe the human rights of candidates and I find it bizarre that you would bind someone based on a previous election's result to, you know, freely stand at a next election or a by-election in that way.

Likewise, I don't have a problem with candidates contesting both list and constituencies. That is effectively saying, well, I'm seeing local support in one area but the things I represent, the issues I stand for, who I am may equally be supported by a constituency spread broadly enough across the country that I might find support that way too," and I think that's a perfectly legitimate thing for candidates to ask. I think it is – it's sort of second guessing voters in their own, you know, and your own support to ask people to pick and choose prior to an election.

And lastly, and this gets me to my second point about MMP, the rules for party list ordering shouldn't be changed. I've seen a number of submissions and heard some today that seem to, I think, misunderstand the role of political parties and MMP is a system that creates a very explicit role for political parties. Much more so than FPP ever did even though you ended up with the formation of political parties as a result of First Past The Post elections, you know, they have been a natural consequence around the world but MMP, you know, has party lists and it seems to me a number of people who seek changes to MMP actually want to change the internal workings of parties or the way political parties operate and the proper way – the right and proper way to do that is to participate in a political party.

The alternative party list suggestion that was put forward by the previous submitter, I would posit, as someone who is active in a political party, would simply not be picked up. There is just no way political parties will put forward policy disagreements like that in terms of an alternative pro-fracking or anti-fracking within a party up to the electorate. They will resolve those differences within a party, present a unified party list and have that be a – put that forward to a – to the electorate. That is simply the process of policy formation. It occurs quite naturally right now within a party. There is no need

to I guess reach into a political party through the electoral system and alter that.

So to come to MMP, MMP is – the electoral system is about forming a Parliament, not a government. Not the policies of a government. That happens almost immediately afterwards but it is a different thing than altering the electoral system and we should confine ourselves to just the electoral system and so matters which are properly those of a party should stay properly those of a party.

I haven't articulated it particular well in the submission but the three reforms I do support are actually interlinked if one thinks about MMP enough. First of all, as I think many submitters have said, I support the removal of what I call the electoral lifeboat, the notion that someone winning a local constituency automatically gets all of their party support counted within operating the party list formula. Effectively lowers the threshold for people who have a local support base and I think that, as I say, that muddies the notion that there are – that the Parliament's partly made up of those with local support and national support. It advantages the voters in a particular place and we've seen that played out in the behaviour of both politicians and voters in a number of places around the country in a number of elections as these opportunities to operate around the threshold have presented themselves. So, simply removing that would be, I think, in the interests of clearing that tension up.

Having said that, it probably makes sense to lower the threshold. I think you can operate and come up with a perfectly rational and democratic argument for a threshold set at any level frankly. You know, I can see arguments for 10% and certainly in some countries where MMP operates you have a reasonably high threshold, actually, in order to discourage the representation of extremist groups but if you look at the results of the Greek election just this week the far right achieved 7%. That would, under the New Zealand system, entitle to them to a significant number of seats in Parliament and we might say, as New Zealanders, that's perfectly legitimate and the right outcome. Other countries conclude that that's not and have a higher threshold for that. I

don't think there's any magic number that a threshold should be set at but having seen 5% operate and seen some parties and political groupings around the country get close but not quite close enough, you know, four point something, in a number of times, one might conclude that four makes more sense than five but really, to be honest, it comes to my final point.

1010

How one might set the threshold comes to my final point which is the ratio –

**SIR HUGH:** All, all thresholds are arbitrary, aren't they?

**MR CAYGILL:** They certainly are.

**SIR HUGH:** But the party that gets 4.9% in a 5% threshold feels hard done by.

**MR CAYGILL:** Correct.

**SIR HUGH:** The party that gets 3.9% against a 4% threshold et cetera.

**MR CAYGILL:** Correct but, and I know a number of submissions have said well abolish the threshold completely. That doesn't give you no threshold, it actually gives you a mathematical threshold based on the proportion of votes you need –

**SIR HUGH:** Yes.

**MR CAYGILL:** - in order to get a seat. So this is why I say it relates to my third point which is about the ratio between constituency seats and list seats because that, considering if one for a second sets aside 4% or 5% of the threshold and just considers the practical threshold that would exist without at, without a threshold, that gets you to the value of a list seat as a proportion of Parliament and I guess the steps one takes in allocating each extra list seat to a, to a party. And that's currently –

**SIR HUGH:** You proposed a 90/30 –

**MR CAYGILL:** I proposed 90/30.

**SIR HUGH:** Is that partly consequential on your proposal to increase the South Island seats to 20?

**MR CAYGILL:** it is partly but that's, that's because actually I don't see much point in engaging in a theoretical discussion about raising, altering the threshold without understanding the practicality of how one does that. It's, I mean I know the question has been put by the Commission, in the terms of reference, about the ratio, that's great, but as I said, in terms of showing drafting, it's actually important that one works out how one might do that and unless you're going to completely re-write the system, which I doubt the Commission's particularly interested in doing, you're going to look at altering the South Island allocation.

And I think you can still operate a reasonably proportional Parliament with 20 as opposed to 16. You might look at 18, you might look at, you know, any number in between or less than 16 if you want although I think, you know, I think less than 16 would be even worse than we've got now and more than 20, you're likely to end up with the adverse consequences that I've mentioned. You're likely to end up with two bigger, two larger steps between each successive list MP so you will end up with overhangs that you can't, you will end up with more frequent overhangs from large parties as opposed to the occasion overhang from parties that enjoy local support for a while. And I think overhangs, systemic overhangs is something that you would seek to avoid.

So just talking about those steps and the consequences of 16 versus 20 because I haven't given you the maths for that although I'm sure you're capable of working that out yourself. An MP is worth 1.2%, you know, that's simple 120 divided by 100. At the moment, a 70/50 ratio, the existing ratio,

the list, a list seat is worth 2.4. So it's effectively two constituency MPs to every one list MP so you can increase, you know, you allocate a list MP every 2.4% of Parliament if you are replacing, if you are putting in list MPs for a party that has no constituency MPs. Altering the ratio to 90/30, i.e. effectively by allocating the South Island 20 MPs gets you to 3.6. So it's a, it's about 1.2, it's about half again in terms of the step increase and obviously purely mathematically, 18 South Island MPs gets you somewhere halfway in between, okay?

**MR PEDEN:** I can see how this would make you very popular in the South Island, but the – you're proposing a 90/30 split and are you proposing the retention of the, the basic mechanism in –

**MR CAYGILL:** Yes.

**MR PEDEN:** - the Act so that –

**MR CAYGILL:** It's consequential, it's consequential.

**MR PEDEN:** - so, so seats, the number of seats would continue to increase, the number of electorate seats would continue to increase as population changed?

1015

**MR CAYGILL:** Well yes and I accept that the Commission is bound not to be able to consider an increase in the size of Parliament.

**MR PEDEN:** That would be your solution to the inevitable –

**MR CAYGILL:** But to be honest, that is an issue that Parliament has to grapple with itself.

**MR PEDEN:** It's part of the constitutional review.

**MR CAYGILL:** That's correct. And it would ordinarily would have to grapple with anyway, I mean, as – the existing 70/50, you know, has slowly eroded over time. Parliament has to take a view and maintain that view for a time about how to maintain the proportionality of Parliament. How fine-grained that proportionality should be.

**MR PEDEN:** Yes. I suppose your solution accelerates the need to – because at the moment the advice we've had from Statistics New Zealand is that somewhere around 2051, you know, we get to 77 electorate seats. You're increasing us to 90 immediately. I suppose what – why? What's the ...

**MR CAYGILL:** Okay, and I realise re-reading my submission it's not something I've well articulated, so let me be really clear, because a lot of the conversations, a lot of the submissions, a lot of the talk about MMP is about list MPs and not a lot gets considered about constituency MPs, and the pure fact of the matter is our constituencies are too large and most obviously in the South Island. Sixteen is simply not enough. It's not about the pure number of voters per seat. If that were the issue, we wouldn't have an allocation set aside for the South Island. It's the geographical size. We now have – I mean, it makes it next to impossible for some South Island constituencies to be drawn with proper reference to community of interest, which is one of the criteria but it's probably, I would argue –

**SIR HUGH:** So fundamental to your proposal is reducing electorate size or electorate numbers.

**MR CAYGILL:** Well, no, decreasing the size of the number of voters with an electorate, yes. So I mean we now have – it wasn't the case when MMP started and when the boundaries were first drawn in '96, but we now have a West Coast electorate which stretches into the suburbs on Nelson. Now, there is no community of interest there. There just isn't. That is a pure function of operating for maths set down in the Electoral Act.

**SIR HUGH:** So your proposal for 75, 25% is driven by the need to reduce the number of voters and reduce the size, not by some political science principle that says, “That is okay.”

**MR CAYGILL:** That is a political science principle, but no, primarily it’s about practicality and representation, but I also think you address a number of other concerns about list MPs and what they are for, who they represent, why they are in Parliament. I don’t agree with what one submitter said earlier, which is that list MPs are somehow seen as second class. They are different. That doesn’t make them lesser or greater. It just makes them different. For some people that will make them greater or lesser, depending on what their political interests are. If I am particularly motivated by issues that enjoy a national constituency but no local support base, then I might actually think the list MPs are more important to my representation of Parliament than my local constituency MP. That’s a perfectly natural outcome. Having – we need to ensure that we have enough list MPs that we get that proportionality, we get that representative nature within our Parliament, but not so much that we undermine the other type of MP, which is that supposed to represent a local geographical area.

Now, urban constituencies are easy. I’d guess there are fights about how and where the boundaries are drawn, but matters of practicality don’t arise. But in the South Island, we have real issues of practicality, and actually, you have the same in the North Island. Drawing the Taupo electorate, which is usually the one that everything else gets squeezed around, is deeply difficult, and the last boundary review saw that electorate stretch all the way to Cambridge. And that is a problem.

**SIR HUGH:** We’ve had submissions about other electorates, as well, Rangitikei, for instance.

**MR CAYGILL:** Absolutely, yep, another good example.

**SIR HUGH:** And New Plymouth District Council wanted us to consider the size of the Taranaki electorate.

**MR CAYGILL:** Yes. Perhaps another way, and it's a messier way, which is why I didn't suggest it, but another way to address this would be to simply start, rather than with 16 in the North Island just say one for the West Coast and arrive at it via the West Coast population as opposed to the South Island population. I think that is messy, but it leaves me befuddled that one could suggest that the current West Coast seat is properly an articulation of the principles of how we draw electorate boundaries. It's not. It's a product of maths. It's a product of setting a limit.

1020

**MR PEDEN:** The population quotient is the driver.

**SIR HUGH:** And as far as population.

**MR CAYGILL:** That's exactly right. But that means you are mixing communities of interest. You are saying, "This community must have its representation subordinated with someone else's in order to have that properly represented in Parliament," and I just think that's unfortunate and unnecessary, given that you can address this by changing that ratio. Yes, it requires Parliament to ultimately address the problem further down the track, but that's what Parliament does. It addresses problems as problems arise.

**MR PEDEN:** Yes. Not all that far down the track, I would think. You mentioned that this proposal driven by practicality in relation to the size of constituencies but would also address issues relating to list members. Do you want to just quickly list ...

**MR CAYGILL:** Well, we normally suggest that list members – that one of the reasons we like MMP is that it provides greater diversity in terms of the pure representative nature of Parliament, which I tend to agree with and think is a good thing. It provides diversity of opinion and it provides a vehicle, most

importantly, for political issues or political issues that enjoy a level of support nationally to be represented where they don't enjoy a level of support geographically.

Take the anti-fracking point that was made earlier. I'll just pick it as the issue of the day and if an anti-fracking party emerges and fracking is considered to be such a hot-button issue and it's not being addressed by other political parties, you know, people feel that that single issue is enough to motivate them, if 4%, as I would say, or 5% under the current rules of people vote for that, then that deserves representation in Parliament.

But you don't need so many list MPs in order to have that represented. You know, 4% still entitles you to representation in Parliament. There is no magic number that says – or magic political science theory which says 5% should entitle you to six MPs. It just says 5% should entitles you to, you know, 5% of the Parliament. How that, you know, how you articulate that in the numbers is arbitrary and it doesn't need to be 70/50. It doesn't need to be 90/30. It could be, you know, anything you like.

You could alternatively, you know, express the South Island population, the quota for seats, in a different way. I've just chosen the most simple change to make, you know, the easiest one for it.

**SIR HUGH:** Anyone else to ask questions? Dr Arseneau?

**DR ARSENEAU:** Can I ask a question. Thank you for your submission. It was really thought-provoking, and I liked – you articulated, I think, your principles really clearly, this notion that MMP is a tension between national representation and local representation. So I have two questions, and they're basically the same question. So do you feel 90/30 too much tips that tension towards local representation, and I wondered secondly if you considered, if your main principle is the size of electorates, and given that electorate – that side of the equation doesn't really decide elections, the party vote does, would

a simpler solution be to up the tolerance in terms of the difference of size of electorates?

**MR CAYGILL:** You've certainly got – to address the second part first, but yeah, you certainly could change the tolerance. I would be reluctant to. We've got, I think, from memory and I could be wrong here, we've got greater tolerance in setting local boundaries than we do national boundaries. I think – I would be reluctant to do that because I think the outcome is clear. You would end up with less popul – you know, you alter the value of one, well, you know, you effectively alter one person, the value of a vote in different places, you know.

**PROFESSOR ROBERTS:** But only in the electorates. Your party vote is still important.

**MR CAYGILL:** Absolutely, only in the electorates, you're quite right, and you're right, if you remove the electoral lifeboat that has less of an impact because you are not allowing those voters to bypass the threshold.

**DR ARSENEAU:** It makes it, then, just about local representation.

1025

**MR CAYGILL:** It makes it just about local representation, but you are obviously going to end up with more sparsely populated, smaller, you know, sorry, smaller electorates by voter in the large rural areas. Is that a problem? I don't know. My understanding, it's not something that I've enquired into recently, but my understanding is that New Zealand actually has the opposite problem that Britain suffers from where our relatively over populated electorates are in the cities and our relatively under populated electorates are rural where that is actually the opposite case in the United Kingdom.

As a matter of party politics and practical politics, it certainly didn't – changes the way parties campaign and how you turn out the vote and so I think that suggests to me as a matter of theory that it does have a practical effect. If

parties campaign differently based on that, then there must be a difference that they are responding to and so difference, I think, is something to be avoided if one can but, yeah, look, it's something you could do.

Coming back to your first point, 90/30 is, I think, about as far as you would want to go. The way the numbers actually work out it's not quite 90/30, setting 20, it leaves you 33 list seats.

**DR ARSENEAU:** Initially?

**MR CAYGILL:** Yes, absolutely initially and –

**PROFESSOR ROBERTS:** Of the 2006 census?

**MR CAYGILL:** Yes, and I – we're all bound by the 2006 census and it's deeply frustrating and you know, it's – I'd love the new population data. Eighteen would give you 42 so if you set the South Island quota at 18, not 20, yeah, you're right. You would start a little – you'd push it further forward. You'd get two more South Island seats. That would probably – I haven't done the population number – I haven't looked at the 2006 data for the distribution of the West Coast population to see if it would pull the West Coast back onto the West Coast. Twenty certainly would. I don't know whether 18 would be enough to do that, um, but again, so you're balancing which problem to you want to arrive at first.

Do you want to arrive at having fixed the proportionality of Parliament through the size of Parliament because of population growth or having to readjust that again because the electorates have continued to bleed the population and therefore have spilled out again and need to be adjusted downwards. I don't know but that's the – that's what you're balancing but as I say, 18 would give you 42 so would push that off a little further. It gives you 2.8 per list seat rather than 3.6 or 2.4 so it's the mid-point, um, and so perhaps 18 is a better way to consider it. The changes are the same, it's just the change in the number of the legislation.

**PROFESSOR ROBERTS:** Well I just want to add my thanks. It was a very interesting paper. I was wondering if I could make a suggestion and this is going to sound a little bit professorial –

**MR CAYGILL:** That's quite all right.

**PROFESSOR ROBERTS:** It does have large numbers of errors. I'm just particular excited by frequent references to the 2010 election.

**MR CAYGILL:** Yes I do apologise. I could that going over it yesterday and I, um, sorry.

**PROFESSOR ROBERTS:** But the column totals on page 3 for example and the data in that final table in page 3, there's some major mistakes there. The revised list adds up to 29, not 37. The revised total adds up to 117, not 124 which probably accounts for why the Greens have been so badly treated.

**MR CAYGILL:** That would be why the Greens have been so terribly afflicted, yes, indeed.

**PROFESSOR ROBERTS:** Yes, and I wonder if there's a possibility of replacing it –

**MR CAYGILL:** Of course I can.

**PROFESSOR ROBERTS:** – on the website as well just because it becomes a public document and I think it's very interesting.

**MR CAYGILL:** Yes, no, of course.

**PROFESSOR ROBERTS:** Could I just say on the professorial side, if I closed my I was taken back 42 years ago when the submitter's father with a voice very like his was streaming to mind.

**SIR HUGH:** Thank you very much, Mr Caygill. If you care to redo the numbers and submit them, that will be very helpful.

**HEARING ADJOURNED: 10.29 AM**

**HEARING RESUMED: 10.47 AM**

**SIR HUGH WELCOMES PETER HEFFERNAN**

**PETER HEFFERNAN:** Okay, that is just a sort of a summary of – it's like the power points that I have of a – power points, it's a summary of what's in the other thing really but what I really want to do is just to summarise and update the written submission and also the answer to one of the questions that you asked on the website and I've sort of estimated it. Takes me about eight minutes of, yep.

So I want to make a radical proposal. I propose that every three years, New Zealand should hold an election and elect a government. Hang on, don't we already do that? Well, we don't actually. We elect the Parliament and then put 120 in a big building in Wellington and say, "Why don't you people fight out amongst yourselves to see who runs the country?" What could possibly go wrong with that?

Well, there have been some problems with proportional representation. For example Belgium, which has proportional representation, took 18 months to form a government recently. The Netherlands has proportional representation and the party for animals has two MPs but has influence because of the precarious balance of power. Consequently the Netherlands was to have police force of 500 policemen to fight crime against animals. However, since I made my written submission that government has collapsed altogether. Greece, which has proportional representation, is currently struggling to form a government.

So I believe that a system of government which can function only if political opponents agree is fragile and the USA, although it doesn't have proportional representation, is another example of this. So I'd like to suggest a couple of changes to the current version of MMP.

The first change is to have preferential voting for the party vote. After an election, governments are formed by secret negotiations between parties after which small parties sometimes end up having a lot of power. Voters are not involved in this. There is a simple way in which they could be involved, having preferential voting for the party vote and the second change that I suggest is replacing list MPs by the best losers or giving electorate MPs more than one vote.

One drawback of the current system is that candidates are put on lists in private and are never voted on individually by the public. In effect, some of our MPs are appointed to Parliament. A lot of power is given to the largely unknown people who decide who goes on a party list and list MPs are beholden to these people. If we continue to have extra MPs then an alternative to choosing from an ordered list is to devise some system where people can vote on who goes on the list. The trouble with that is that most voters would be voting on people they know nothing about and I would suggest one simple alternative might be to just choose a party's best losers in electorates.

However, it also seems to me that as a method of fine-tuning a party's parliamentary vote, having extra MPs at all is somewhat cumbersome. As an alternative to having extra MPs, a party could be given extra votes for its electorate members so for example in order to give a governing party a small parliamentary majority, each electorate member of the governing party might have 1.2 votes. Small parties could be allowed auxiliary MPs.

Okay, thirdly, the principles and reasoning towards preferential voting for the party vote. I think there are three characteristics which seem desirable in a voting system. Firstly, voters should vote for parties because it is parties which form policies and it is parties which govern the country. Secondly, a clear choice should be made of one party to govern the country. I suggest that many people would like to choose the government for themselves rather than have a small party supported by a small number of voters choose it for them. I think we should consider separately the way in which Parliament is

elected and the way in which a government is chosen from that Parliament. MMP was designed to produce proportionality in Parliament, not to produce proportionality in government.

We've changed the way in which we elect Parliament but have retained the old way of selecting the government from that Parliament. Is that way of selecting the government really compatible with the new way of selecting the Parliament?

Under MMP, unlike First Past The Post, small numbers of votes for small parties and electorates around the country can be aggregated and win a small party seats in Parliament. Consequently, there are more small seats in Parliament. It's hard to get a united government from such a splintered Parliament but a government needs to act and for that it needs cohesion.

The third desirable characteristic of a voting system is that the party chosen to be the government should have broad support. Preferential voting would enable voters to make a deliberate, definite choice of one governing party which does have broad support.

And fourthly and in conclusion, under this system, power would be taken from the largely unknown people who, behind closed doors, draw up party lists and this power would be given directly to the people. Power would also be taken from parties which receive few votes and which behind closed doors decide which party will lead the government. This power would also be given directly to the people.

The proposed system might provide the best of both worlds. A diverse, democratically elected Parliament and a definite democratic open choice of government within from within that Parliament.

So that was my summary of my written submission but amongst the questions that were asked on the website, there was just one I wanted to sort of reiterate and that was the one, should the one electorate seat threshold be kept or

changed? I suggest that this exception to the 5% rule should be dropped because it is based on an argument which experience of MMP has shown to be flawed.

1055

It seems the argument goes like this. Because we don't want a lot of little parties in Parliament, let's require parties to get 5% of a list vote before we let them have seats. However, if a party's already won an electorate seat, then they're already in Parliament so we might as well let them have their list members because in parties which benefits in this will already be in Parliament so this might increase the number of parties in Parliament. However, this argument is flawed because this exception to the 5% rule could, in fact, be what gave the party an electorate seat in the first place.

For example, at the last election National would have had no incentive to give Epsom to ACT if it wasn't for this exception to the 5% rule, because they knew that if ACT won an electorate seat they would eligible to get list members in Parliament, and so this exception to the 5% rule did, in fact, increase the number of parties in Parliament. And just finally, I'd like to point out that Belgium, The Netherlands and Greece all have 11 or 12 parties in Parliament and all have trouble forming Governments. Thank you.

**SIR HUGH:** Thank you, Mr Heffernan.

**MR PEDEN:** Thank you, Mr Heffernan. As you introduced your submission as a radical proposal, I just want to make sure I understand just how radical it is. With your proposal for using the preferential voting system to arrive at the Government, would the preferential voting system determine the share of seats that each party got in Parliament or would that simply be used to determine the Government? So would MMP still determine – would we still have a proportional system for determining overall share of seats in Parliament and just use the preferential system for deciding who governed?

**MR HEFFERNAN:** Yeah, basically it would still be preferential. I guess the idea would be that for all parties other than the governing party, their share of the number of seats would be in proportion to their first preference votes, but the governing parties' proportion would be determined by its final, or its later preferences votes.

**MR PEDEN:** Right. I suppose what I was trying to get my head around was if New Zealanders voted to retain MMP, so they voted to retain a system which had at its core the idea that Parliament would reflect local share of seats a party won on the basis of its party vote, if we were to introduce the idea of preferential voting to determine who governed and to ensure that there was a Government with a majority in Parliament, I'm just wondering how that would mesh with really the – what New Zealanders voted for in November.

**MR HEFFERNAN:** Right, okay. It's a bit – I can see your point, yes. It's a bit of a departure in a way, but I was –

**MR PEDEN:** So that's why I was really just wanting to make sure that I clearly understood, because conceivably you could have the MMP system to elect the Members of Parliament and then to determine, to get to your concern about how party – how Government formation then takes place to somehow say, well, applying preferential voting, this is the party that has the mandate to be the Government.

**MR HEFFERNAN:** Yes, that's what it would be like, but one party might be given – all the members of, say, the National Party might be given 1.2 votes or something, so they have –

**MR PEDEN:** More voting power.

**MR HEFFERNAN:** Yeah.

**MR PEDEN:** Okay, thank you. I think that was the main question that I had, thank you, Mr Heffernan.

**SIR HUGH:** Ms Huria?

**MS HURIA:** No, thank you.

**SIR HUGH:** My question's a bit of a variant on Mr Peden's, Mr Heffernan. To what extent does this proposal go or reflect the preferential systems that were rejected by New Zealanders as part of the referendum last year?

1100

**MR HEFFERNAN:** I suppose that referend- those preferential systems were basically fine-tuning First Past the Post and this one's fine-tuning MMP, I guess that's what I would say. Because it's only applied, it's only applied to the party vote whereas those ones were going to be applied to individual electorates.

**PROFESSOR ROBERTS:** Two related questions. One is other submitters have suggested and you've probably, possibly seen on the website, having a preferential vote but merely in the fact that a party who didn't get enough votes to cross whatever threshold there is, say at the last election the Conservative Party with about 2.6% of the votes, 2.7%, then its voter's second and other preferences might have been taken into account. Would that, I mean, that isn't exactly your system but would that broadly meet with your approval? And secondly, there is a problem about a ballot paper. If you've got one half as preferential and another half is First Past the Post, would you also apply the idea of preferential voting to the election of constituency candidates?

Mr Heffernan: I hadn't, didn't have that in mind. I guess this largely arose, to my mind, because I didn't like the kind of horse trading that went on in the formation of a government and the way in which I thought small parties got a lot more clout than they should have. And I guess it was designed to solve that problem and I suppose that was, for that reason, it was only necessarily to have preferential voting for the party vote.

**DR ARSENEAU:** Thank you for your submission and that issue of, that Parliament is now elected differently and it's elected on a proportional basis and in terms of government formation, it is an interesting issue to raise. And of course, in Europe, they have some mechanisms to deal with that, for example a confirmation vote. So there are some examples in Europe that you might want to look at that try to deal with that issue but slightly differently.

I'm intrigued by your "best losers" suggestion in terms of the list ranking. We've heard this a few times before and you start by saying that you don't think list members are, you talk about them being appointed and not individually elected. Now what we've heard from some submitters is that they believe list MPs are elected because the list is there and when people vote for the party, in essence what they're saying is "We accept this list." So my question to you is if we were to consider the best loser, would we lose that? Would that become a difficulty because people wouldn't actually know the list until after the election?

**MR HEFFERNAN:** That's true, I suppose, but I guess, I guess what I see as the difficulty of voting on a whole list is that you really know nothing about most of the people and you just, "Oh I'm voting Labour" or "I'm voting for that party." Whereas I guess if, the advantage of the best loser is that at least people in one electorate have looked at those people and decided that they're worth voting for and I guess the vote, I would consider to be more informed.

**SIR HUGH:** Thank you Mr Heffernan, thank you for your contribution.

## **SIR HUGH WELCOMES JOHN DRAPER**

**JOHN DRAPER:** Just briefly, I'd like to briefly speak on Mr Heffernan's submission which I agree with very much. Just two comments. First one, on a voting paper, people would need to rank as many or as few parties as they desire. In other words, no need to rank every party on the voting paper. But the other part is, there may be a possibility of small parties not being elected at all in the close election so one, one thought I had to get around that would be for the winning party to consult in good faith with the small, minor party with the most second and subsequent preferences for the winning party.

I gave an example of that, say, in a hypothetical election, you might have National with 49%, Labour with 39% and Greens, 12. Greens would be dropped and their preferences redistributed and the result may well be National 52%, Labour 48. National, the way to get around that would be to take votes off National until National was down to 50% plus one seat, and the minor party would be around 2% of the vote. You would have to exclude the runner up, say Labour, because under that system, Labour voters may well strategically vote, give their second and subsequent preferences to National so that National would be obliged to consult with Labour rather than a minor party, and the same could apply to National voters.

My other comment is it's, the winning party would have to be able to veto ridiculous suggestions like 500 police for the animal police, as Mr Heffernan said in Holland, and finally, the other one, Greece wouldn't be in the trouble it's in now if they had Mr Heffernan's system because they would have one, one winning party and probably several, several parties in opposition. And thresholds would be irrelevant under Mr Heffernan's suggestion because small parties would be dropped and their subsequent, or their other preferences redistributed. That's all I've got to say on Mr Heffernan's submission.

In my submission, the main part is, as Mr Heffernan said, the best losers for all the candidates on the list. I came up with the, with a formula to work it out,

if a statistician can come with a better formula, I'd welcome that. Basically the, all the electorate candidates would have to be, we'd be First Past the Post rather than preferential on the election but the electorate candidate with the highest percentage of votes relative to the other candidates in their electorate would be, you know, would be higher up on the list and an example is Carmel Sepuloni and Brendan Burns who missed out by, what, nine votes and 45 votes respectively, and they missed out on being, being in Parliament which I think is very unfair whereas they probably could well have been at the top of the list, had they, had my system been in place.

My other submission too is that candidate selection for an electorate is far more intense than the list selection, my understanding of it is anyway. If a candidate (inaudible 11.07.40), they, you know, how many people, have, are they in contest, contesting with as a place in the electorate. Yeah. And the other part is some people would say, have, just have, have a number of votes rather than the percentage and I gave it a hypothetical situation where, you know, two people, once against, one hopeless candidate against 10 others or against one other candidate. They could have more actual votes than someone who is up against a whole lot of good candidates and they would, if it was votes only, they would be above that other person on the list, whereas it was relative percentage, the person who actually deserves to be higher on the list is the, um...

The other parts of my submission, dual candidacy, um, well, likes of, ah, yeah, likes of, likes of Clayton Cosgrove and Hekia Parata, both good MPs, we would have lost them if it wasn't for dual candidacy because they, yeah, they both missed out.

Let's see, what's that, oh yeah the other part is if someone, someone goes for, for an electorate, they're accountable to that electorate, even if they miss out, you know, because they've actually gone forward and faced the election, electorate. Another part, ah, to retain proportionality, that's in, if in, people going for, ah, list MPs going for by-elections, the main part, main downside of

that is that proportionality of Parliament could be gone because my understanding is if a list, say a Labour list MP goes for a, an electorate, an electorate that's held by National, a list MP goes onto that, say if they win, then Labour would end up with one seat extra. I may be wrong but that's my understanding. One way around that would be to legislate to make sure that Labour loses one list MP and National gets one list MP. Otherwise, if a list, if an electorate MP resigns soon after an election, a general election, it could trigger another election in a close electorate.

1110

And, oh just, yeah, I said, if, if Mr Heffernan's system doesn't get in well I, I suggest a 4% threshold for elections and no, no one seat electorate, no one seat, um, gets, carries a whole lot of other candidates through and I made a comment on proportionality, basically, ah, if, if, if, you know, eventually, we'll just re, re, return to First Past the Post by default if Parliament stays the same size. That's my submission.

**MR PEDEN:** Thank you Mr Draper and I thought that your formula was a useful attempt to get around one of the problems with the best loser, so thank you for that. I just wanted to make sure I understood what you had in mind around the by-elections. You seem to be concerned that the effect of a by-election might to change the proportionality in Parliament that was determine by the general election but the general election is a snapshot of the voters view at a, at a particular time at the beginning of a parliamentary cycle, things can change during a parliamentary cycle, can't they? And shouldn't the, the voters of an electorate in a by-election be able to give vent to their, their view about the state of politics at a particular time and either vote against the government if they wish to or vote for the government and for the potential for, ah, the proportions in Parliament to change as a consequence, isn't that just democracy?

**MR DRAPER:** It gives them a disproportionate amount of power, the people in that electorate. Gives them the power to throw the government out,

basically. One election, one electorate has the power to throw the government out.

**MR PEDEN:** So would the logical conclusion of that be that we shouldn't have by-elections?

**MR DRAPER:** No.

**MR PEDEN:** Should we just appoint off the list if somebody, if there's a, an MP passes away or resigns for some reason, rather than going through a by-election, should we just appoint the person, replace that person off the party list?

**MR DRAPER:** If it's an electorate vacancy?

**MR PEDEN:** If it's an electorate vacancy, yes.

**MR DRAPER:** Maybe, maybe, oh that'd be one way of saving, saving money.

**MR PEDEN:** Saving half a million dollars.

**MR DRAPER:** Yeah

**MR PEDEN:** Okay, thank you.

**MS HURIA:** I think I've just answered my question with reading your additional paper. So what, what you're saying is – my concern was around low voter turnout electorates but you're saying it's actually proportional anyway –

**MR DRAPER:** Pardon?

**MS HURIA:** - for the best loser idea.

**MR DRAPER:** Yeah.

**MS HURIA:** Where you have a low voter turnout, that doesn't matter in comparison to other electorates –

**SIR HUGH:** (inaudible 11.13.46) proportion of percentages (inaudible 11.13.48) votes.

**MS HURIA:** Yes, cool, okay thank you.

**SIR HUGH:** Just following on from that, Mr Draper, I think you touched on it in your oral submissions. The solution you proposed might still disadvantage, candidates might have not, in electorates where there are a large number of candidates by contrast with an electorate where there might only be three or four.

**MR DRAPER:** So, how do you mean?

**SIR HUGH:** Because the 100% of the votes has to be split between seven or eight instead of three or four.

**MR DRAPER:** Yeah, so therefore if, if the losing, yeah, the losing candidate, if they, um, relative to the whole lot rather than just maybe the winning candidate, it gives a more accurate, a more accurate reflection on their popularity in that, in that election, in that electorate.

**SIR HUGH:** In that electorate.

**MR DRAPER:** And it's more, and it's far more, far fairer than just the, just the votes on their own, votes per se.

1115

**SIR HUGH:** And with the suggestion that lists be re-ordered after the election according to percentage success in electorates, and I think this might have

come out of Mr Heffernan's paper as well, how do you meet the criticism that's sometimes made that people don't know a lot of the people on party lists and they don't know how far down the list their vote is likely to result in success for a party? They don't know that now but if the list is going to be re-ordered after the election, they'd have even more uncertainty as to who, as to who's going to end up in Parliament, wouldn't you say?

**MR DRAPER:** Well, as Mr Heffernan said, most – how many people read, read the lists anyway? They just, they just thought, oh yep, I'm going to vote National, Labour, Greens, whatever. I don't think very many people read the lists.

**SIR HUGH:** So you don't think it matters?

**MR DRAPER:** yeah, no, I think it'd be the same either way, for, you know, I think, very few people I know of who have read the entire list of every party. I have but not many people do.

**SIR HUGH:** Dr Arseneau?

**DR ARSENEAU:** Thank you for your submission and again I think there's, there was a similarity in terms of the best loser. Somebody once, one of the submitters said he didn't like the name, close winner, almost winners or something might be a nicer way of putting it. But we have heard a number of submitters talk about that they don't like this notion of backdoor MPs, the idea that you can be defeated in the electorate and still come in through the list. And I guess my question to you is would this, this, you know, best losers actually amplify that because more and more people would be clearly identified as losers but coming in on the list, or is that, that's not an issue for you?

Mr Draper: That's not an issue. I think, they, well, the people, the only people who get in are the ones who just missed out, range from the likes of Burns and Sepuloni who just missed out through to people who, um, you know,

whatever amount down but the people who missed out by the most don't get in whereas people on the list, they, you know, they, they don't, all they have to do is, they don't have to contest an electorate at all. Whereas people on the list, they, you know, they, they don't, all they have to do is, they don't have to contest an electorate at all and I think if it I was contesting an electorate, I'd be rather annoyed if people on the list who didn't contest an electorate were ahead of me.

**DR ARSENEAU:** So we really need to change that title, best losers.

**MR DRAPER:** Yeah I, I put, um, I put unsuccessful, unsuccessful electorate seat candidates.

**SIR HUGH:** Professor Roberts?

**PROFESSOR ROBERTS:** I think that Dr Arseneau's question and the answer covered what I was – thank you.

**SIR HUGH:** Thank you. Thank you Mr Draper.

**MR DRAPER:** Thank you.

## **SIR HUGH WELCOMES DAVID MINIFIE**

**DAVID MINIFIE:** Right. I just wish to speak to the first four items on my submission because those are what I feel most strongly about, they being the basis for eligibility, the dual candidacy, order of candidates on the list, and the ratio of electorate seats to list seats.

As far as the eligibility, the thresholds, I support lowering the threshold either to a 4% or a 3%. The 1986 Royal Commission suggested a 4% threshold and in the end Parliament settled at 5% threshold. I'd like to argue for a 3%. Using the 3% threshold from 1996 would have gotten the following extra parties into the house. There'd be one in 1996, no change in 1999, 2002 or 2005, one more in 2008 and no change in 2011. So I believe from those figures that lowering the threshold to 3% would make little difference and would not open the floodgates to smaller parties.

1120

Lowering this, lower than this might make it difficult – and this is where I quote Deborah's figures. Prior to 1992, the Israeli Knesset had a threshold of 1% and now is 2% which is one of the lowest in the world. It's been difficult for them to form a stable coalition government to last a four year term and according to Wikipedia, the average span of an Israeli government is 25 months. So we do not want this short lived government, nor a government which cannot pass legislation, so since we've had MMP, we've had stable governments and governments which I believe have passed good legislation, mainly because they've had to talk to each other, being one of the, I believe, one of the benefits of MMP.

And I believe having a party vote threshold is, has helped this stable government, although I believe that it should be lowered from 5%. So I support lowering the threshold to 3% which will result in less wasted votes and hopefully would have more people involved in government, feel more involved in government. And so this would hopefully improve the percentage of people who do vote.

And the one electorate threshold, I would like to eliminate. There will only be one clear threshold, either the 3 or 4% of the party vote. This current situation, it's like the old MMP marginal seat where a lot of resources were poured into one seat and so it is unfair from that point of view and one of the things about MMP is that it is supposed to be fair, that your votes have equal validity. The other thing, of course, is that it leaves it open to a particular party leader, a charismatic leader, taking, taking an electorate seat and then bringing in other people on the, in the party list, which is under the current 5% list. So this is an unfair situation as well. So I propose to eliminate the one electorate seat threshold.

My second point on dual candidacy. I believe dual candidacy must continue because it allows smaller parties to place talented candidates in electorates where they have minimal chance of being elected as an electorate MP. It's, this means they can present their party's policies to the electorate and it also gives them experience in working in an electorate. So it also improves the quality of your candidates, bringing that electorate experience into Parliament.

The 1986 Royal Commission said, "Removing dual candidacy was undesirable in principle and unworkable in practice." If you did not have dual candidacy, you would have less politicians standing in electorates, less list politicians, because they would not want to be thrown out. They would only stand in the safe seats which is going back to the old First Past the Post system where that sort of, you know, it's inefficient and unfair.

Some have voiced concerns that a candidate could be voted out in an electorate and still get into Parliament on the list. Now this is an illogical argument. The idea of voting out a candidate is a throwback to MMP – sorry, a throwback to the First Past the Post system. Under MMP, you vote for your preferred candidate, and you vote for your preferred party. You do not vote against, to throw out a candidate. MMP is positive vote, so you can't say that someone has been thrown out and then comes back in, just that someone has voted in another candidate.

If we did not have dual candidacy, an electorate of 40,000 voters could dictate to the national electorate, of nearly three million voters, whether a preferred candidate could be elected to Parliament on a party list. So that would also be unfair and it's unreasonable to say that the candidate rated high on a party list should not be allowed to present the party's policies to voters at an electorate level in the same seat where they may lose so I support retaining dual candidacy.

My third point, the order of candidates on the list. The order of candidates on the list must be chosen by the party but I would like to see a democratic process involving all the party members and preferably in a secret ballot. The process currently used by some parties that do not involve their party members but just senior members choosing the candidates should be disallowed. It's undemocratic and it gives undue influence to those high rating party members who choose the electorates.

Publically ranking the order of candidates on the list is complicated and the public themselves cannot know the true worth of a candidate so I believe that the candidates have to be voted by the parties listed by – the list ranking has to be voted on by the parties but it must be done in a democratic manner.

When a person is voting for a party, they base their votes on two things. Party policies and the candidate on the list, particular voters rate, ranking high on the published list, so it would be farcical to vote for a party based on who was rated high on the list if the order of candidates will be different after the election. There would be no point in a party ranking their list at all so I support the order of candidates on the list being chosen by the party in a democratic process.

My fourth point is the ratio of electorate seats to list seats. MMP works by ensuring that a party's share of the vote translates into its share of the seats in Parliament so if a party gets 10% of the vote, it gets 10% of the seats. If the

number of electorate seats continues to grow from the current 170 – 70 out of 120, there will be fewer list seats assuming that we keep the parties, the number of seats in Parliament fixed at 120. In future it may be hard to share the seats according to the party vote. There will be fewer list MPs available to ensure proportional representation. So the list seat numbers must be large enough to maintain proportionality as the electorate seats expand. The difficult thing –

**SIR HUGH:** Mr Minifie, I don't want to cramp your style but we have actually read the submissions.

**MR MINIFIE:** Good, so, do you have any questions?

**MR PEDEN:** You're recommending that the number of electorate seats be fixed at 72. You'll know that the South Island seats are currently fixed at 16 and there's consequence of that electorate seat and provisions and mechanisms of the Electoral Act. A consequence of that is that numbers of electorate seats are likely to increase over time. If we were to fix the number of electorate seats at 72, what would happen to the number of South Island seats under –

**MR MINIFIE:** Yes, they would have to decrease.

**MR PEDEN:** Okay, and you think that would be acceptable as a Cantabrian?

**MR MINIFIE:** It's – well, as a Cantabrian...

**MR PEDEN:** Or as a member of – as a citizen of the Mainland, shall we say?

**MR MINIFIE:** Well the obvious answer is to increase the number of Parliament – parliamentary seats over 120 but, um, I don't know how popular that would be. It is essential that you have that number of list seats available and I think we need more discussion on the – on the ramifications of changing it and I just picked 72, partly because that was, um, there was support – the figure put

out, ah, by the coalition for MMP. I mean you have to pick a figure. That seemed to be a reasonable figure to me but, but without more discussion and more information, it is difficult to say, like, the minimum number of the seats but – so...

1130

**MR PEDEN:** One of the things I noted in your submission, you, you said, you know, in your view, you point to the importance of what you called parity of esteem between list and electorate members.

**MR MINIFIE:** Yes.

**MR PEDEN:** And by that I was taking it that you, you put some importance in relative equality in number of electorate seats and list seats. 72 really wouldn't be achieving that objective, would it? Do you think there's a basis for Parliament deciding to (inaudible 11.30.37) the original the Commission had of...

**MR MINIFIE:** It seems to me that list seats are looked on as being rather less valuable than the electorate seats. It's just, it's a public perception and if by – perhaps by increasing the number of list seats, this would change but also assert more publicity on what, on the function of the list candidates and how they work in Parliament and being perhaps more focused on issues rather than on the constituents and seeing the value of list MPs. So this is part of the information that I was talking about and, um, to get out the public information and – so yeah it means this, this is a difficult, difficult area and it does need more discussion.

**MR PEDEN:** Thank you, yes.

**MR MINIFIE:** So my submission was simply to a ratio of electorate seats to list seats that ensure proportionality but perhaps I should say that there needs to be more information and discussion on this point.

**MR PEDEN:** Sure thank you. Just on the question of the overhang, are you able to just briefly say why you think adopting a total population approach rather than – sorry, a voting age approach rather than total population approach would help the overhang?

**MR MINIFIE:** Oh yeah, I think that that's, I may, I may be wrong there. I think the overhang is minimal. There are, there are other things, other distortions, I think working on the voting age idea in that when you have a younger, a younger population age in an electorate, you tend to get more MPs per vote of voting age but that is distortion but it doesn't, I don't think it affects the overhang so I'd like to remove that.

**MR PEDEN:** Sure, thank you okay. Well then my last, I did want to just test how, how absolute your view is on list MPs not being able to lead their parties 'cos I could think of an MP or two who would contend that it wasn't they that had left their party but the party that had left the voters.

**SIR HUGH:** Or left them.

**MR PEDEN:** Or left them, yes. But shouldn't that be something voters can make a judgment about at the next election?

**MR MINIFIE:** Well, if they resign from their party, they will make a, voters will make a, you know, a judgment call on that and so I think they should resign from their party. I think it's just the fact that they are, they're betting on a sure thing if they stay in a party and then go for an electorate seat, on that knowledge that they're going to stay in Parliament anyway.

**MS HURIA:** You might have just answered my question but I'm not sure so I'll ask it if I may. Just with regard to your submission, the list MPs standing as candidates in by-elections, will asking for MPs to actually surrender their positions in Parliament, do you think that will have the effect, that will effect the number and quality of candidates in by-elections?

**MR MINIFIE:** I think list MPs will be very reluctant to stand in a by-election. But I don't know that it will effect the quality because I think there are, there will be a number of quality candidates anyway but I'm not sure about that because I think the, the, you might say the pool of quality candidates standing for Parliament may be quite shallow. That's part of my point in having the, you know, having the, the, being able to stand for both electorate and, and, and party lists in that it probably increases the quality of the candidate, the experience of the candidate. So I may be being a bit severe saying you have to resign but that's my opinion.

1135

**MS HURIA:** Thank you.

**SIR HUGH:** Was it only the international comparisons that led you to settle on 3% as opposed to 4% for the threshold?

**MR MINIFIE:** I, well, in terms of the wasted votes, I mean a 3% is going to be fairer than a 4% and I think that looking at it, a 3% would probably work pretty well. The thing is, you don't know how people will vote. People will vote differently if there's a 3% threshold to a four or 5% threshold and they may well vote for the party of their choice rather than, rather than trying to work the system. But New Zealand voters are pretty, a lot of New Zealand voters are pretty intelligent and they work within the system so I can't actually say the absolute effect of having a 3% but I think it will work.

**SIR HUGH:** Yes, others have suggested to us that the mere existence of, in our case, a 5% threshold influences voter behaviour.

**MR MINIFIE:** I believe so.

**DR ARSENEAU:** Thank you very much for your submission. This, your recommendation that list MPs would have to resign from Parliament before they could contest a by-election, can you explain to me what your reason behind that is?

**MR MINIFIE:** Um, I believe it's that, that the list MPs may be more, may take time out, too much time out campaigning. I think if they are going to be efficient, working efficiently in Parliament as well as campaigning, well, it doesn't work. I think they should resign and be confident in their ability to win the seat rather than doing it, perhaps, as an exercise.

**DR ARSENEAU:** Right, because what we have heard from some people, what they don't like is the idea that the list MP has access to resources, financial resources as a sitting MP that other candidates don't. But for you it's the time factor that would distract the list MP away from the job of being a Member of Parliament, to take time off to campaign.

**MR MINIFIE:** Yes.

**DR ARSENEAU:** So I guess the question is, some people have suggested instead of resigning, they have to be stood down for that time but that wouldn't really address your issue, would it?

**MR MINIFIE:** Well if they were – another MP took their place, you know, the next one on the list came up, I would be happy with that.

**DR ARSENEAU:** No but, that would need a resignation, yeah.

**MR MINIFIE:** Mhm.

**DR ARSENEAU:** Okay that's great, that clarifies it, thank you.

**PROFESSOR ROBERTS:** Following on from Dr Arseneau's question, Mr Minifie, I want to put to you what is being known as the Parata Problem, Hekia Parata was a candidate for Mana in 2008, had been adopted by National as candidate for Mana in 2011. Under your proposal, she could not have contested the 2010 Mana by-election and don't you think that seems a little bit illogical?

**MR MINIFIE:** Right, I hadn't considered that. So you're suggesting that if they're standing for a completely different party –

**PROFESSOR ROBERTS:** No she was the National Party, she was a National Party list candidate, contested the Mana electorate election in 2008.

**SIR HUGH:** She was a list MP?

**PROFESSOR ROBERTS:** Yes, yes, because she was, she was –

**SIR HUGH:** In 2008 and 2011 and she contested the Mana by-election between the terms.

**MR PEDEN:** And she also contested the Mana electorate in 2008.

**SIR HUGH:** Yes, yes.

**PROFESSOR ROBERTS:** Yes.

**MR PEDEN:** And 2011. So if it had been another National candidate contesting the by-election in 2010, that might have looked a bit odd to the National Party supporters in Mana.

**MR MINIFIE:** Yes, if she was a National list member, I think she should resign from the National Party if she was contesting another party.

**MR PEDEN:** No, no, she was contesting the, she contested the Mana by-election as the National candidate.

**MR MINIFIE:** Oh I see. Hmm. I still think the, the, the resources and the time factor and, and the idea of betting on a sure thing, saying that she was going to stay in Parliament no matter what, I think they should have more

confidence in their own abilities to, to win the seat on their own merit but she's, she's on a National one so I –

**SIR HUGH:** But she, but she lost the by-election, so she'd have been lost to Parliament.

1140

**MR MINIFIE:** Hmm. So she'll be lost until the next election, if the parties appreciated her work they would bring her in as a list MP again. No I'm sorry, I'm not sure about that.

**SIR HUGH:** Okay, thank you Mr Minifie.

## **SIR HUGH WELCOMES DEBORAH WILLIAMS**

**DEBORAH WILLIAMS:** Well, I'm one of the originals, in fact I actually got –

**SIR HUGH:** You are, indeed.

**MS WILLIAMS:** – involved in this because I'm a German teacher, or was, until leave last year, I've now got my gold card, and I went to Germany, visited the Bundestag, the lower house of Parliament, and thought, "This is a better system than what we've got in New Zealand," and that's how I got involved. My submission to the Royal Commission was actually just a booklet from the Germany Embassy which explained their system very well, so that's...

**SIR HUGH:** You're not unique in being a submitter to the Royal Commission and us, but you're a very small class.

**MS WILLIAMS:** Right and I'm not a member of any party so I think that might be quite exceptional, and never have been, so there we go. First of all, the threshold, so I'm not going to read all the things that I have written before. But I take – the important point for me is the Royal Commission originally had suggested the threshold of 4% of the valid list votes or the waiver of one constituency seat, and then somehow or rather we mana– the, ah, Law Select Committee decided on a threshold of 5% but nobody seems to explain how this happened. Perhaps it was done behind closed doors somewhere along the line. There was to be a waiver for parties primarily representing Māori interests, which might also be extended to other ethnic groups.

It is clear that a threshold is needed and I noted that in the inquiry into the review of MMP published in August 2001, almost one-fifth of those 69 people who made submissions wanted to abolish the threshold, whereas nearly half wished to see it lowered to 4%, and as we know that if the threshold were lowered, we'd immediately have a lot more – a proliferation of political parties, some of which would likely to be one issue parties, which I don't see as a very

helpful system, having one issue parties. So that's why I particularly recognise that. So we did see the number of parties increase when MMP came in, and we knew that would happen and we knew that would settle down. And my husband's already referred to the Israeli Knesset, ah, having a very low threshold and this causes instability and problems in trying to pass legislation.

I did say that I did consider an alternative waiver to any threshold if the party won two electorate seats, but it's difficult to know what effect that would have. If they're able to win two electorate seats in a party, they're likely to have a good following and may be able to reach the threshold anyway.

I also mentioned what I call a new form of gerrymandering. In the election of 2011 and in which the electoral system, in the eyes of the voters, brought Parliament into disrepute, and that was John Key and his "cup of tea party" with John Banks. This is made voters like me pretty angry about their behaviour, and I don't know what the actual candidate, the National candidate in Epsom thought, but I thought it was pretty rude that that person was sold down the road by their own party leader. So –

1145

**SIR HUGH:** He only campaigned for the party vote.

**MS WILLIAMS:** Pardon?

**SIR HUGH:** He only campaigned for the party vote.

**MS WILLIAMS:** But all the same, he technically was the candidate, so my first two recommendations, I would endorse a lowering of the threshold to 4%, because that's what was originally envisaged by the Royal Commission, and I also support the abolition of the one seat waiver. Germany does have a three seat waiver, and I don't really – I'm not a mathematician, I'm not a politician or even a political scientist, so I'm not sure how well that works there, but in the

light of what's happened, I'd rather, I do not want the tea party to happen again, I think that was abominable, as a voter.

As far as by-elections, I support the position that a list MP should be able to stand for an electorate seat in a by-election without first having to resign as a list member, so that's, I'm not going to go into that.

Dual candidacy, it was interesting to read that 21 of the 23 submissions to the inquiry into the review of MMP, which was published in August 2001, wished to abolish dual candidacy. The committee were unanimous in their view that dual candidacy should continue, so I hope that this Commission that I'm, you people I'm talking to now, will take some notice of what people are submitting, because that made me very interested to see, I mean, I personally don't agree with them. It appears to me that parties may be taking more care of voters' anger about the return of ex-electorate MPs via the list, and are weeding out some sitting members for retirement for elections, so they don't have this problem of people, the perception of someone being voted out as I quoted my friend Peter Sumpter, he was the one who first wrote the submission and gave it to us, and this idea that you'd been voted out because you were the sitting constituency Member of Parliament, and then the next time you didn't get voted for by the electorate, but you were voted, ah, you did come in on the list. So it is a perception you've been voted out.

The review on MMP website informs me that the highest number of sitting members to lose their electorate seats but to return to Parliament via the list was 12 members in 2005. At the last election, only two of the four unsuccessful incumbent electorate MPs came to Parliament via the list. It does sound quite a lot when you see 12, and two makes me feel a little bit less worried because it is a thing of perception.

The parties need to take greater care in choice of candidates and retention of members. So I recommend (inaudible 11:48:19) dual candidacy. I agree with the Royal Commission that not to allow dual candidacy is undesirable in

principle and unworkable in practice. I therefore submit that we should retain dual candidacy.

Party lists, I've thought deeply about this, in fact that was one of the things when we were campaigning to keep MMP, I was saying to people, maybe we could have open party lists, but when I thought about it more closely, I could see that it was a great idea but not very practical to have open lists, so therefore I recommend that the closed party lists should be retained.

The second part of what I said here though, to me is very important. It appears there's a large discrepancy in the manner that parties decide who is on their lists. Some parties allow for all the members to take part in the voting in a democratic manner. Having spoken to a financial member of the National Party at the time of the election, he told me he'd never been invited to take part in deciding the party list, nor the order in which the candidates were to be ranked. I do not find this a democratic process. The Green Party, however, seem to have a robust, grass-roots selection process involving all members. The selection processes of parties should be much more clearly prescribed in law, and they – I was pleased to see they were out on the website there for people to peruse. I must admit I didn't read every word, but I had a look at some, because in fact some of them were fairly long and detailed.

1150

So I would submit that the selection of candidates to a party list should involve all financial members of the parties and the process should be more democratic and I won't explain the meaning of the word to you. I'm sure you know the origin of the word. The process should be written into law in more detail I think. I'm very – I feel really strongly about that.

**MR PEDEN:** Well, I mean we do know the origin of the word “democratic” but I suppose the question would be what you might have in mind if you were – what elements of – should be written into law in your view to provide for this democracy because it has been submitted to us that, that it should be a

matter for parties and their members to determine their own rules and because there is a requirement that those rules are publically available that that's a matter that voters can take into account and they can contrast the way that the Greens go about, in a very public way, selecting their lists, compared to other parties who have other processes and that can be something that voters take into account when they cast their party vote.

**MS WILLIAMS:** That could be true but I still say it should be regulated in law.

**SIR HUGH:** What elements should be in law? What elements would you –

**MS WILLIAMS:** One, that all financial members should be involved in the selection as I've said, so all financial members should be sent out things to invite them to come and, um, you know, talk over the party lists and what have you.

**SIR HUGH:** So that's a pre-selection process?

**MS WILLIAMS:** It's a pre-selection before they get on the list and it should – you know, this friend of mine said, "I've never been sent anything. I've never been invited to a meeting where I do this," and I thought that was outrageous frankly.

**SIR HUGH:** Right, all party members invited to participate pre-selection. Component two?

**MS WILLIAMS:** Oh, I haven't got it in detail but, um, you know, there should be a system where everybody is invited to do so. My friend said he was not invited to take any part –

**SIR HUGH:** So that's all party members invited to participate in selection?

**MS WILLIAMS:** Yes.

**SIR HUGH:** What about nomination?

**MS WILLIAMS:** Oh yes, I mean the whole process, it should be a real grass –

**SIR HUGH:** So party members should be invited to nominate or to be part of the nomination process?

**MS WILLIAMS:** The whole thing. In any part of it. Not just a small group at the top deciding whose in the list. I think –

**SIR HUGH:** But who actually makes the selection? Should that be a law?

**MS WILLIAMS:** The party, the – all the members of the party.

**SIR HUGH:** By what sort of vote? Preferential vote?

**MS WILLIAMS:** Ah.

**SIR HUGH:** FPP vote?

**MS WILLIAMS:** Um, I hadn't thought that through but some sort of preferential vote, I would think would be the way to go.

**SIR HUGH:** And that would be binding on the party hierarchy?

**MS WILLIAMS:** Ah yes, I would think so. I think the hierarchy would have to give a very good reason to want to change something.

**SIR HUGH:** I would suspect the party's rejoinder to a regime of that sort would be that we are part of the organisations, we should be entitled to organise our internal affairs as we wish. How would you respond if that were the retort?

**MS WILLIAMS:** Ah, but you're going into the public arena and you're going into the management of the country so you're not exactly a private organisation. You are a political one and you are wishing to run a company, if you like, and we're all the shareholders. The New Zealand voters are the outer – you know, shareholders and you are running the company so you need to be seen to be transparent in the way you run the company.

**SIR HUGH:** Now is that strictly analogous?

**MS WILLIAMS:** Possibly –

**SIR HUGH:** Because we are not all in – all voters are not members of party A or party B and your suggestion is that it's only the members of party A or party B who should be entitled to participate in this process?

**MS WILLIAMS:** yes, well that group of people that they are putting forward.

**SIR HUGH:** Yes, and I would suspect the parties would say "As a result of our internal processes," whatever they might be, "It is only when we produce a list which we put before the public of New Zealand." So it's a private process in selection, a public process in evaluation and voting on that selection.

1155

**MS WILLIAMS:** Well, from that –

**SIR HUGH:** Is that a fair distinction to make?

**MS WILLIAMS:** Yes, that might be a fair distinction to make, but –

**SIR HUGH:** But doesn't that, then, water down the type of process you and have just been discussing?

**MS WILLIAMS:** No, I still see that there are certain rules that govern how we run elections, though that, as you say, that's going out to the electorate. This

is pre-electorate, but I, um, and I'm sure there are some rules and as I say, I'm not a political scientist so I don't know these, but I'm sure there's already some rules that govern how those rules are to be written or whatever. But I –

**SIR HUGH:** Well section 71 of the Act says, “Every political party registered shall ensure provision is made for participation in the selection of candidates representing the party for election into Parliament by A, current financial members who would be entitled to vote for those candidates, or delegates, who've been elected or otherwise selected, or a combination.” And although the section itself doesn't speak of it, section, the heading to section 71 says, “There is a requirement for parties to follow democratic procedures.” Now what happens is that each registered party files its rules on those topics, well, as you've seen, they're published on the website. How much further should section 71 go in your view, because what you and I have just been discussing is a fairly, I suggest, a fairly prescriptive process?

**MS WILLIAMS:** True.

**SIR HUGH:** Is that required of the members of a private organisation?

**MS WILLIAMS:** It's hard for me to say, I'm sorry, I cannot say any more but I'm glad that – under the financial one, from what I've seen of the Greens, they obviously go with financial members, whereas perhaps other parties use the delegates system, and I don't know much about United States politics, but it seems to me that with their colleges, that sort of delegate system, and it gets more and more remote from being democratic. So, I admit my ignorance on this point.

**SIR HUGH:** There are requirements in law for, for instance the incorporation of incorporating societies, their rules must include a number of issues. There are requirements in the Companies Act, for instance, for – that confer rights on shareholders to participate in meetings and the like but those, as I read them, are not as detailed and prescriptive as the kind of regime you and I

have been talking about so is it fair? It is democratic that registered political parties should have more detailed rules imposed on them by statute?

**MS WILLIAMS:** That's difficult for me to say in my ignorance.

**SIR HUGH:** Thank you. I interrupted you.

**MS WILLIAMS:** No that's all right. Um, and as far as – going onto a new topic, the overhang I'm – I find the status quo is the best option. Allow for the overhang which is usually small and temporary. Proportion of electorate seats to list seats, again I'm not a mathematician nor a, for example, nobody has mentioned how we go about doing the votes and the, you know, things and I wouldn't even –

**SIR HUGH:** You've got the national expert here.

**MS WILLIAMS:** – I wouldn't pretend - pretend to even start knowing that. In fact, I gave up maths to study German years ago at school so there you are. The proportion of the –

**SIR HUGH:** It's on the website if you wish to –

**MS WILLIAMS:** No, I don't wish to tr – even try. I have to – I put my trust – and so here I would say the most important thing is to make sure the balance of electorate to list seats does not move to a point where proportionality is lost and I leave that to the experts and hope that I can trust them to do that.

1200

My final thing is the one that's perhaps the most controversial. The First Past the Post system where the highest polling candidate gains the seat has had its day for – to me. We still have First Past the Post in the electorate. Many elected candidates get below the 50% of the votes in the electorate. In 2005 there were 33% of the winning electorate candidates and 2008 24% and

in 2011 the figure was 30% of the winning electorate candidates who had less than 50% of the electorate voting for them.

If we used the preferential voting method, the voters could indicate their choices by numbering the electorate candidates in order of preference. If no candidate got more than half the votes, the candidate with the lowest number of votes would be eliminated and his or her votes would be given to their next preference. This would continue until one candidate had more than half the votes and this way, more votes would count and electorate candidates might run better campaigns.

I did not see my Member of Parliament once during the last electorate and that was Gerry Brownlee because apart from I understand that in Bishopdale, ministers of some of the churches there had offered to have meetings to which he refused to come and therefore they felt they couldn't run them without a selection of candidates. He didn't even come down where he usually does to tell us what his policies were. I'm pretty disillusioned so I think people in – the candidates in the electorate should be going around and talking to people more and this system where they know they've got to get to 50% might get some of them get off their haunches and actually come and talk to us, so –

**MR PEDEN:** Two questions. One, I'm interested in what you've said about preferential voting but before – could I just go back to – just something about the overhang. As you'd said they've been minimal to date. If we, if the - New Zealand was to abolish the one seat threshold, there is a chance that that, as a consequence might result in a larger number of overhanging seats. If we had, for example, seven or eight overhang seats, do you think that that might create some unease or unhappiness on the part of voters and therefore there might be cause to introduce some mechanism to reduce or to remove overhang seats? Or do you think – would you be happy with a Parliament of 128 for a term for example?

**MS WILLIAMS:** I'm just trying to imagine how that would be so if you –

**MR PEDEN:** Well, if you apply – if, for example, you applied that – if you applied the thresholds to the 2008 election without any – with the one seat rule gone, there would have been an overhang of around eight with the Māori Party and the ACT and the United Future parties and NZ First, that would have generated an overhang of around eight. Now one possible solution to that is to apply the rule which is currently in the legislation for independents so if an independent is elected to a constituency, then, rather than allocating 120 quotients, you would allocate 119 quotients, the effect of which would be the Parliament that will remain at the size – would have 120 Members of Parliament and there would be a slight affect on the proportionality of seats allocated to the other parties.

**MS WILLIAMS:** I looked at those and I just didn't seem to – this – I can't see how one has an overhang, um, how do you have an overhang if you do not have a – with the Māori Party, sure.

**MR PEDEN:** I mean basically it arises because people win more electorate seats than their party vote would entitle them to.

**MS WILLIAMS:** I hadn't – that hadn't occurred to me but I – could – am I right in thinking it's really only could happen with the Māori parties, really?

1205

**MR PEDEN:** No, no, no. It wouldn't – it would – one the consequences of the one seat rule is that it reduces the risk of overhang. Taking away the one seat rule for all the reasons that you've talked about would increase the risk of overhang and that's not necessarily a reason not to abolish the one seat rule but if we do, I think we need to think about how we manage overhang and it – and I suppose what I'm – I'm just interested in your own view about the level of tolerance New Zealanders might have for substantially increased numbers of overhang seats.

**MS WILLIAMS:** I don't think people in general would have a lot of tolerance that this continue because, as I said, you have to accommodate people in Parliament and I'm sorry that had not occurred to me as I'm not a political scientist so – but, you know –

**MR PEDEN:** But you know, it's – we're still interested to get your view on that.

**MS WILLIAMS:** Yes, I think if there's an overhang over eight, people will be feeling a bit alarmed and especially those who would like to reduce the numbers of Members of Parliament and there would be some alarm there. I had considered the, having the two seat waiver and I'd even thought about, and I didn't mention, because Germany has three seat, I didn't get time to delve into that and talk to some of my German friends and ask them how that worked in practice so whether that was better to go to three and whether that was getting ridiculous so that's the problem there –

**MR PEDEN:** Well, I suppose – certainly one of the things that we'll be looking at is whether there are mechanisms to deal with the – with an overhang issue. Mmm. Just quickly, if I may, on your proposal for preferential voting on the candidate side of the paper, what that would mean, would it not, that a voter would be voting with a tick on the party vote side of the paper and marking the candidate side one, two, three. As a teacher, don't you anticipate some voter education issues for the Commission if we were to go down that path? And I'll – have you got a comment on that?

**MS WILLIAMS:** Oh yes. I mean you need to do some voter education is one thing I'm very hot about and I did some myself in this last a lot as a volunteer. Yes, it – my husband said to me, well I think that's too complicated already. I find that because you will know – you're more likely to know the candidates in your electorate and the electorate candidates are going to have to be more forthright if they know that they – you know, they mightn't get in first, on the first round of preferences, but they actually could win on the second round, they're going to work that much harder.

**MR PEDEN:** Would you be happy with the idea of preferences being applied on the party vote side as well?

**MS WILLIAMS:** No.

**MR PEDEN:** No?

**MS WILLIAMS:** No I would not. Um, I think that starts getting crazy.

**MR PEDEN:** Okay. Thank you.

**MS WILLIAMS:** No, definitely not. But the electorate that – they're local and I wrote in my submission that it would get too complicated. The lists are so long and p – I wouldn't even consider having a local say all the several parties in the local candidates for the list even. That's then too piecemeal so no, not on the lists but only in the electorate.

**MR PEDEN:** What about leaving all the lists to one side but just the parties themselves, so ranking your party rather than marking – the ballot paper would look exactly the same but rather than marking your party of choice with a tick, you'd put it – one, and then you'd have a second or third preference if you wished.

**MS WILLIAMS:** I'd have to ask what's the point to that? No, I don't see any point to that.

**PROFESSOR ROBERTS:** Well, if I'm a conservative party voter for example, my vote wouldn't be wasted. I could say that I wanted to vote two National or two Labour. If I'm an Alliance voter –

**MS WILLIAMS:** Oh, I see.

**PROFESSOR ROBERTS:** – of course, the Alliance hasn't been very successful ever since 2002, the vote would not be wasted. Just as you're arguing to not waste votes in the electorate vote and the voter education, it is simpler because you'd be sending the same message. You vote on your ballot paper by ranking your candidates as far as you wish to go and you rank your parties as far as you wish to go. It would be a simpler message to get across. We do know that voting, for example, in Scotland where sometimes they've voting on an MMP ballot paper, STV in local body elections and First Past The Post and List PR in European elections gets very confusing. Keep it to the same system on both parts of the ballot paper has a lot –

1210

**MS WILLIAMS:** I hear what you're saying. Yes, I see the logic of it, yes. I mean I'm not against it as such because I think if you can make a choice, one, two, but it depends what you're going to do with that once people have said one, two, as opposed to if your party –

**MR PEDEN:** Doesn't reach a threshold.

**MS WILLIAMS:** Then it goes to the next threshold. If that's all it were, I'd have no objection to that whatsoever, yes.

**SIR HUGH:** Thank you very much, Ms Williams for giving us the benefit of your most experienced advice.

## **SIR HUGH WELCOMES BRUCH TULLOCH**

**BRUCE TULLOCH:** Thank you. Firstly, thank you for what you're doing. It's a major task trying to sort through all this, I imagine, and I don't envy you the exercise but it is very important. You have my initial submission. I won't take up undue time with that. Just very briefly, I support MMP. I think the 5% threshold, and I'll speak a little bit on that later, is worth preserving as a safeguard. I am fairly strongly opposed to the tail of MPs who can be pulled in on the one electorate vote exercise. The other issues are fairly straightforward. Dual candidacy, I certainly think that list candidates should be available to stand in the elections without having to retire from their parties. I give my reasons in my submission there.

The business about candidates sneaking back in on the list, having been rejected by the voters, I think, is largely a media-driven simplistic bit of fluff when you analyse it, really there's not much point to it. I'm afraid the media's influence on the elections and publicity is largely negative. They're in business to sell readers to the advertisers. They're there for contention and excitement and the amount of actual useful information we get is fairly low. I might expand on that a bit later but we have to be aware of the influence of media on these issues.

The order of candidates on the party lists, I think, closed to us is important. It's very important that the people being chosen for these very responsible positions are done on the basis of decent information. We're at the mercy of our sources of information. As we've see in America again, the news media and the paid publicists and spin doctors can have a disproportionate effect on how people vote so I think the party organisation and their members is far down the hierarchy in the party as you can go should have the say on this. This, at least, minimises the interference of the spin doctors and the other clever people and anybody who's read *The Hollow Men* will know just how toxic that sort of influence can be.

The overhang I don't think will be a major problem and I'm sure we have the capability to deal with that if it does become a bit of a problem. I think the 5% threshold may reduce the risks there.

The proportion of electorate, the list seats is an interesting one but given that it's not anticipated that this will happen till 2050 or '51 or thereabouts, I don't think it's too much of a concern yet. Forty years ago in the 1970s we would have no idea of what sort of political situation we're facing now or economic or environmental situation. I don't think we can make valid judgments now on 40 years hence, particularly given the fairly tough impacts of fuel, shortages of costs of climate change and things like that. The population distribution may be rather different so I think that one can be safely be left for later.

I would like to go, perhaps, onto the supplementary thing I've done which is largely because we have, since there is more submissions, got information on the party's spending and contributions and this, I think, raises some important things. The figures of donations to parties and their election expenses are available and I have given you tables for those.

Now the Winston Peters phenomenon shows the impact of personality over policy and charisma plus publicity, which was very largely free for Winston, can have a huge effect on the electoral outcome. We saw that with the tea party exercise. Before that, he was languishing, after that, woomph, up with a bang. There, again, the news media's impact, as I say, is quite decisive.

ACT, which had no other personalities nor policies with much more (inaudible 12.15.08) acceptance did very poorly in this election. Despite getting two and a half times the donations of the Green Party for example, they got less than 10% of the Green Party's vote and with that sort of money, however, and the Conservative Party are in the same situation, you can put huge amounts of efforts and concentrate your forces and have a disproportionate effect there so with saturation advertising, with publicity, with money to spend on all sorts of things, you could well swing one electorate seat and, at the moment, get some more MPs in on your tail there.

Did some figures on donations. 84.3% of ACT's donations were \$5000 or \$5001 or more. Only around 5% were under \$1500 so ACT received a very significantly higher proportion of large donations from individuals than National or Labour or the Greens so it's a relatively small number of people running the organisation.

Conservative Party apparently didn't release its donation figures to the Electoral Commission by the deadline. Its election costs were the second highest, \$1,878,000 which was 80% of National's total. It appears the bulk of the funding came from the party's leader. I can't verify that but that seems to be the situation. They got 2.65% of the party votes but the cost per vote was 10 times higher than that of the Greens, 11 times higher than that of Labour and 15 times higher than National so spent a lot of money to buy their votes.

The dominance of support for active conservatives by a relatively small number of big donors and the lack of widespread voter support would indicate that their best tactics is to concentrate their forces to focus on the single electorate as in Epsom and thereby drag in extra MPs despite getting less than 5% support.

During the Canterbury water appeals, there was a slogan around saying, "Control our water with river banks, not foreign banks." Now, similarly, we don't want our New Zealand politicians controlled by foreign banks and we don't want our politician Banks controlled by foreign Dotcoms.

Italy, moving to the –

**SIR HUGH:** I suppose given the current controversy we could say or by John Banks.

**MR TULLOCH:** You said it, not I. But yes, this is the problem of concentration of money and power, to swing things one way or the other and we've seen this in the nauseating, singularly nauseating fact in the fight in

America where parties are limited, perhaps, to some extent in their funding although it doesn't seem to be very effective but they can have supporter's groups who are not allowed to support them directly but can put very, very toxic advertising against the other candidates, nasty business. And where you have news media run by the likes of Rupert Murdoch and various others, it gives great ground for concern.

Back to the thresholds. Italy – Italy has a threshold of 4%. They've got eight major parties, 23 minor parties and a string of other regional parties. The threshold's 4% or 2% if they are members of a pre-existing coalition. We heard a bit of talk about that before so if there are a couple of parties going together as a single unit for the election, those single parties, individual parties, just get 2%. Italy's got 949 Members of Parliament over their two houses and they have great difficulty holding themselves together.

Greece has 10 major parties, 22 minor parties, a threshold of 3% and you've just seen the situation in Greece, including the rise of a neo-Nazi party. This is a bit of a worry in other parts of Europe as well. Israel's been mentioned, the Knesset, 120 in Parliament as we have. threshold of 2%. 19 major parties, 21 minor parties. There was a very interesting list off past parties and the swapping, changing, merging coalition and everything else is mind boggling. Italy's political environment is a witch's cauldron and I'm not entirely sure how they would ever get stability there. France has 19 major parties, 12 minor parties. Couldn't see any threshold there. Sweden and Norway both have a threshold of 4%, Germany of course, has 5% plus three electoral seats.

I believe that the world is heading into a time of stress greater than we've seen since perhaps the rise of civilisation. We are facing the limits of our resources, our economic resources but more importantly our resources of things like water and raw materials. We are facing climate change which is going to have, and is already having, an effect on things like grain production, food production and so forth. We are hitting the limits of population saturation, places like Bangladesh where a significant part of the population is up to their

knees in water when the tide comes in. We are facing all of these constraints. We have run out spare land and we have run up against some technological limits on what we can do. So the stressors on society are going to be far greater than in the past overall, over the whole planet.

Throughout history, unfortunately, the response to shortage of resources has been to raid, loot, and pillage, where they are the sort of thing we see exemplified in Somalia or in Rwanda or during the Second World War when the Nazis and the Japanese tried to expand and grab resources beyond their control. Now, if we are to survive as a decent functioning civilisation, we've got to get beyond this and so stability within the countries is vitally important and in New Zealand in the last 20 years, we've seen a rise in inequality. We have seen people voting for the party which says, "We will cut your taxes". I like the saying that an American had that, "I don't object to taxes, they buy me civilisation." We have a lot of pressure to pay less and demand more.

Therefore, I think reducing the threshold from 5% increases the likelihood of fringe parties playing on emotion, whether they're highly financed or whether it's a populous anti-racist campaign or whatever. So I feel for the overall benefit of the country, 5% threshold is enough. I think that's probably enough from me, over to questions.

**MR PEDEN:** I found your submission very clear and I have no questions on the submission that you, your original submission. On your supplementary submission, whilst the information provided was, was interesting, I couldn't see a connection between it and the subject matter of our review. So was, was there something about the information that you presented that, in your mind, bears upon the matters that we, we need to consider in how we improve MMP?

**MR TULLOCH:** Yes, I think it demonstrated the, well I certainly support the retention of the 5% threshold to point out the disproportionate influence which money can have. It doesn't always work, I mean, ACT supporters, however many there are, have poured many millions into their campaign for very little

result but with a more media-trained charismatic maybe artificial spokesperson, and with a bit more emphasis on advertising and so forth, they could well swing much closer than the figures they've got, up to three, four, maybe 5%. And as I say, in America, we see the influence of big money there and the support of media companies with a vested interest. Dangerous, I think, directly against democracy.

Our judgement has to be based on the information we have. If the information is slanted in governments and everybody else knows this, so conning the system works very well that way, we don't actually get the honest answers. We are being manipulated as voters and the benefits don't go to the average voter, they go to those who are paying the money and swinging the system, (inaudible 12.23.37) amount of evidence.

**MS HURIA:** Just following on from the last point that you make in your first submission that we got, I guess I'm just interested to know whether you have any suggestions or ideas around a timeframe for another MMP review?

**MR TULLOCH:** Five years, maximum. Well, five years (inaudible 12.24.00). I don't know, the system, I think, is working remarkably well and I'm in favour of keeping this as simple as we can, bearing in mind that it is difficult that we (inaudible 12.24.11) the public and get people to concentrate on these complicated matters. Well I think the system, with the tweaks that we're looking at, at the moment, will work fairly well. I don't think we need a review for some time afterwards, give us time to settle down.

**DR ARSENEAU:** Thank you for both your submissions. I just had question for you around the issue of stability or instability, as being, you know, crucial to setting that 5% party vote threshold and you used the example of Israel and we've heard it a few times this morning. Now sometimes what I hear from other people is that, you know, in terms of cause and effect that the cause of instability in Israel is actually in the society itself, the electoral system simply reflects it.

**MR TULLOCH:** Sure.

**DR ARSENEAU:** And so the question is, is that a good example for New Zealand or is our society more stable and therefore the threshold perhaps would reflect stability or perhaps, if you lowered the threshold, then we've heard this argument from some presenters, we wouldn't have the same risk of instability because it doesn't exist in the same ways.

1225

**MR TULLOCH:** Good question. I think I see Israel is a witch's cauldron. In fact, the whole area is and yeah, you despair when you look at it. Um, I still think that in New Zealand we are a much more diverse society than we were in the 1960s or '70s. We talk about Māori culture, we talk about Pākehā culture. No. There are many cultures within Māori society and many more within Pākehā society, um, not disregarding mainland Chinese culture, Singaporean Chinese culture, Taiwanese culture et cetera et cetera. Um, we have a far greater diversity of opinions and lifestyles and things these days.

My concern is that economic and other pressures are going to build up and people are going to look a little bit more for simple answers and we're going to possibly become a bit more polarised. This usually happens in tough times, I think you'll agree, egged on, of course, by the –

**DR ARSENEAU:** So more instability could come because of that?

**MR TULLOCH:** Yeah, it well could. I'm looking long-term.

**PROFESSOR ROBERTS:** One of the arguments that supporters of MMP have always put forward is every vote counts. Of course, that's not true. It's every vote that crosses one of the two thresholds and if you reduce it to one threshold. Do you think it's going to actively force people into more strategic voting? Ah, I would like to vote for X but they're probably not going to reach the one and only threshold that is still 5% which is, your own figure shows,

actually a quite high threshold comparatively, do you think that's going to lead to, in fact, more insincere voting or more wasted voting?

**MR TULLOCH:** I wouldn't say insincere but I – it – I would, I hope, encourage more thoughtful voting because really, often I hear, I think an awful lot of people vote on what they saw on the cartoon last week in the paper, on prejudice, on habit, whatever. I don't really think there's a great amount of analytical thought goes into most voting and if people stop and think a little bit further and think about what are the alternatives on this, you know, what am I really getting into? That would help.

I was a bit disconcerted before about the idea of having a mini-referendum included in the ballot papers. I think referenda are a real risk inasmuch as complex questions are not amenable to simple answers from uninformed people and we have to be very careful we don't throw away the responsibility we give our politicians to weigh up all the evidence, to hear things right through the select committee process. Now if, by that stage, they haven't got the best answers, so be it but it's far better than saying to the general public affected by newspaper campaigns and cartoons and whatever, what do you think about this? Some things like the asset sales in the referenda, yeah, fine, but most of them, I think carry real risks for proper, informed democracy.

**SIR HUGH:** Thank you Mr Tulloch. Thank you for your broad ranging submission.

## **SIR HUGH WELCOMES RICHARD ARLIDGE**

**RICHARD ARLIDGE:** In the last fifteen years I've worked in the museum and art gallery sector in a variety of communities, initially on the West Coast where I used to live and campaigned for MMP in the original referendum and then worked in Wellington, the Wairarapa, last seven years in Tauranga city putting together a public art gallery or museum in those various places so I've had quite an insight into how local bodies work but also how the country works democratically and that's where I came up with the line that democracy is the collective chaos theory of management because having studied management and then observed very complex projects getting approved and then getting unplugged by a new council, I was staggered at the sheer randomness of the process, really, and when you get five stock car drivers on your council who have never been near a library or an art gallery, it's rather frightening. I won't quote where.

1230

So as I've also observed well, um – and I recall reading the original Commission of Inquiries report and found the number of suggestions they had made to refine or to make a slightly better MMP were ignored by the select committee and at the time I saw there was a great deal of vested interest in what was an electorate and they became the little cabals of both Labour and National, the safe seats and now having finally sort of said goodbye to First Past The Post, I wondered if we could actually, or, and if it's part of your brief to really look at the very nature of the electorates because although the Royal Commission said that the electorate and the, um, list seat should be equal and that's part of their argument for 60/60, I don't believe that's true. I think that most people believe that the electorate seat is actually the most – has the most mana and is actually the most important but I don't – being an actually poor MMP I accept that a minor adjustment in that balance is probably quite within the scope of how a reviewed MMP could work but I actually want to completely change the nature of the electorates.

I want every electorate to be a decile 5, to use the educational formula. I want every – I want the Auckland electorates of Epsom to be cut in half and it can run down from Remuera right down into South Auckland so that it's got the wealthiest and the poorest and I don't know what mathematical formula somebody could apply to it but I think it would ultimately change the culture and nature of politics and you, if you take also a seat like Palmerston North where you have a big urban seat and then surrounding it you have these massive rural seats, I think that where places officially, say the Waikato, Bay of Plenty, where you've got a large urban centre, that you just chop that city into three and make it urban and rural combined and that every MP who came from an electorate would actually have the perspective of the entire country from the poorest urban people to the – what happens in the environment and the land and actually well-being is really dependent on what we generate from the land and surrounding all the cities now are intense horticulture activities going on, the Government's very keen – both Governments are very keen for that to expand. That labour force always comes out of the city.

The very nature of actually the economy is constantly changing and in looking at those electorates both in their economic make up, their decile make up and also their urban/rural mix, I actually think that the original proposal for a differential of 10% between very urban – very rural electorates, which is what we argued for on the West Coast but was ignored in the original MMP legislation, is quite critical because the West Coast is silly really, it's a joke, and travels from Haast all the way up to Motueka and the list MP on the West Coast, he's got this electorate office in Motueka and he lives way down the coast and I go and it's just silly.

And the last election there wasn't a great sense on the West Coast of being part of the West Coast electorate because actually it's so influenced by Tasman now and as I thought about it more, I thought, "Actually, it doesn't really matter what the size of the electorate is." Plus or minus 20% it wouldn't ultimately matter because that doesn't actually decide the make up of Parliament anyway. It's what's functional from somebody who's acting as a

representative in Wellington and if you take Trevor Mallard, he wanders – drives down the road from, down the motorway and goes to his safe Labour seat and he can see his – most of his constituents that want to see him that day before many of the rural South Island and upper North Island MPs have even got home.

**MR PEDEN:** Can I just test you on – because I was fascinated by this thought and I mean the example you gave about Epsom and South Auckland is a striking example but if you think about the West Coast/Tasman example, you've – your goal is to incorporate urban and rural elements into electorates. Well, if you think about the West Coast/Tasman electorate, I mean what people are after – also after a community of interest and one of the complaints about West Coast/Tasman is what community of interest does Haast have with the residents of Nelson but to go to the point of principle which you seem to be arguing for, West Coast/Tasman would actually be an example of what you're after, wouldn't it, because West Coast/Tasman, most of it is the quintessential rural electorate. You can't get any more rural. Nelson's the nearest thing to an urban centre in the vicinity and parts of it are increasingly incorporated into the West Coast/Tasman – so isn't it actually – isn't West Coast/Tasman an example of an electorate which meets your objectives?

1235

**MR ARLIDGE:** Yeah, except it's just too big and it doesn't – it's dysfunctional in its size, because the MP, whoever the MP is voted in, is spread over such a large area and spends such a huge amount of time in a motor vehicle or travelling vast distances, but I don't think it actually works in favour of the idea of an electorate.

**MR PEDEN:** Sure. Thinking about the demographics of the South Island, though, and where the centres of population are, the vast empty spaces, you'd end up with some very oddly-shaped electorates, wouldn't you, to achieve what you're looking for?

**MR ARLIDGE:** Yeah. It's not an ideal. It's not a straitjacket that can fit over the whole country, and in fact the South Island constantly tests that assumption, but if you – if there's no longer the major political parties, the two main political parties, no longer feel the same ownership of their safe electorates because that's how everything used to work, and they used to argue viciously, aggressively, in favour of not shifting boundaries that would weaken their status, and I remember all those endless arguments that would go on about boundary changes, I just thought, yeah, where possible an urban rural mix is perfect, so you actually have to re-jig all the seats to do it. Then you're still left with concentrated seats in all the urban environments where you can't include a rural mix, so that's where you increase them by 10% in terms of their population numbers so that you can decrease the very rural ones.

**MR PEDEN:** It would increase interest in the constituency contests in a way that Ms Williams was interested in achieving, I suspect.

**MR ARLIDGE:** I mean, I have been pondering this for a number of years as I moved around, and I thought, what drive, what has led to the current set-ups and then looked at what happened on the West Coast, and MMP actually hasn't – the West Coast has been served quite well by MMP, ironically, because what we used to argue that when we were arguing for MMP, because the majority of people didn't want it on the West Coast, and on the final referendum it was actually about 50/50, which surprised me. I thought we'd done better than I first thought, and for the last three or four terms of Parliament there's been three MPs based on the West Coast. Actually, Damien O'Connor I think is now based in Tasman, but the fact that the Green Party, given Hagar is still in Greymouth and is still advocating, and was a very young, high-profile voice and bringing up lots of issues related to Pike River, actually, the dance of MMP has served West Coast really well, and I don't think that people complain about it at all. Actually, shrinking the size of the electorate, 'cos in terms of population, it's around 50,000 –

**MR PEDEN:** Around 57,000, thereabouts.

**MR ARLIDGE:** Yeah, so if you shrunk the West Coast to 40,000 and brought the boundary back to Murchison or something like that, you know, or we just chop the West Coast up into three and say, “Well, actually, Westport, you’re part of Nelson, and Greymouth you’re part of the Greater Canterbury,” because if you look at where people’s health services go, where they go for their primary healthcare and their major hospitals, that’s actually –

**MR PEDEN:** They go across the Alps, do they?

**MR ARLIDGE:** Yeah, most people come here, but Buller is actually looking whether it should actually break away from that and go to Nelson because they’re closer to Nelson Hospital, and it’s that base hospital argument and with helicopters, having had young kids who got ill on the West Coast and having, you know, late night ambulance rides to Christchurch, you realise that the isolation factor does frighten people.

**MR PEDEN:** One of the things, when I read the submission, it struck me that what you’re really suggesting is that the community of interest criteria in the current law be removed, but what you’ve just said suggests to me actually you still would want the community of interest idea to be retained.

**MR ARLIDGE:** Yep, because it still leads to politically-driven decisions on service expenditure by the State, so – and that level of advocacy, yes. So those points around how we think about the electorates I think will ultimately alter the culture of how we run politics in New Zealand, too.

1240

And I don’t see that unfortunately in the near future that at which point the third party going to start winning electorates, and then having observed the collapse of the Labor vote in Queensland, you suddenly realise, ah, actually, what I was advocating in my – what I’ve already written and submitted, I realised actually you could end up with a massive overhang if somebody won 80% or 90% of all the electorates.

Somebody does the maths on these things, and the last submitter is talking about a Parliament of 130, I never worry too much about that. I just think Parliament should be bulk-funded like all other things, and actually using Creative New Zealand's formula to bulk-fund a chunk of Parliament would be fantastic, because I get a fair chunk of my entertainment in life out of politics. Politics has taken over from the satirists.

You know, there's less and less satirists about because nobody can keep up with the politicians, but the fact that other people are laughing, I'm convinced that that's actually, my perspective is right. I'm a pretty regular consumer of theatre products and the arts in general, live theatre, so maybe there just should be an element of extra effort required so that we guarantee good performances, and the ones that we've had in the last couple of weeks have actually rated right up there in terms of the Creative New Zealand – but that's actually not really the thrust of my submission.

The list threshold, well, yes, 4%, 5%, I actually think that preferential idea with the list voting is fantastic. I just think it would, could change quite a bit. You could leave it at 5% because nothing worse than the tyranny of the extreme cold. And the way that the New Zealand Institute of Directors train people and I've done a – I do consulting work now on museum and art gallery structures and Government structures and I always suggest that their training programmes are something that trustees do, and I just think that once you're elected an MP you have to go and do their training programme. That's the first prerequisite of your consciousness changing in terms of your job.

**SIR HUGH:** Very entertaining, Mr Arlidge, but I think it's rather beyond our scope.

**MS HURIA:** Although speaking as someone that does do training for the Institute of Directors, I think there is a little difference between corporate governance and Parliamentary governance, and also as a theatre board

member, I'm very sorry if any of our hard-won money from Creative New Zealand is –

**SIR HUGH:** You realise, of course, Mr Arlidge, that quite a lot of what you say is really material for the Representation Commission to consider, which is set up to adjust the boundaries after each Census, and of course because the earthquakes the Census has been postponed. And we have had a number of submissions suggesting that the plus or minus 5% threshold for representation should become plus or minus 10% or something of that sort.

**MR ARLIDGE:** For the electorates?

**SIR HUGH:** Yes, so those are issues for the Representation Commission to consider, of which the Chief Electoral Officer is a member, so I'm sure he'll take it into account.

**DR ARSENEAU:** An intriguing idea.

**MR ARLIDGE:** That's fine. I've covered all the points.

**SIR HUGH:** That brings us to the scheduled lunch break. We haven't had any further people here who want to make submissions who are scheduled for the afternoon, so we'll take a break at this point. The next submission is at 1.30, so we'll have lunch for 45 minutes.

**HEARING ADJOURNS:                    12.44 PM**

**HEARING RESUMES: 1.31 PM**

**SIR HUGH WELCOMES DON SMITH**

**DON SMITH:** Thank you sir. My submissions are pretty similar to what I've, what I'd originally written. That is that the 5% threshold at the moment, I feel it's adequate, it serves the purpose for which it was intended and I don't see any point in changing that whatsoever. The one seat threshold matter is something else again. It is a rort at the moment in that a party can, can gain parliamentary representation without achieving the threshold and that defeats the purpose of having, number one, the 5% threshold and that should be done away with. Someone gets an electorate seat, by all means they must take their seat in Parliament but if they don't achieve the 5% of the general party vote then they don't take anybody into Parliament with them, otherwise there's no point in having the threshold at all.

List MPs standing in by-elections, I think that they should remain list MPs. If they wish to stand in a by-election, they should step aside from their position as a list MP and contest the seat on the, on their own merits.

**SIR HUGH:** Can I just interrupt you there? When you speak about stepping aside, do you suggest they should resign as a list MP or something less than that?

**MR SMITH:** I think they should resign from Parliament.

**SIR HUGH:** Thank you.

**MR SMITH:** The next point I've made in my written submissions, I support now a, should a person be able to stand in an electorate and seat, and on the list. At election time, once every three years, the voters decide for once and for all who's going to be in Parliament, who's not. And it doesn't make one iota of difference as far as I can see, whether they stand in an electorate and

on the list or both because it leads into my next submission which is who decides party lists?

And in my view, a political party is the property of the members of that political party, whatever it is. And I don't think anyone apart from the people in that party should have any say who is on their list or the order. It's simply a matter of, of convenience that if I want to start a political party, then I may have, and my colleagues of course, would have our own system of doing our list, whether we go to our membership or whether it's decided by an executive, it's purely the business of the party and I don't think that the general electorate has any business. If they don't like the way, if we voters don't like the way a political party arranges its list, then don't vote for them, simple.

1335

And my point on the overhangs, I think it's only happened a couple of times but we must preserve proportionality and if that means having an overhang every now and again, I don't see a problem. It generally irons itself out the following election. Basically, proportionality, due to population increases, as I've made the point here, that if – this is no great difficulty, just have a committee every seven years, see what the population is and adjust the numbers in Parliament accordingly. I don't see it as a great problem. And that's the end of my submission as it is.

**MR PEDEN:** Thank you Mr Smith. The – your proposal, your view on by-elections and whether list MPs should be able to contest them, the example we often give just to test this is that of the Member of Parliament Hekia Parata who contested the 2008 general election as an electorate candidate for the Mana electorate. She was unsuccessful as an electorate candidate but she got into Parliament as a list Member of Parliament and she contested the 2010 Mana by-election.

**MR SMITH:** That's right.

**MR PEDEN:** She was unsuccessful, remained in Parliament as a list Member of Parliament, 2011 contested for the National Party the Mana electorate as an electorate. Now if we adopted your proposal –

**SIR HUGH:** And is on the list.

**MR PEDEN:** And is on the list. If we adopted your proposal, wouldn't the National Party supporters of the Mana electorate find it rather odd that the National Party candidate in the 2010 by-election wasn't Hekia Parata?

**MR SMITH:** Firstly, I've followed the career of Denise Parata very carefully over the years and she's a, she's quite a formidable woman and good intellect. The fact remains that I still believe that if it comes to a by-election, if she was a list MP, she should step aside because it's a different contest and a different arena.

**SIR HUGH:** Well if I can just interrupt there, Mr Smith, that's why we quizzed you about your use of your phrase, "Step aside," because some submissions have suggested that a list MP should take leave from Parliament, unpaid leave, something of that sort in order to contest the by-election but you opted, when we asked you about it, you said a list MP should resign before he or she stands as a candidate in a by-election. Now on the Parata example, Ms Parata would have been out of Parliament between the Mana by-election and the 2011 general election.

**MR SMITH:** Yep, I take your point and I stand by my thoughts. The fact is that she will remain on the National Party list, that's the business of the National Party, it's nothing to do with me, but in the Mana seat, whether she should contest it and still have the fallback position of list MP, I don't think is, is the go because if you're going to stand for, for an electorate, then you stand for that electorate and as, as we all do in the world, when I was working, you went for a job, you got the job, you didn't, you didn't have a fallback position, you just had to leave that job and get another one and I think in fact it's a choice that those MPs and the parties have to make.

**SIR HUGH:** Well could I just ask you about that? In the private sector, if you have a job, you could apply for another job without resigning from the job you had. Why should a list MP be able to apply for another job without resigning from the job he or she has?

1340

**MR SMITH:** Well, in the first instance, yeah, I can see my comparison falling over at the private sector, but in most parts of the private sector but in my background, which is working in timber yards you applied for a job and word got around and you would get a job immediately, and that was the way it worked. And so it is now whether or not Hekia Parata should keep her position as a list MP. While she's contesting the Mana – what's she doing in Parliament?

You see, that's the whole point. People have the right to have a solid standing in a seat, then they stand there on their own merits, not on the fullback position of being, "Oh, if I don't get this then I'll just get back into Parliament with whatever position the party chooses." I don't think it's being fair to the voters because this is what it comes back to. I believe that people like me cast our vote and don't belong to political parties have a right to have political parties treat us with a bit of respect, and not have, you know, my own MP, Lianne Dalziel, isn't on the list in the Labour Party and we voters accordingly give her a big majority at the same time as the party vote in East Christchurch went against Labour. So she actually took the choice not to go on the list. She could have, but she didn't, and I don't know why. I haven't discussed it with her, but that's just the way I feel about it.

It seems, and I've got to say, not to me, but this gets discussed quite often, this particular point, about MPs and how they're viewed by the general public. You know, they have a hard job to do, hard work, but by the same token it's no harder than anyone else's job and I think, in fact, that the mana or the respect that MPs are held in would be greater if they did stand aside in a by-election. You know, I don't – well, that's the way I feel and my submission is

just about the way I feel and whether I have explained it correctly or not enough to your satisfaction ...

**SIR HUGH:** We understand the point, I think.

**MR PEDEN:** That's exactly what we need to understand, what you're thinking and so that's the point behind the questions, just to make sure we understand where you're coming from, and you've explained that very well, thank you. And I found the rest of your submission very clear, so I've got no further questions.

**SIR HUGH:** Ms Huria?

**MS HURIA:** Thank you, no.

**SIR HUGH:** Just one question about your proportionality submission, Mr Smith. You've put forward the idea that the numbers in Parliament could be fixed every year, every seven years or so by the Electoral Commission. We're grateful for the confidence you have in the Electoral Commission, but in fact the numbers in Parliament are fixed by Parliament. It's a statutory matter and I think it would be fairly unlikely that Parliament would give us the power to amend a statutory formula.

**MR SMITH:** Well, I think that if that's the view that's held by Parliament then it's pretty stupid. I think it's about time that MPs were apart, aside from the issue. This country's been served for many, many years by responsible public servants doing responsible jobs in an even-handed manner and I don't see any reason why they couldn't decide this by someone with a calculator every seven years.

**SIR HUGH:** Professor Roberts, do you have anything to ask Mr Smith?

**PROFESSOR ROBERTS:** I just wanted to ask in view of the abolition of the one seat rule which you suggest in your second point whether you don't think

that a 5% threshold is possibly too high, and we've had quite a large number of submissions that say, "Look, if you're going to get rid of the one seat threshold maybe you should lower the 5% to 4%." What would your reaction – because you're saying 5% and no one seat.

1345

**MR SMITH:** Well, look, you know. I've heard some suggestions that 4% - I think one political party said, "4%, I could be that," but if you go any lower than that and I think we're getting into a pretty sticky situation, you know, and I think Winston Peters is right, you know, that's – let's – and he, for one, was one they missed out because they – that was for – they would have got in, but, um, I think the 5%, it seems to be working at the moment. I've heard no one at the New Brighton Club complaining about the threshold, um, and I haven't heard anybody complaining that over that over a beer. This isn't an issue really, um, the issue is actually the behaviour of the people once they get the votes.

But you know, the threshold – I think the Royal Commission, all those years back, said 4%, you know, I don't really care but you know, um...

**PROFESSOR ROBERTS:** So you're suggesting err on the side of caution?

**MR SMITH:** I think so. You know, it - at the moment I've got no issue with the make up of Parliament. They seem to be a bunch of perfectly reasonable people from all different ideological persuasions and the 5% guarantees that.

**DR ARSENEAU:** Thank you for your submission and I found it very clear. I am interested in your thoughts around the fact that it should be up to parties and their methods for selecting the lists. We've heard – a number of submitters have talked about they want those rules perhaps more clear or more rigorous in terms of allowing members in the party to be more actively involved or guaranteed to be more actively involved in the listing. What are your thoughts on that or are you happy with the status quo?

**MR SMITH:** Oh, the status quo, what Labour does or National Party does or Winston Peters or the Greens, it's not really my business. It's their parties, you know, and if I don't like what they do or the way they sit their lists, I won't vote for them and that's, that's it.

**DR ARSENEAU:** That's very clear, thank you.

**SIR HUGH:** Thank you Mr Smith, thank you for your contribution.

## **SIR HUGH WELCOMES LOIS GRIFFITHS AND MARTIN GRIFFITHS**

**LOIS GRIFFITHS:** I'll probably do most of the speaking but we have done this together and we've talked about it together so in a way it's a joint submission. First of all, thank you for the opportunity. We do appreciate that. I'm very glad that we're keeping MMP. I think it's given voters the freedom to feel that their vote's not wasted when they vote for the party of their choice no matter what electorate they live in so it's been a great improvement and there are ways which we could make it even better still.

I think it's a system that needs to be seen to be fair and I think it was two elections ago when NZ First, probably heard – heard you mention it before, they have 4.7% and got no MPs whereas the ACT Party got several MMPs [*sic*] and I think just to the public as a whole, I suspect that it appears to be unfair so I would suggest lowering the threshold to 4% which in itself is quite a challenge for a new, small, party. I could point out the first time the Greens got into Parliament it was very, very close. It was only after the overseas voters – votes were counted and that this new party is doing well now.

I think it's not fair that an electorate MP can bring in more MPs with him if they don't reach the threshold. I think that's seen as a kind of manipulation that is unattractive really. So I would suggest electorate MP, of course, has his seat. Whether he brings in more of his party depends on whether he reaches – that party reaches the same threshold.

1350

So MMP is a fair system. Your vote's not wasted, provided it's (inaudible 13:50:17). I think the same thing should apply to voting for your electorate MPs. It's something I feel quite strongly about. I'm not sure if we're really meant to discuss that but if we have a voted for the electorate MP on the STV system, it means the voter would be free again to realise if they vote for the person of their choice, the vote isn't wasted and just to give you an example from overseas so not to offend anybody, several elections ago I was

discussing with my niece about Ralph Nader who appeared in the political scene and I said, "Oh, he's saying really good things. I think you should vote for him," and she said, "No, he's terrible. Shouldn't be running." Because people vote for him, that means the person we really don't want will get in so it's a kind of a blackmail, First Past The Post.

A more recent example in Ohariu/Belmont, um, if the Green Party hadn't run a candidate – first of all we know and everybody knows the public doesn't want asset sales but they're going ahead and it's – I'm quite sure if the Green Party hadn't had a candidate in Ohariu/Belmont, Peter Dunne would not have gotten in. I think the majority of people would have – the majority vote would have gone to Labour and we would not be having asset sales. The point is, I don't like strategic voting and I don't like telling people don't vote for the person of your choice because something else will happen so there's never going to be a totally fair system. It's just not the way human societies work but I think it would be more fair to keep MMP for the party vote and to have an STV for the electorate vote and – do you want to add anything?

**MARTIN GRIFFITHS:** I think, um, I support what Lois says there. The, um – I think it's a strong point about the STV but I hope the electorate could follow that. It isn't very hard, the procedure of voting for isn't – it seems to me that STV does give, for the electoral voter, a fairer way of voting because you, as you say, you don't have to vote against the person you dislike, you can really support with your choices, one, two, three. You may not get your first choice but you may have your second choice. It's more democratic. It gives them more rounded representation for the electoral vote.

But certainly I support Lois there with the 4% threshold. I think five is a very high hurdle actually and the electorate candidate bringing in the other members, it does distort and it leads to possible manipulation. We've seen some cynical dealings behind the scenes, maybe in front of the scenes as well that leaves a bad taste with the electorate I think, so I would ask that the electorate second way of getting in should be removed and the electorate – if he gets his electorate seat, that's fine but he doesn't – he or she doesn't bring

in other members of say, 2 or 3% with him or her so I think the system is very good. I certainly far prefer it to the previous one. I'm old enough, of course, to remember First Past The Post. Some of the young people have never seen it and I think MMP is a far superior – but these little changes at the edges will, I think, improve it.

**SIR HUGH:** You only have to be about 40 to have experience with FPP.

**MS GRIFFITHS:** But there are a lot of voters under 40.

**MR GRIFFITHS:** Potential voters with them.

**SIR HUGH:** True, with them.

**MR PEDEN:** Thank you for your submission. This – STV is usually a system that applies to multi-member electorates so where you have more than one Member of Parliament representing an electorate, would a system of preferential voting meet your concern about First Past The Post, the unfairness you see in First Past The Post, so when the voter's voting on the candidate side of the coin they might – they'd mark their first preferred candidate to second to third, however many they wanted and if the lowest, if a candidate hadn't got to 50% of the vote, the lowest ranking candidate would fall from there. Preferences would be applied to the other candidates.

1355

**MR GRIFFITHS:** As I understand it, that is how STV works, isn't it?

**DR ARSENEAU:** Well, in local government, for example with the mayor, they call it STV but it's actually preferential. STV really should be a multi-member electorate but I think you're trying – it's the same thing, just with the single member so the quota is going to be 50%.

**MR GRIFFITHS:** It's the quota, isn't it? That's really what we are talking – yes.

**MS GRIFFITHS:** I was a bit confused, there is only a single member representing the electorate?

**MR PEDEN:** That's right, there is.

**MS GRIFFITHS:** There might be two MPs who happen to live there but one is representing the party as a whole.

**MR PEDEN:** Yes.

**MR GRIFFITHS:** It's only if there are more candidates than two that it makes any difference. Obviously if there are only two parties or two people contesting the seat then it doesn't matter because it's just the winner but if there are more than two, three or four or five candidate contesting one seat then you have this sort of preferential, and the bottom ones drop out one by one, it'd done by computer.

**MR PEDEN:** Yes, yes.

**MR GRIFFITHS:** I thought that was called STV but I may be wrong.

**PROFESSOR ROBERTS:** It is indeed in local body elections.

**DR ARSENEAU:** But from a technical viewpoint, that is what you're –

**MR PEDEN:** Yes. Now on overhang seats, one of the consequences, if the one seat rule was to be abolished, the one seat rule has one, has – one of the consequences of the one seat rule is that it minimises the chances or reduces the chance of an overhang occurring if, if New Zealand was to remove the one seat rule it would increase the chance of overhang. So for example, if there hadn't been a one seat rule in 2008, there would have been something like seven or eight overhang seats. Do you think, how would you feel about

that and how do you think the rest of New Zealand would feel about that number of overhang seats?

**MS GRIFFITHS:** What do you mean by the one seat rule?

**MR GRIFFITHS:** Can you explain what you mean by the one seat rule? As I understand it now, there are about 121 in Parliament, aren't there?

**MR PEDEN:** Yes.

**MR GRIFFITHS:** And I think last time there 122?

**MR PEDEN:** 122, but the, the one seat rule is, you have the one seat threshold? So as a consequence of that rule being in place, the fact that in 2008, United Future, the Māori Party the ACT Party all won seats but did not get to the 5% threshold, the one seat rule had the effect of, of thereby not creating overhang seats. If, do you see what I mean? By removing that rule, you increase the chance of overhang occurring because the threshold is now 5% and if people continue to vote in the way that they did in the previous elections, you'll have a number of parties represented in Parliament who haven't reached the 5% threshold. So, so the overall effect of that is that we may have Parliaments of 127, 128.

**MR GRIFFITHS:** You're implying that there are certain electorates where new parties could obtain one electorate seat and a lot of these parties would have their one electorate - I don't see that that's a problem but I'm in favour of retaining that part of the system we have.

**SIR HUGH:** But the flow on from that is that every party that wins an electorate seat has the potential to bring in more than the one electorate seat winner as additional MPs and that can lead, as Mr Peden said, to a larger Parliament than we've had in the last couple of elections. Is that a concern?

**MS GRIFFITHS:** I'm lost here, isn't that what's happening now?

**DR ARSENEAU:** They could be even more so.

**SIR HUGH:** I can be even more so if you take away the one seat threshold.

**MS GRIFFITHS:** I sort of see a little. The one seat threshold, you mean, say some indepen- somebody of a new party, like, I don't know –

**MR GRIFFITHS:** Conservatives, yes.

**MS GRIFFITHS:** Conservatives wins a seat, he gets, he becomes an MP, okay, he won.

**DR ARSENEAU:** I think they're actually referring to, for example, in 2008, where ACT got under 4% of the party vote but because Rodney Hide won Epsom, he got to bring four list MPs with him

**MS GRIFFITHS:** Yeah but that's the -

**MR GRIFFITHS:** That's the present system.

**MS GRIFFITHS:** That's what we're objecting to, yeah.

1400

**DR ARSENEAU:** And so they're asking, if we took away that one electorate seat threshold waiver, so that Rodney Hide would have only been there by himself, but – and if you do that across all the parties, the result would have been a greater overhang. If we count and if we use the Sainte-Laguë formula the same way as we do now, the result would have been 128 MPs in Parliament.

**MS GRIFFITHS:** But this is a bit theoretical because maybe if you'd taken away that, the system, maybe Peter Dunne wouldn't've won because maybe, maybe people in the National Party saying "Vote for him although you're really

voting for the National Party. Vote for Rodney Hide because you're really voting for us." So you could work it the other way around. You're being very theoretical, this is what would happen. Well, maybe something else would happen.

**MR PEDEN:** Well, no, we're not, I'm saying that that would happen, I'm saying that's a risk, a potential.

**MS GRIFFITHS:** Well I mean, it doesn't seem a risk if this is the system. The only risk I don't approve of is telling people "Don't vote for the person of your choice." If it means we have a few extra MPs – MPs I've had contact with work quite hard, actually, in spite of what the public thinks, so they just shouldn't worry about it. To me it's much worse to have a system where people cynically "Is it fair?" I think that's the biggest risk to our way of government.

**SIR HUGH:** Thank you very very much Ms Griffiths, thank you both for coming along.

**MS GRIFFITHS:** I think we're lucky to live in New Zealand by the way.

## **SIR HUGH WELCOMES PAULUS TELFER**

**PAULUS TELFER:** One additional point I want to raise, actually, is the lack of involvement these little parties get involved in. I'll give an example. I was in the ACT Party many years ago and there was no, there was no structure to it. Can you believe that? There was no sort of meetings, there was no sort of, what do you call it, um, not – people can express their, can express a view or anything like that at all, it was all cut and dry. This is the trouble with these small parties but I'm of the personal opinion that 0.8% of the vote, a party should be able to get a candidate into Parliament, that's assuming there's 120 seats in Parliament of course.

One of the problems I do find with the system they have now, I, I was not allowed to stand as a candidate in this last election because I am not a New Zealand citizen. I think that's awfully wrong. Now, we've got the deputy prime minister, well deputy leader of the Labour Party who was a Member of Parliament in England. I mean, to my way of thinking, everybody in New Zealand should be entitled to stand for Parliament as long as they've got, meet certain guidelines. I had a letter written to me by the, by the Electoral Commission declining my application.

And I think that's all, that's not very fair 'cos it doesn't matter whether you're Tongan or you're Samoan or you're Siamese or whatever –

**MR PEDEN:** You can enrol as a permanent resident but you have to be, mmm.

**MR TELFER:** That's my, that's my personal opinion anyway. Doesn't matter whether you're Taiwanese or anything, you should be able to stand as long as you're a person of good conduct, you know. Actually, the Electoral Act was changed in 199- 2001 it was. If you were a British citizen you could actually still, you still had all equal rights of New Zealand citizens.

**MR PEDEN:** Mmm, if you had been a permanent resident by 1975 you were able to contest it.

**MR TELFER:** Well I told them that and they declined it.

1405

**MR PEDEN:** Yes, that's because the law – as you say, the law was changed to require that you be a citizen –

**MR TELFER:** I still don't think it's a very fair ruling.

**MR PEDEN:** - or a permanent resident.

**PROFESSOR ROBERTS:** They grandparented people who were permanent residents prior to 70 – my wife was an Australian citizen and could stand because –

**MR TELFER:** Ah, that's it. That's it.

**PROFESSOR ROBERTS:** – she was a registered elector prior to 1975 but, but New Zealand is very unusual in that we permit non-citizens, permanent residents to vote in our elections. Most countries don't do that. You have to be both a citizen to be a candidate for Parliament and a citizen to vote.

**MR TELFER:** I believe in England it's one year. You had to be a resident in England for one year.

**PROFESSOR ROBERTS:** Ah, I don't know about that then.

**MR TELFER:** Though not – they also have a similar ruling in America too.

**MR PEDEN:** Yes, well, in America you actually have to be born in America to be able to stand as a –

**MR TELFER:** Actually, I don't think you can actually –

**PROFESSOR ROBERTS:** - President.

**DR ARSENEAU:** President. Only President.

**SIR HUGH:** President? That's why Arnold Schwarzenegger can't stand.

**MR TELFER:** Yes, there is a difference between presidential elections and ordinary voting. You had to be a – you have to accept it in America though as long as you've got a green card, you can vote and would – provided you've been there one year. That's my little – that's my own personal opinion anyway.

I mean I think anybody should be able to stand in New Zealand elections. I mean you've got the deputy leader of the Labour Party, I mean he was a Member of Parliament in England. There's no reason why not.

Your Honour joked and I meant to tell you about this but we had a joke in the ACT Party called the secret escalator. Basically you just put a big pile of money on the escalator you went – rise up, went to the top and this is what's been happening. In fact the joke was that your underpants fell off with the trip (inaudible 14:17:20) going to the top. If you're not, you put \$100,000 down on the table, you'll be in the top 10, I meant the top six.

This is what I'm saying, this is what's all wrong you see and the other thing which is wrong, too, is I mean there's a sac – the ACT Party who had all this apparatus but they didn't have no – there was no structure to it.

**MR PEDEN:** Having read your submission, Mr Telfer, the matters that fall within the scope of our inquiry I've found very clear and there are some matters that you've raised which actually fall outside the terms of our inquiry so just the –

**MR TELFER:** Yeah, okay. The terms of reference. I understand where you're coming from.

**MR PEDEN:** And that's – but there is, you know, a constitutional review which is underway at the same time and they're considering that as such as the place of Māori seats and they'd be also considering things like the position of the head of state and how we determine who the head of state is and so that might be the area to direct the views that you have on that. But I have no questions on – no questions for you.

**MR TELFER:** Well, thank you very much for listening to me.

**SIR HUGH:** Well, the clarity of your submission has led to the brevity of your appearance, Mr Telfer. Thank you very much for coming along.

**HEARING ADJOURNED:                    2.09 PM**