

PUBLIC HEARINGS ON THE 2012 REVIEW OF MMP

**AT HAMILTON
ON 21 MAY 2012**

HEARD BEFORE ELECTORAL COMMISSION BOARD MEMBERS

SIR HUGH WELCOMES PROFESSOR JACK VOWLES

SIR HUGH: Well Professor Vowles are we ready to go?

5 **PROFESSOR JACK VOWLES:** Yes. I would like a little bit of a steer as to what you would like me to do. Presumably you would like –

SIR HUGH: Shall I tell you that?

10 **PROFESSOR VOWLES:** Yes, please.

SIR HUGH: Okay. What we've been doing with all the submissions is assuring the presenters that we've all read their presentations as we have in this case and as well as our political science advisors asking presenters to
15 speak to their submissions with the salient points and any new points that might have occurred to them, that sort of thing, then we ask you some questions starting with Robert Peden, the Chief Electoral Officer, Jane Huria, the deputy chair, and then me and then we throw you to the wolves with the political science advisors there.

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PROFESSOR VOWLES: How long would you like me to spend opening it up? Five minutes?

SIR HUGH: Five, 10 minutes, something like that.

PROFESSOR VOWLES: Okay, well I have two submissions then.

SIR HUGH: What we do is we are asking everybody to sit in the witness box
5 because it's all being recorded so a transcript will be prepared in due course.

PROFESSOR VOWLES: I see, I see. Okay, well I have, I have two
submissions here which basically one more or less on my own behalf and
another which is more on behalf of the New Zealand Election Study although
10 it's predominantly my interpretation of it. So, what I would prefer to do is to
start off with the submission that I've prepared based on my own research and
then move on to the, the second one from the NZES.

So, okay, well the first submission is essentially about MPs and particularly
15 about the issue of list MPs and it's addressing first of all the question should a
person be able to stand as a candidate both for an electorate and a list seat,
the issue of dual candidacy and the submission makes the point that dual
candidacy is indeed the dominant mode in New Zealand's MMP system.
About 72% of the candidacies that I've looked at since the 1999 election for
20 dual candidacies and they're somewhat higher of course for the two major
parties. There are very strong reasons why parties would prefer dual
candidacy which won't bother to go into here. No doubt I understand the
parties have submitted quite strongly in favour of dual candidacy so perhaps
they can speak for themselves.

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What I'd like to talk to briefly are the normative arguments that people use
against dual candidacy which are essentially a normative argument really
against the whole concept of list MPs and I think that that's really the problem
with the, the argument about dual candidacy. It's sort of an attack on list MPs
30 by the back door. It's essentially based on the idea that list MPs don't have as
much democratic legitimacy as do electorate MPs because they're not directly
elected by constituents in an electorate seat. But, of course, list MPs are
selected by their parties as indeed are electorate MPs and they're
accountable through political parties. The problem is I think that there are two

different normative arguments about accountability. One is the accountability directly of an electorate MP to the people who vote for them in their electorate and there's also the argument about accountability of political parties to the electorate that votes for them and the problem is that list MPs are really
5 accountable through their political party and this of course buys into all kinds of problems associated with people's rather negative perceptions about political parties. But, on the other hand, people accept that political parties are essential for the functioning of a representative democracy, we can't do without them, and list MPs essentially exemplify this notion of party
10 accountability.

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So those are the normative arguments, the data that I present simply shows that looking at the biggest problem that people identify with dual candidacy,
15 which is the ability of MPs who are defeated in their electorate contest to be able to return to Parliament because they're in a high enough position on a no party list. My submission has data here which indicates essentially that the number of these cases is relatively small. In some elections it's been only one or two and that for the most part these MPs are all defeated because there's a
20 sway against their party. Very rarely can you see evidence of a sizeable person vote against them, although there are probably maybe two or three cases of this out of the 22 or so. In many cases these MPs actually improve their vote from one, the previous election to the election at which they're actually defeated. Many of them indicate that indicate that they still retain
25 substantial local support by getting elected to local councils or even mayoralities, some actually manage to return as an electorate MP at the next election as did Damian O'Connor in 2011.

The other point in the submission is simply that if list MPs are deemed as less
30 accountable than electoral MPs, this doesn't work in terms of the best definition or empirical operationalisation of accountability but we have, namely, being thrown out of office. List MPs are actually more likely to lose their seats than electorate MPs, even after you take account of the fact that some do manage to, as it were, escape onto the list. So if people want an

electoral system where MPs are individually accountable, and if you define accountability in terms of the risk of getting thrown out of your seat, then list MPs are actually more accountable in that sense. So that's the basis of the first submission.

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MR PEDEN: One of the, I suppose questions I had just following on from your point around the relative accountability of electorate and list MPs, have you looked at the extent to which electorate MPs are more or less represented compared to list MPs? So the theory behind the list is it's an opportunity for parties to provide balance. Are electorate, are parties putting candidates into electable positions in electorates, is that also demonstrating an attempt to provide representation?

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PROFESSIONAL VOWLES: Some do and some don't and of course it is fundamentally up to political parties to select candidates but if you look at the data on descriptive representations and if you look at where, for example, women are more likely to be elected, that is through the party list. Ethnic minorities, the data's a little bit more mixed there because ethnic minorities can be spatially concentrated in a particular area which means in South Auckland you're more likely to get a Pacific or MP electorate there. I guess the key point to make though about this, is that if you look at the incentives that political parties have for selecting candidates, when they are selecting a candidate for an electorate seat, they always have to tilt towards local opinion. They always have to, as it were, go for the median voter and by and large that tends to mean that the median voter is more likely, in an average electorate, the median voter is more likely to prefer, if you like, at least political parties are more likely to think that political parties, that voters will prefer someone who is sort of close to the mainstream mould if you like. And because of the prevailing values in our society, although these are changing, that does tend to be more often than not a middle-aged male who was European.

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When parties are selecting candidates for their lists, on the other than they've got a lot more flexibility and they can actually balance their list of candidates

because of course the list selection process makes it possible for them to do this. So almost inevitably you're going to find that there is more, wherever you see deficits and descriptive representation, almost certainly the list is going to be the easiest place to be able to address those problems, which of course doesn't mean that all political parties are necessarily going to take that opportunity, doesn't necessarily mean that some political parties don't make big efforts to try to get non-mainstream candidates into electorate seats, but it's just more difficult for them to do so.

10 **MR PEDEN:** Because obviously your submission that if the public's concern is to maximise accountability, the logic of your analysis would be that we increase the number of listings, so if there's an issue how the ratio of electorate to list seats, we might head more towards a 60/60 split, rather than allowing a number of electorate seats to increase. I suppose the response
15 from the public might be that whilst that works in logic and mathematical analysis, at least when it comes to an electorate you can, an electorate contest, you can vote directly when it comes to the list MPs while they turn over more quickly, you've, there's more an element of chance in how it plays out?

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PROFESSOR VOWLES: Well that might be a perception, it depends obviously if you're in an electorate which is safe for, on another of the main political parties than, I'm not sure, you might feel that that person is accountable to you but in effect they're there at the will of the party and they're
25 there in many cases for as long as they want to be.

MR PEDEN: Do you have a, in your submission you've talked about the, well I'll just read it out. "In terms of party proportionately, mathematical simulations indicate that a lower proportion of the seats could be tolerated." There do you
30 mean in terms of public perception, or do you mean in the risk of overhang?

PROFESSOR VOWLES: Well maintaining proportionality and I've seen various estimates of the minimum ration, if you like, where you would not run into problems of there not being enough list seats to be able to provide

smaller parties with seats and, that seems to be sort of 75/25 but, or thereabouts, depending on –

MR PEDEN: Yes, and do you have a view on –

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PROFESSOR VOWLES: Well personally I think that that would be, I think if we were to move now to that level and then somehow stay there, I think that we will be losing a lot of the advantages that MMP provides for broader representation, particularly, in terms of women's representation. Also I think other minority groups as well. MMP does provide the lists which make it possible for parties to be able to use them in that way and the lower, the proportional list is then the less ability political parties are going to have to ensure broader representation.

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15 **MR PEDEN:** So if the advice provided by the Government's statistician is roughly right and you know by 2051 we may have 77 electorate seats, is that starting to get close to the maximum point in your view, or would you be concerned to see it go much beyond 70?

20 **PROFESSOR VOWLES:** Well I need to be honest, I would prefer to maintain the current ratio over list seats to electorate seats because I think as it continues to change, to the benefit of electorate seats, then MMP is not going to be able to deliver a lot of the good things that many people perceive it to be delivering.

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MS HURIA: Actually no I don't but I did want to say thank you because I've found this very interesting, the two key things. The idea around the fact that list MPs are actually more or maybe more accountable and also the negative, the potential for negative assumptions colouring peoples' views, their negative assumptions around political parties so thank you.

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SIR HUGH: I should know the answer to this Professor Vowles and apologies in advance for not doing so but there's been so much to read, I haven't done

all the reading I ought to have done. So how many elections has the NZES been monitoring what's been happening in New Zealand?

PROFESSOR VOWLES: Since 1990 we did have some, we did have a survey in 1987 but it wasn't, wasn't so comprehensive so from 1990 effectively we've continued the same methodology.

SIR HUGH: And what's the methodology of the NZES study?

PROFESSOR VOWLES: Well it's based on a random sample of the electoral rolls and we started off –

SIR HUGH: Conducted by telephone?

PROFESSOR VOWLES: No it's a postal survey so we mail out questionnaires and initially we started off with very, very strong response rates. I think we were something in the region of sort of slightly over 60%. It's gone to about 40% now, it seems to have stuck there but that's still a pretty good response rate when you compare it to most of the surveys that are conducted for political purposes in New Zealand which I understand you know, telephone surveys 20% well maybe 30% if you're lucky.

SIR HUGH: In terms of numbers, how many respondents you get?

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PROFESSOR VOWLES: We've, the last one we've got about two and a half thousand. There's more but we oversample some groups and then we weight them down so the effective of sample size would be about two and a half thousand.

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SIR HUGH: And your questions are varied election by election have you?

PROFESSOR VOWLES: Some we change and some of course we try to keep the same so that we can monitor a change over time.

SIR HUGH: And in what period following an election do you conduct a survey or sampling?

5 **PROFESSOR VOWLES:** We get it into peoples' mailboxes as soon as we possibly can after the election which usually is because of difficulties around getting mail out on the Saturday which we would actually prefer to do. We don't, we can't have a questionnaire end up in anybody's mailbox on election day, that would be very bad.

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SIR HUGH: No of course, yes. We'd hate to prosecute.

PROFESSOR VOWLES: I'm sure you would. So we and because it's increasingly difficult to get the Post Office just to mail out on a Saturday without having to pay them huge amounts of money, that means that we don't usually get them to people until about Tuesday or Wednesday and then we usually get or the majority of them we would get back within six weeks and then we send out a second copy. We usually hold it open for about three months, but of course most of them are concent –

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SIR HUGH: The preponderance of your replies come in before Christmas in an average November election?

PROFESSOR VOWLES: Yes, yes yes. I mean Christmas is a bit of a problem. We probably –

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SIR HUGH: Sure.

PROFESSOR VOWLES: It's been slightly easier when elections have been somewhat earlier but no, and it works quite well. one of the advantages of having it, the responses sort of dribble in over a long period is that when we're waiting for the formation of a Government, we can actually compare the questionnaires we've received before the Government's formed and the questionnaires after the Government's formed. That was particularly useful in

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2005, when were able to – we actually saw quite a drop in support for proportional representation after the Government was formed and people tended not to like it as much after that for a fairly obvious reason. I –

5 **DR ARSENEAU:** Can I ask a quick question? Thank you again for your submission. In terms of that notion that people find list MPs illegitimate, will that – is there any indication that that might change over time and have you seen any change over time and specifically, is there a difference between people, young people for example who have only experience MMP compared
10 to people who first you know dealt with first past the post?

PROFESSOR VOWLES: That's a very interesting question. We probably, I mean we've got some data over time but I haven't actually looked at that sort of you know, whether people approve or disapprove of list MPs, so we can
15 certainly look at that. We could also break down the question on whether people want to retain or get rid of list MPs by age. I haven't done that, but it be easy enough to do.

DR ARSENEAU: I think it'd be interesting yes.
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PROFESSOR VOWLES: Yes, yes I didn't actually bring my laptop, I could've done it on the spot but perhaps you can wait maybe, I can certainly provide that, yes.

25 **DR ARSENEAU:** I'd love to hear yes.

SIR HUGH: If you could do that work and let us have it after today it would be great, it would be very interesting.

30 **PROFESSOR VOWLES:** Yes, okay. I also need to open up the NZES based submission which in a sense we've already started to get into.

SIR HUGH: Yes well I was just about to invite you to do that.

PROFESSOR VOWLES: Thank you. So okay.

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5 **PROFESSOR ROBERTS:** I did have one question about table 5, Jack, and I'd just like to thank you very much for both the submissions. We had one submitter say that our discussion with them could have taken two days. I think this is true in your case. But table 5 it occurred to me one is, are you including in your data MPs who are already incumbent at the time of the
10 introduction of MMP because of course we've got a large number of people in safe seats, you know, the Nick Smith's, the Tony Ryall's, the Helen Clark's, the Phil Goff's and people like that and whether it would be worth controlling for only those who have come in from 1996 onwards because of course there are some people that could only come in on the list and some people, so
15 basically have you done that? I get the impression that the data is contaminated by the incumbency of first past the post MPs.

PROFESSOR VOWLES: I'm not entirely clear why that should be a contaminating factor.

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PROFESSOR ROBERTS: Well post MMP I'm wondering if there is a quicker or an as slower turnover, in other words, doing a sample. Could you, could you do that?

25 **PROFESSOR VOWLES:** Well I presume, yeah, it would be easy enough to simply weed out all the incumbents because they're basically anybody who was an MP 1993 and before I guess.

PROFESSOR ROBERTS: Exactly, yeah, yeah.

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PROFESSOR VOWLES: I mean I doubt – I don't know what that would do but I doubt that it would really make much difference.

PROFESSOR ROBERTS: No, I just wondered if it would because you know I still think that some of our lack of turnover stems from people who were in Parliament a very long time ago and whether when you just look at new MPs you'd actually see maybe an equality or a continuing trend and that would tell us that the problem is the electorate seats.

PROFESSOR VOWLES: Well I can certainly, can certainly do that so perhaps I should be taking notes here, perhaps I should be doing.

10 **SIR HUGH:** Would you like to introduce the second set of submissions?

PROFESSOR VOWLES: Okay, well this is almost entirely based on the data from the 2011 New Zealand Election Study and you've heard about the methodology and all of that. On the issue of – I have a nice summary page here which I didn't actually do for the first one but perhaps I refer to that. Okay, one of the – okay, the issue at the threshold. The electorate threshold and the party vote threshold. There are, as I understand it, a number of submissions which are making the case that we should actually get rid of the threshold altogether and the point I'd make here which doesn't really come out of the NZES data as such but is really more based on my reading of the electoral systems literature is that MMP as designed by the Electoral Commission was specifically I think designed to be what one might call a moderate form of PR, that is one with a reasonably robust threshold and I think that any shift to what some electoral system experts might call an extreme form of PR where basically there is no threshold or the threshold is basically a default, I think that would be quite a move away from the mandate that was given us by the Royal Commission on the electoral system and possibly even the mandate that was given by the last year's referendum.

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30 So, I think that there would be, there would be problems in, in reducing the threshold, particularly given the fact that there is evidence from surveys that New Zealanders actually think there are too many political parties, there are, there tend to be – there's a majority of New Zealanders who think there are

too many political parties in the house and perhaps a slight reduction might make people happier about the way that politics works in New Zealand.

5 The way to do that most effectively would be obviously to get rid of the
electoracy threshold because that is the main means by which these very
small parties tend to get into the house. So, so we didn't ask a question about
the electorate threshold in 2011. We'd asked it before. We asked it in 2002
and 14% supported getting rid of it, only 20% said we should keep it and the
rest didn't really know or care. I'm not quite sure what, what mandate that
10 might or might not give.

But anyway we have consistent evidence that people think that at the moment
there are somewhat too many political parties in Parliament. We also have
evidence that people tend to get unhappy when it's difficult to form
15 Governments when there are lots and lots of small parties as was the case in,
in 2005. So, there's the issue of the mandate of the Royal Commission,
there's also the issue of what happened people are comfortable with and my
sense is that people would be more comfortable with a threshold, although
perhaps a threshold that might be slightly lower in terms of the party vote
20 perhaps that the original recommendation of the Royal Commission was of
course 4%.

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25 Dual candidacy, well 46% would get rid of dual candidacy according to the
question that we asked on this but that's, that's not an absolute majority so
most either supported or are just neutral but it's still obviously a significant
plurality so that has to be taken seriously. In terms of the list seat electorate
seat ratio, again New Zealanders tend to think that we could have fewer list
MPs but they still want us to maintain the level of descriptive representation
30 particularly around the representation of women. So on the one hand people
are saying well we don't like list MPs because of all the nasty things that
people say about them because they're not accountable. On the other hand,
people still want the advantages that list MPs provide in terms of being able to
promote particularly the representation of women and more broadly the level

of descriptive representation that we have and people also want to be able to effectively dismiss MPs from Parliament and of course most people are not aware that actually it's list MPs who are easier to get rid of than the electorate MPs. So there's a lot of misunderstanding about list MPs in my view.

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We also asked the question about open lists. Again this goes back a little bit and certainly New Zealanders would prefer open lists. But in 2011 we also asked them a question which was getting them to agree or disagree with the statement that party bosses have too much control over MPs. So a question
10 very much biased in the direction of, you know, these party bosses in smoke filled rooms are sort of selecting these list MPs and it's not accountable and so on and so forth and actually only, only about 20% actually agreed with that statement so it seems to me that while in theory people like the idea of open lists, in practice they're not overly concerned about the fact, the way that list
15 MPs are selected and indeed many, many people who study politics might actually be more concerned about this than ordinary people and might perhaps want to look at inserting a somewhat more robust provision in the electoral act which would make parties somewhat more – pressure parties to be somewhat more inclusive and transparent in the way that they select the
20 candidates particularly in their selection processes and that would obviously require some kind of amendment to the electoral act and that might be a better way to get at this problem in particular, given also that if we were to move to open lists then there would be huge complications as far as constructing a ballot paper would be concerned. I'm sure that the Electoral Commission is
25 already quite worried about this. It would not only confuse it would be much more demanding on voters, that would also I think confuse the purposes of the two, the two votes, the party and electorate votes.

The only way I think to move to open lists and in theory I would prefer open
30 lists if it were possible to get around those problems and of course a way to get around that problem would be to move to electronic voting. That would mean everybody would have to vote electronically and you'd actually go into a polling place and you would have a computer screen and you would, first of all you'd cast your party vote and then the next window would come up and they

say, “Do you want to, you know, express a preference for any one of these 60 people as a candidate,” and you could quite easily do that if you wanted to. So I think that that would get around the problem of the ballot paper but I think we would really have to move to electronic voting you know across the board to do that effectively.

SIR HUGH: Thank you, Mr Peden.

MR PEDEN: Just on the question of open lists and party boss power, the question asked in 2002 voters not parties should decide which of the candidates on the party’s list get the seats it has won. I wonder whether people answering that question would have immediately made a connection that what they were being asked about was should they be able to order the party lists or some how by – it would have had to have assumed a fair degree of knowledge about how candidates are selected off the list, wouldn’t it, to –

PROFESSOR VOWLES: The difficulty is when you try and ask people questions about rather obscure features of electoral systems you have to try to express it in the most – if we simply ask people if they approved of open or they wanted open versus closed lists people would have been even more puzzled by that I’m sure.

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MR PEDEN: Yes, yes I suppose that’s right.

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PROFESSOR VOWLES: So we tried to frame question that expressed the idea as clearly as we could. I know we might’ve been able to come up with a better one perhaps I don’t know but that’s what we came up with.

MR PEDEN: Well I suppose it certainly gets across the sense that the issue is to a degree of party power versus voter power, yes. I expect I have another question but perhaps if I –

SIR HUGH: You can come back. Ms Huria?

MS HURIA: No I also (inaudible 10:31:01) question.

SIR HUGH: When you asked whether MMP makes Parliament look and feel
5 like New Zealand were there any sub-questions, any indication as to what
people being told thought, looked and felt like New Zealand?

PROFESSOR VOWLES: Not really, some of the questions we asked we –
the survey was partly about trying to find out what people thought about MMP
10 and some of these details. It was also about understanding the result of the
referendum and so that statement was actually came I guess from the website
of the campaign for MMP and so we were asking it essentially to see the
extent to which these statements actually resonated with people and whether
they had an effect in pushing either towards or away from MMP. So I'm to be
15 honest I'm not entirely sure how well those questions worked but we haven't
really started analysing the data in that way yet comprehensively.

MR PEDEN: But you will be looking to or hoping to draw conclusions about
the effectiveness of the vote for change campaign and the -
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PROFESSOR VOWLES: Yes, yes.

MR PEDEN: That will be interesting.

25 **PROFESSOR VOWLES:** Yes.

MS HURIA: I do have a general question. There might be just a really easy
answer that I've missed to this question but there was a part in your
submission Professor Vowles where you said that people vote for, tend to
30 vote for parties rather than candidates in electorates?

PROFESSOR VOWLES: Yes.

MS HURIA: I'm just too much of a novice to know, is that a question that you ask people or is that a proven thing?

PROFESSOR VOWLES: Well there are various ways of doing this. I mean
5 you can ask people but probably a better way is simply to compare how their
– we have a lot of questions in the NZES as all election surveys do which
measure the extent to which people have a strong tie to a political party and
the extent to which they are you know, they are voting for a party. You know
10 we have scales which ask them whether they like, dislike a whole list of
parties for example. So it's pretty easy to measure the extent of a vote as
partisanship in the extent to which their choice in an election is a party choice.
And then when we also add in their – the extent to which they like or dislike
candidates, we find that there is an effect, but it's a relatively small one. Of
course it's a much bigger effect under MMP because people can now
15 continue to cast a party vote for the party that they like but cast an electorate
which for a candidate that might not actually be a candidate of their preferred
party, but they can still do that without necessarily effecting the proportionality
of Parliament. So we actually see more candidate voting under MMP, but by
and large, I mean if one simply looks at the data there is a correlation of I think
20 party votes and electorate votes, so partisanship still plays a pretty big part.

MS HURIA: Thank you.

SIR HUGHES: Professor Roberts?

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PROFESSOR ROBERTS: Yes, I'd just say I certainly agree with the – I
mean all surveys in New Zealand and overseas so that you know, in a single
member electorate the biggest single factor is the party, the colour of the party
was at, the candidate is wearing. There are very few exceptions to that
30 worldwide. I just want to ask following on from Sir Hugh's question, MMP
makes Parliament look and feel like New Zealand. In the paragraph below
your table you've said, "Preference for a representative Parliament." I read
the question as here this is a description?

PROFESSOR VOWLES: Yes, yes.

PROFESSOR ROBERTS: And in some ways it's not necessarily expressing a preference although it would seem to from the way people have lined up
5 between people who are in favour of MMP and people who weren't in the referendum.

PROFESSOR VOWLES: Yes, I think –

10 **PROFESSOR ROBERTS:** There's a mixture:

PROFESSOR VOWLES: It's a mixture.

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PROFESSOR ROBERTS: Yes, thank you.

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SIR HUGH: Dr Arseneau?

DR ARSENEAU: Very, very clear, thank you.

20 **SIR HUGHES:** Thank you very much.

MR PEDEN: Last question and actually I think I've gone back to your submission, Jack, where you were talking about the extent to which there's turnover, higher turnover in list seats versus electorate seats and I suppose
25 one of the questions that arises out of that for me is whether anything in the NZES research indicates whether voters prefer or have a preference for new blood or for institutional experience. So in other words if list seats tend to provide a higher turnover in electorates is what voters are looking for new blood in their MPs are experience?

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PROFESSOR VOWLES: Well, I think it depends very much on how they feel about their experienced MP. I think that some MPs are, are very effective and continue to attract the support of their constituents. Others perhaps get a bit lazy over time and perhaps get less active and less popular. So I think it

depends. I don't think that – I mean I don't think we've really asked these questions and I think there's certainly a – well we have a certain amount of anecdotal evidence at least that the party leaders and prime ministers have a certain use by date. Whether that necessarily applies to the average MP I don't know. I think it's really more to do with their performance and how they're conceived by their constituents.

SIR HUGH: Thank you, Professor Vowles. Thank you for a fascinating contribution.

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HEARING ADJOURNS: 10.37 AM

HEARING RESUMES: 11.01 AM**SIR HUGH WELCOMES PETER NORTHCOTE**

5 **MR NORTHCOTE:** Thank you very much, Commissioners. By way of
introduction it is my privilege to serve as communications manager at the
former Electoral Commission for the 2005-2008 electoral cycles where my
particular passionate role was around activities designed to improve
participation and, and it was a privilege to work alongside Robert as the
10 Chief Electoral Officer and so on and I think we too often don't celebrate I
think how great our electoral administration is and how we're relatively
untarnished when you look at what we deal with or help out with elsewhere.

I have continued that work in working with the Bridge Programme, the
15 international building resources and democracy governance and elections and
I'd like to be doing more of it but I actually work for another independent
Crown entity at the moment and that's kept me busier than I would have liked
but my appearance today is in a private capacity.

20 My opening remarks I'd just like to draw under three headings – mixed
member, proportional and electoral system. First up in terms of candidate
selection, one of the – a lot of the discussion that's been around issues of
thresholds, the type of discussion you were having earlier with Professor
Vowles around unelected list MPs and so on comes down to people's
25 perceptions, perhaps lack of education or perhaps misdiagnosis of things that
they see going on in the operation of the political apparatus which they
ascribe to the electoral system rather than the natural behaviours of politicians
who will gain any system that is available to them as indeed you would expect
them to. That's the nature of, of politics.

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It always seemed to me to be a bit of a façade that one of the requirements of
the Electoral Act was for the Electoral Commission to essentially hold a copy
of the Candidate Selection Rules and so as part of the requirements for
registration of a party the rule set came in, it went into a folder and it sat there

available for public inspection and really at heart I think that there is an opportunity with this, with this review to strengthen the requirements of parties to provide for the democratic participation of their members in the candidate selection because a lot of the gripes and grizzles that you'll get from – that
5 come from an electorate or you deal with are about these unelected MPs. Well, as we know, the only way you're going to influence whose on a list and in what order, and I'll come to open lists shortly, is to participate in that party and it – I think that there is a real opportunity to increase the encourage or requirement on parties to effectively run a primary process. I don't think that
10 needs to be too prescriptive but it certainly needs to be more prescriptive than the current rather loose requirement of the Electoral Act.

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On that question of open lists, no it would be an administrative nightmare, but
15 also it gets, it would be too hard for people to do, you'd end up with a situation akin to say the Australian Senate situation where, you know there is the opportunity to more richly rank your candidates and the majority of people end up voting above the line to take the preselected order and all you've done is chew up a whole lot of paper and not really achieve much more in terms of the
20 quality of the participation in the the Parliament.

The question of dual candidacy, well as a purist I guess but not coming from a political background, I absolutely agree that that's the, one of the essential features that MMP should allow. The arguments against it seem to quite often
25 come from, in my experience, were people who were never in that electorate where a particular dynamic may have occurred, and nor in fact did they ever actually vote for, or would have voted for the party that was concerned. So in that respect their opinion was more about making a natural expression of their political point of view than it was making a credible criticism of the way in
30 which the electoral system had operated. And in fact some of the dynamics if you look at them, some of the cases which Professor Vowles talked about in his paper, when you look at them you actually saw that as more a question for parties in terms of how responsive they were to the mood of the electorate in

their candidate selection, than it was to the operation of the electoral system itself.

5 One of the concerns or the issues that always troubled me or iv focused with
and looking at the electorate system and its operation is the issue of
incumbencies and the incredible advantages which still exist within parts of
our electoral system two incumbents. I mean incumbents in Government and
incumbents in Parliament. Political parties, those in Parliament, generally
10 discuss the potential impacts of changes or tweaks to the electoral system in
terms of what it will mean for the people already in Parliament, not for those
people who may represent positions, policies, paradigms that are not current
in the current Parliament and want to get there. And this brings us I guess to
the, well before I move on to the issues of threshold, you were asking
questions about by-elections and whether or not existing, for instance, list
15 MPs should be able to stand in by-elections and I would submit that there is
no reason why they cannot, but they should not be able to enjoy the incredible
incumbency advantage which comes from sitting, for standing for election in a
by-election whilst still remaining a list MP drawing that salary and enjoying the
resources that come with that.

20

I'm not suggesting that it's basically resign and stand, what I would suggest is
that there's the opportunity to mirror the provision for state servants in the
Electoral Act which requires them to stand down for the period of, for the, from
at least from nomination date but generally the practice is as early as an
25 intention to stand is declared and to avoid any ability in the case of the MP to
enjoy or use the advantages of their office by way of being a list MP to
effectively enhance their campaign as an electorate candidate because those
resources, that continuity of employment, income and, so on, are an incredible
advantage over a candidate who might be coming from the private sector or
30 the community sector or may even be a public servant who is trying to contest
that same race and I would suggest that that's one opportunity to deal with an
issue of unfair incumbency advantage.

1110

I'll move on to discuss proportionality and we'll come to the question of threshold. The single electorate threshold I really see as one of the last vestiges of FPP. It was how are we going to transition from a, from the you know from first past the post to a system which has a proportional element to it and what do we think about the role in place of electorate MPs. What we've
5 – the single electorate threshold in my view has damaged us a bit as a democracy and has damaged us in terms of things like turnout, well turnout in particular as a major measure of that. We've seen gaming and the impact on participation in my view has been because if you take for instance the last
10 election, a lot of focus went into a particular seat in Auckland and a particular tea party. What that was saying, well the subtext that I believe that many voters will have said, "Well I'm not in this electorate," so everyone is telling us that the way that this election is going to win is going to depend in some way on what's happening in that particular electorate rather than saying or
15 acknowledging the primacy of the party vote. If however we take away the single electorate threshold we're left with the question of the 5% threshold. In my submission that's way too high. If we are to envisage a Parliament where we can get the parties coming into Parliament who are not there now.

20 In the past most of the new parties coming into Parliament have come as a result of a split or through prior parliamentary experience of key members of that particular party. I would suggest that 3% would be a more appropriate figure. I acknowledge the work that the Royal Commission is suggesting for but the Royal Commission for all their work did not have the experience of
25 MMP that we now have today. And that has demonstrated that there is on if you like across the political spectrum where at least the major parties in our Parliament reside, a good ability to manage coalition Governments in a way which does not bring about the type of instability that has been suggested as would occur if we had a lower or no threshold or as people might suggest
30 occurs in other democracies with proportional systems.

SIR HUGH: I appreciate your oral submissions are rather more extensive –

MR NORTHCOTE: Sure.

SIR HUGH: - written material, but in order to give us time for questions could you perhaps compress your views.

5 **MR NORTHCOTE:** Sure, so the, in terms of the things that I think are perhaps unique or maybe things that I'm submitting that don't appear elsewhere, I do think there's a strong case for introducing what colloquially known as the Waka Jumping Legislation back in – with the tuning, fine tuning of the electoral system, it's – if we have a system based on proportionality it's an anathema that someone that can walk away from the party that put them there by their inclusion on their list place, I would suggest at the same time, looking at the potential for a re-call mechanism for electorate MPs would provided some balance. I think I'm – the main issue that I experienced in my time with the former Electoral Commission when dealing with education around MMP was to do it properly you had to deal with all the nuances and things like the threshold is a significant part of the nuancing of the system and the peoples' participation in an electoral system, whether they turn out, whether they vote is based on their sense of efficacy. Is it understandable, is it easy to do, is it worth doing? And the simpler that you can make the system that you present to them, the more chance that you have outside someone setting and maintain a voting habit, which is as we know from the rest election a matter of some concern. So I'll rest and invite your questions.

1115

SIR HUGH: Mr Peden.

25

MR PEDEN: Thank you, Mr Northcote. Your submission on waka jumping legislation, if it was extended to include electorate MPs as well as list MPs after all electorate MPs are arguably have as much – the party has as much to do with their place in Parliament as with list MPs, then presumably there wouldn't be a need for your other proposal, the recall provision?

30

MR NORTHCOTE: I had seen those as quite distinct mechanisms based on the different foundation as to where that mandate had come from. I had seen a list MP as having come into Parliament through virtue of their place on the

party list as a result of a process that had involved the democratic participation of that party's membership and then that – and then obviously the electoral fortunes of that party at the election and whether or not they were higher up that list to get in. So, they owed their position to the party list in effect and the – and the vote that that party got. The electorate MP I certainly believe is – their election was the prerogative of the electorate and notwithstanding what Professor Vowles was saying about the relationship between party preference and more generic candidate preference in that making of the candidate vote, I do subscribe to the view that it is the electorate that put that MP there. Now, if the MP is seen to break the contract with the electorate, I think there should be the opportunity of a mechanism that is faster and sooner than the next general election for the electorate to say, "Well, no you've broken that contract," and there are examples of different, recall mechanisms work in different places around the world and I don't have a particular view on one. I have made a suggestion that if you look, for instance, at the CIR legislation there are some thresholds in place for, for doing that.

MS HURIA: Thank you for your submission. I just had a quick question around if incumbent MPs are required to stand down, who does their job while they are stood down?

MR NORTHCOTE: Well, we are talking about and I don't – I've got to be careful here because we're talking about list MPs and it sounds like I'm trivialising them which I'm not. I'm not suggesting that for a start that their, that their vote would disappear. I would still anticipate that the party would, would carry their vote and – but you know you've got a period of what 28 days. That's not – I don't see that anyone is going to lose service from the parliamentary process simply because an individual is effectively on leave from enjoying the benefits of that. Let's face it, what are they going to be doing for those 28 days? They're standing as a candidate, that's going to have to be their prime focus. You know, their electorate smaller support is still going to be there doing that work. The point is they're not going to be

collecting, collecting a salary and enjoying some of the other resources of being an MP which gives them an unfair advantage.

SIR HUGH: Given that the Electoral Act has to lay down rules for small
5 parties and large, what do you suggest the Act should contain to ensure
greater democracy in parties' candidate selections?

MR NORTHCOTE: I think you'd need to be specifying a range of options
which a party could choose from. The, the reason I say that is parties come
10 from different philosophical bases, they have different views which fit within
the democratic mainstream of, of what participation is, some focus on
consensus building, some prefer to work on a straight numeric power of
numbers type approach. I think you could – what you'd look to do is to further
define what democratic participation of members means. So you might say it
15 means some sort of primary election using a, using a proportion or a
preferential electoral system. You might say it involves a series of – some
consensus building workshops in which, in which all, all members can be
heard. I guess what I would not be looking to see would be for instance a
party which might vote periodically to say the leader can rank the list.

20 1120

SIR HUGH: Legislation's a pretty crude tool for optional systems, isn't it?

MR NORTHCOTE: yes, well I'm neither a political science nor a lawyer so I
25 have to accede to other expertise on that but I think you see the point in y
intent.

SIR HUGH: Okay, the lawyer in me will shut up in reliance to political
science. Dr Arseneau?

30

DR ARSENEAU: You stole my question.

SIR HUGH: Professor Roberts?

PROFESSOR ROBERTS: The political scientist in me will shut up.

SIR HUGH: Thank you very much, Mr Northcote. Thank you for your contribution. Now the next schedule submission is from Augusto Calcena.

5 Mr Calcena, is he here? I think not. I've been told he's a no show and Zane McCarthy who is to follow him is also a no show but Mr Adams who is down for 11.30 I think is present. Would you care to join us Mr Adams.

SIR HUGH WELCOMES MARK ADAMS

MR ADAMS: My name is Mark Adams. As my submission relates to, to how electors' votes are used and valued most of the points addressed in this submission have follow-on effects. I, I contend that the original review in 1986
5 was to increase the value of the so called wasted votes and by that I mean the New Zealand Party contested the 1984 election and from memory got around 20% of the public vote and never won one seat in Parliament. Social Credit regularly got a percentage of the vote that never reflected their representation
10 in Parliament and that's my contention was that the review was done because we wanted, as the public, we wanted to see and I took part in that election, we wanted to see some better representation for the wasted votes. I have no problem with this and feel that the majority of New Zealanders agree and hence the successful referenda.

15

I feel the method used has devalued the constituency vote to the benefit of the minor parties particularly. The minor parties wisely in the circumstances have deduced that chasing constituency votes is a total waste of time. Resources, time and resources, because of the current – it's the way the
20 current system stands, party votes alone dictate the percentages of seats in Parliament. I was probably like most New Zealanders, I wasn't even aware of this until I heard that National had, had now won another constituency in Christchurch, therefore they lost a list seat. That's when I started to look at what the hell was going on, why, why did that happen. And having party votes
25 only relating to list seats will mean that minor parties that don't contest or win electorate seats still have the opportunity for representation in Parliament without it devaluing the cornerstone of our system which is namely the local MP or our local representative, the person we voted for in our electorate.

30 So my, my whole submission relates to the allocation of party votes being only – or party votes only relating to list seats which there are 50 of. The electorate seats remain as they are with 70 and as there are 50 electorate or list seats each seat would logically be worth 2% of the vote. This would

eliminate any other need for thresholds – I'm trying to think of the other word that, that was used – the over –

SIR HUGH: The overhang?

5

MR ADAMS: Overhang is all gone because once you win your electorate seat you then have the opportunity to – your other vote then goes to the party seat and it's chosen from what's left. After the full 2% are gone, as you've seen in that table, the remainder are the highest remaining and in the last
10 election it was, there were five seats left over after everybody took their 2%. The highest percentage remaining got the, got the remaining seats. To me we, we overcomplicate things. We – why do we need a threshold? Who says that you have to have 5% of the vote before you're eligible for a list seat? Why do we make these decisions whereas why don't we just let the vote
15 dictate what happens?

It's, to me it's fairly simple with that. With by-election, as I said, some of the other factors flow on from that, by-election candidates, it doesn't stand for me – to me it has no sense that a sitting MP can contest a by-election and with,
20 with the system that I'm proposing I can't see a list MP wanting to contest a by-election. Any sitting list MP who resigns who is expelled from their party for whatever reason must immediately vacate their position as the list seat is a party one seat not an individual seat. So they all stand.

25 Dual candidacy, I'd rather have positive people who can make a decision, not fence sitters. The only downside is this, that you may lose a very good Member of Parliament but again I'm, it's not a big point for me, I don't really care one way or the other. If they want to have dual candidacy, if that's the way the party wants to go, who cares? The order of candidates, we want to
30 simplify the system, not complicate it and I think the legitimate parties have to accept responsibility for their own lists. Why do we want to legislate what order they have to have their list in or whatever? Let them – they will, they will live or die by, by their list or by their party.

Proportion of electorate seats to list seats, it's not in the scope of this submission so I've just left that out, not interested. I, I do anticipate a lot of opposition to this submission as the parties that do not contest electorate seats will only be eligible for a percentage of the 50 list seats and not as currently a percentage of the full 120 seats in Parliament. I've, I've been a bit tongue in cheek and said that the reason I have to put the submission in is that in future when they're researching what the electoral system was like in New Zealand at least somebody would have come up with a, to me, a sensible, logical system that makes sense and will know that we're all basically following a stupid system that I think the current one is. And that's basically my submission.

SIR HUGH: Mr Peden?

MR PEDEN: Thank you, Mr Adams. What you seem to be advocating is the supplementary member system which was one of the options at last year's referendum.

MR ADAMS: I sort of in a loosely way I can see the party seats more being looked at as – like the Australian Senate or whatever as a separate, so your votes, your electorate vote and your party vote are separate, they are not the same. Whereas at the moment I see the electorate vote being a waste of time. Why wouldn't you put an ad on TV telling everybody vote how you like in the electorate but give us your party vote because that's what some of the parties were doing at the last election. We don't care what you do in the electorate vote but give us your party vote and they're sensible because that's the vote that counts. That's the vote that got them seats.

MR PEDEN: Well, I suppose just a – I suppose my question was really rhetorical because the system that you're describing here is, is the supplementary member system so in other words it's not a, a primarily proportional system as the mixed member proportional system is. It's a system which provides for proportionality and only a limited number of seats, the list seats which you are describing.

MR ADAMS: Yeah.

1130

MR PEDEN: So, which really takes it outside the, the terms of reference of
5 the Commission because our obligation under the legislation is to review the
mixed member proportional system. One of your – I was very interested in
what you had to say about bi-elections zone. I just wanted to test your – test
the thinking behind your assertion that there's no – you can't understand why
a sitting Member of Parliament might want to contest a list. I wonder if I could
10 just use a – give you an example and see what your view in that might be. If
you think of the current Member of Parliament Hekia Parata who was
contested the mana electorate seat in the 2008 General Election. She was
unsuccessful and she was elected on to the list – through the list. She
contested the 2011 general election as an electorate candidate for mana, the
15 mana electric. For the 2010 bye election she contested the bye election as
the National Party's candidate for mana and if you were a National Party
supporter in mana wouldn't it have been odd if there had been anybody else?

MR ADAMS: I think that's the choice that they have to make or she has to
20 make. I, I don't – I think in an electorate election, bye election, the public look
at however is put forward by the parties. They don't sit there and think, "Oh,
hold on we've got somebody living in our electorate," or somebody who
contested a bye election earlier or was unsuccessful and now they're a list MP
or want to be a list MP we should look at why aren't they applying. I don't
25 think it's relevant. I really don't think it's relevant.

MR PEDEN: So I take it from that that you don't think there should be a rule
that says that a list MP can't contest the bye election.

30 **MR ADAMS:** I think there should be. I think a list – if a list MP wants to
contest a bye election they must resign or I think the public service years ago
used to have that if you wanted to contest an election as a public servant you
actually had to go on -

MR PEDEN: On leave.

MR ADAMS: Leave or –

5 **MR PEDEN:** Leave Of absence, still -

MR ADAMS: Same thing.

MR PEDEN: It's still civil law.

10

MR ADAMS: Same thing, don't, don't – why should you have that advantage of being an insider and having the resources available to you as a Member of Parliament to contest an election against people who don't. I think – but I still would say that a list MP under this type of system and I didn't look at supplementary voting or anything like that all I looked at was the current system and I thought it – I went through what the terms of reference were and I thought this came within the terms of reference which was –

15

MR PEDEN: Well I congratulate you on that. The thought that you've obviously put into it to come to this conclusion is quite tremendous.

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MR ADAMS: I just don't see why and this is in a lot of areas of Government at the moment, we over complicate and we over legislate and we don't need to and for some reason that's all that we seem to look at. I honestly have the feeling that if I didn't make the submission in person my submission would've probably not been looked at or taken seriously. It is so far outside the, the norm that a lot of people would've just dismissed it. To me it just makes so much sense and if you have a look at the parties that, that benefit are – well you don't know my political beliefs but they're not the parties that I follow, but they've, they've benefited from my system. Hey, just because I don't like the result doesn't mean that I don't put it forward or change it. I'm actually quite impressed that some of those parties have, have got a seat or two seats where in the past they wouldn't have had one or would've only had one.

25

30

MR PEDEN: Yes thank you.

SIR HUGH: Just following on from Mr Peden's question and this is a question I put to a number of the other 140 odd submissions we've had in person. I
5 mean why should a list MP be the only person in the economy who has to resign their job in order to be able to stand for another job?

MR ADAMS: Because basically they're applying for their own job again. They're already an MP. What are they doing? They're already an MP.
10 1135

SIR HUGH: Thank you. Mr Roberts? No, thank you Mr Adams, that you for the work you've put into that for coming along and making your submissions. The next scheduled submission is from Philip Simpson. We understand he may not have arrived. Danna Glendining?
15

SIR HUGH WELCOMES DAPHNE BELL AND DANNA GLENDINING

MS BELL: Thank you and good morning. My name's Daphne Bell and with Danna Glendining we were the co-convenors of the Keep MMP campaign in the Waikato and I do want to acknowledge Danna is the author of the submission before you but also, to thank you for coming to Hamilton to hear our submissions. I appreciate the logistics involved and it is really helpful to have this opportunity to submit to you. When we campaigned to keep MMP we found support across party lines, so it was a non-partisan campaign and we heard from people with no particular party involvement. And I think it would be fair to say that Danna and I have had a longstanding interest in electoral systems. We do see that how you write the rules can make a difference to the outcome. We are old enough I suggest to remember first past the post and the flaws that we saw it had and to see the improvements that MMP has brought and now we have some suggestions for further improvements and I'll hand over to Danna.

MS GLENDINING: I just thought I might add one or two things. I've been talking to groups round Hamilton about the MMP review and some things seem to have come out of that which I sort of feel enhance. Looking at just in terms of the research, in terms of the threshold, it seemed to me that a 2% threshold would probably cut out the sort of riff-raff and stop every women and a dog sort of creating a party, but I think that probably it's most unlikely that you would go down to that so and the 3%, so four seems to go back to what the Royal Commission is you know a sensible start and I think that most fair minded New Zealanders thought that when ACT got in and New Zealand First didn't get in. Now whether you support ACT or New Zealand First wasn't the point really. I think that most fair minded New Zealanders thought that that wasn't a fair go.

30

I've covered out the dual candidacy. I think that one of the things with the dual candidacy is that when Grey Power or the JCs or someone set up an election meeting they invite the electoral candidates and in Hamilton for instance and in the foreseeable future, either Labour or National are going to

win Hamilton East and West and but a whole lot of other candidates stand just to get that, get a profile in the area. Now that's not actually very satisfactory from the people that go along to the meeting but it's – and the fact that the candidates all have to pay I think it's \$300, so yeah I would prefer that only
5 serious electorate candidates stood for elect, for to be electorate candidates. But unless you change the thinking of the organisations that organise the meeting, I'm not sure how you get round that. Greater acceptance I think of list candidates.

1140

10 In terms of the open and closed lists, my research said that even if you have an open list, if Daphne votes one way and I vote another way they cancel each other out and also I think it gets back to the celebrity thing. If you put Dan Carter or Kiri Te Kanawa on your list they'll you know go to the top of the list because they – or in Hamilton if you're name's Gallagher they'll probably
15 go to the top of the list and also I'm afraid that would get back to men and women seeing white males as the ones who should be in these sort of positions that – and I think that reality is that, that would get more white men into Parliament which I'm not so keen on.

20 The only thing I do – have thought about is that, that with women still being quite disadvantaged where the lists should be required to have a minimum quota. I know that even ACT and New Zealand First have had to rattle around and find a few women for their lists. I think, is it in France that every second person has to be a woman? I think that – did I read that the other day? I
25 know that you know some is in Norwegian – I think a one to one we're actually having a – Green and they're having that debate at the moment where there should be alternates, but I think a 40/60 ratio, it gives a bit of flexibility in terms of other quantities.

30 Yes I think the proportionality and the statisticians, you're probably more qualified at what is the break end point and also I think it's 40 or 50 years before it really becomes a problem and I think there's a lot of water under the bridge for New Zealand and a New Zealand electoral system before we get to that. And there a couple of things, one of the things that Rod Donald was

always, as a proponent of MMP, was keen on that, that the electorate vote should change to a STV because I haven't actually worked it out in terms of how many – it's like the debate in local body's with mayors, how many mayors are, might not actually minority mayors. How many MPs are actually minority
5 electorate MPs and so I remember Rod always used to campaign for an STV system, but that might be sort of just floating the changes.

Oh yes the one, yeah of course the moment thing at the moment is to get rid of the farce of Epsom in a hurry at Belmont and the one electorate seat, which
10 I think you know, when the Royal Commission did their report, I think they were you know, I've got a lot of time for the you know the electoral comm – and Justice Wallace, but the one seat was a sort of thing, provision put in for a certain part of Germany wasn't it? And it really never applied, we don't have that sort of situation in New Zealand and I think you know, it's turned out to be
15 a mistake and as the previous speaker said, I think it has put a lot of people off and you know I would hope that your recommendations and men in Parliament as a whole will do away with that which just makes all the work that good people do to, for the electoral system a farce really.

20 **MR PEDEN:** Thank you for your submission. With the – on the thresholds, I take it from what you've said in that you believe 2% as a threshold would be practically feasible but that 4% possibly 3% might be publicly acceptable. Is that a fair...

25 **MS GLENDINING:** Yeah well if you look at the – there was the Christian Party in think in the first – in 1999 was it, that got a reasonable percentage for they divided and then – 2% actually would've excluded most of the you know the Marijuana Party or the Bill and Ben Party and you know those ones, but it would've, it would be a sufficient barrier to let you know, I
30 personally or though I don't support them, I think there is a certain, a sizable Christian conservative element in you know in the population and I think they should be represented in Parliament and I'm sure they will be next time.

MR PEDEN: And on, on your submission around the, the difficulty, the practical difficulty for list only parties being represented in campaign meetings you're, I take it you're not suggesting that there should be some sort of law change to try and manage that. That it's

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MS BELL: I think it's more of a local issue and not one particularly relevant perhaps for this arena and one that we might look at more closely. I think it's an ongoing issue of how politicians of any hue or level engage with their communities constructively and sensibly and challenging for us I suggest.

10

MS GLENDINING: I think that a bit like the previous speaker said I think that it's more honest if you're a Green or a New Zealand First or one of the minor parties standing in an electorate, it's more honest that you in an area that, that you're more upfront about just being a list candidate and that you don't actually plan to, to want the electorate and – but that and I know there is some pressure from parties to have their candidates stand in electorates but personally I actually don't favour that. I think that, that we want to enhance, you know, list MPs have got a constituency, quite a different constituency and I think that parties and candidates should be more honest about that really.

20

MR PEDEN: Because there are funding implications in terms of the party's total election expense limits.

MS GLENDINING: Yeah, well \$300 I think as a deposit is quite a lot.

25

MR PEDEN: But the amount that a party can spend on its election is dependent upon how many electorates it's contesting.

MS GLENDINING: Oh, yeah, well that would have to be changed, yeah.

30

MR PEDEN: My last question is around your proposal to have some sort of preferential vote on the candidate side. I suppose my – that would obviously complicate the paper, the ballot paper, and you'd have the, the voters voting one way on the party side and another way on the electorate side. Would you

favour having a preferential vote on the party side as well as the electorate side so that there was just one instruction to vote as to how they marked the paper?

5 **MS GLENDINING:** Well I think more people need to learn about STV. I haven't – I hadn't actually thought about having an STV for the, for the party vote. I don't know what effect it would have because it would only be your, your first vote that would count, wouldn't it, you know.

10 **MR PEDEN:** Well it would be possible to apply a preferential approach to the party vote side.

MS GLENDINING: Well certainly in terms of getting the candidate that most people in the electorate support STV is the way to go as, you know, as we
15 have been working for in terms of local bodies and of course, you know, those people who participate in health, in health board elections, have STV now so you know I don't really see that as an issue here. In theory not but in practice I think people perhaps resist change and find it a little bit complex and so the education and awareness of the electorate would be an important component
20 if you moved in that direction.

SIR HUGH: Certainly a number of submissions have suggested to us that list candidates in a particular area are disadvantaged because they're not invited to speak at public meetings and the like but I think I'm right in saying that most
25 people have accepted that however unfortunate that may be it's not something that can really be corrected by legislation. So – but I'm interested in your, first of all, in your choice of 3% is the percentage threshold, why did you choose 3%?

30 **MS GLENDINING:** Well I suppose I thought 2% was a bit extreme for you to come, you know, to come up with the answer and yet so I suppose I was moderating my personal view that 2% would be sufficient barrier having looked at all the –

SIR HUGH: So, it was really pragmatically based?

MS GLENDINING: Yeah, I suppose so, yeah. Probably fair to say there's a range of view on the actual threshold.

5

SIR HUGH: You suggest that parties should adopt perhaps a sliding scale or a ratio for women candidates. Would you suggest the same for say Pacifica candidates, for perhaps Maori standing in general electorates, perhaps more problematically for different religions?

10

MS GLENDINING: Well the Green Party has a one in 10 Maori sort of quota. Well I would, well I'm not sure. I think the greater diversity but I think people, you know, think we've made a lot of progress in terms of women but it's still quite a minority, aren't they, and so you have to have some sort of affirmative action really because the system as, people say, "Oh, why don't they stand in an electorate?" Well, the reality is that people elect white men and so the great diverse if they haven't sort of thought in terms of religion but of course more and more New Zealanders are sort of seeing religion as I think - I think certainly the ethnic diversity, Pacific, well I think it was interesting that the original Royal Commission thought this should not be a threshold at all for Maori parties or maybe Pacific parties. My thinking a bit like the threshold is that most New Zealanders wouldn't accept that so – and I think even less so now than at the time when they came up with that, that recommendation so I think –

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SIR HUGH: But again is a quota such as you suggest really a fit vehicle for legislation? One can readily accept that party's rules should perhaps provide for quotas.

30

MS GLENDINING: Well that's why I'm saying not 50/50, 40/60 and you know in those Scandinavian countries, I think it was Norway, they decreed that on boards and all sorts of things – what I'm saying is that I think we need to push things along a little bit and, and anything that brings a greater – and a better, you know, in the beginning when you were talking to Jack Vowles about the

representative, how people see New Zealand, we've got to – well we don't have to but New Zealand is becoming more diverse and we need to see that reflected in, in Parliament or, or it's to all our loss I think.

5 **SIR HUGH:** Dr Arseneau?

DR ARSENEAU: Picking up on that point and thank you for your submission, we've also heard that diversity tends to come most prominently in through the list and I note that you didn't discuss that ratio of electorate to list seats and
10 that is one of the areas that we're reviewing and I was just wondering have you given any thought to what's happening in terms of the growing number of electorate, on the electorate side, and the decreasing number of list MPs?

MS GLENDINING: Well the – I suppose I don't know enough about it to know
15 when it becomes a real problem in terms of, of not, of not being able to give all parties their proportionality. I thought that wasn't going to happen until 2051. But you're saying because it's the list that provides the Pacific Islanders or the – well I suppose that's up to the parties really to put sufficient people, sufficient women, or Maori or Pacific Islanders up nearer the top of the list so
20 that they get in. Yeah.

DR ARSENEAU: I meant more given what you were saying about diversity, I wondered whether you had strong thoughts about what the ratio should be between say electorate to list MPs.
25

MS GLENDINING: Well it just has to be, has to be sufficient so that the overall result is proportional, yeah, I think.

SIR HUGH: Professor Roberts?

30 1155

PROFESSOR ROBERTS: Yes thank you very much. You argued passionately for the abolition of the one seat rule and said that overhangs haven't been a problem, a small overhang does not seem to create any problems. If we kept all the current Electoral Act in place but abolition the one

seat rule, the last election would've resulted in a six seat overhang. Three from the Māori party and one seat each for the other three minor parties that got one seat. Do you think the public would regard that as a "small" overhang?

5

MS GLENDINING: No probably not actually. I think, I think most people didn't realise there was a two seat overhang before and I know when you look down on Parliament they have to create a few more seats, but I think six, six is quite a few isn't it? What do you think financially I imagine there's a cost and in the balance between proportionality and, and the issue you've raised which the electorate may struggle to accept I would think at that point.

10

SIR HUGH: Thank you for your contribution and coming along and sharing your thoughts with us.

15

SIR HUGH WELCOMES JEANETTE FITZSIMONS

MS FITZSIMONS: Thank you I've spent a lot of my life assuring submitters of exactly the same thing and I certainly don't intend to bore you by reading my whole submission. First can I thank you very much for agreeing to hear me in person when I know I missed the deadline for that and I very much appreciate the opportunity. I'm just going to make my main points very briefly because I suspect that question time will be more useful to you than what else I might say. The main one is that whatever changes you make it is, in my view, very important that we retain the proportionality which is the big advantage of MMP. That whatever we do with thresholds or overhangs or balance of electorate and list members that the proportion that a party gets is the proportion of the vote, is the proportion that they get a seats in the house. I think that is the great strength and the real democracy of MMP. Just picking up on the question that was asked of the previous submitter, "What happens when the number of electorates grows to the point where that balance changes?" This may not be a popular view among the public at the moment, but as the population grows I don't see a problem with a modest growth in the number of MPs. It's actually not true that we have a large number of MPs in relation to our population when you compare it with countries that have federal systems or upper house systems. They have far more elected representatives per 10,000 people than we do and so I wouldn't see it would matter if we went from 120 seats to 125 or 130 in order to maintain that proportionality.

SIR HUGH: But you're aware that one of the two things we are not allowed to look at –

MS FITZSIMONS: Is the number of seats in the house.

SIR HUGH: - is 120 MP house.

MS FITZSIMONS: Right that likewise I don't think that problem is so urgent that you have to deal with it this time round. I guess the point I would like to emphasize perhaps more than I did in my submission is the way that list MPs

are chosen. I only, in the last 24 hours, actually got hold of the legislation that governs that and was surprised to find that it's actually very strong and I will be very surprised if you have the knowledge to inform me that this is being rigidly adhered to by all parties. The only party I know of that gives every member a direct vote on the list is the Green Party and over five elections I've watched our attempts to provide direct democracy from party members in the selection of the list, gradually be refined and evolved into something that works really well and everybody knows that they have the opportunity to select, to vote for the list on a strictly STV basis, they rank the whole list and then an STV ballot is held electronically on each place on the list all the way through. If members of the public care deeply about the ordering of the list of the party they wish to vote for, then if that system is used, they have the opportunity to join that party and participate in that selection.

1200

I think there is a strong perception out there and possibly it's an unfair one, that in some parties all you have to do is be a mate of the leader and you get a high list place. I don't know how their indirect democracy works in terms of voting for an electoral college or whether it's just they voted for the leader and therefore the leader can decide on their behalf I don't know. You may have looked into that in much more detail. But I think if the selection of the list by the parties was transparent open and democratic for the party members, that is really all the members of the public have a right to expect. If in fact the public had the right to reorder the lists on voting day, apart from the chaos that that would cause within parties and I think in terms of someone whose had the job of thinking about how I would form a caucus out of the various talents and attributes that candidates have, I also would almost be tempted to vote for the party I liked least in order to put their most competent people at the bottom so some of this demand that's coming from the public for – they don't like list MPs because they don't think that they're properly elected, I think that could be addressed by requiring more transparent and strong adherence to the way the law is actually written.

And I said a little bit here about the role of list MPs and how they do have a constituency every bit as much as electorate MPs have and that one's

community of interest is no longer the people, just the people who live within a horse and cart travelling distance from where one lives, so I think I'll leave there and invite your questions.

5 **MR PEDEN:** The – having read section 71 I'm not surprised that you've found it to be quite a strong requirement and certainly we've heard the submissions urging us to recommend that it be strengthened and I've been thinking about well, "just how might it be strengthened," in a way that doesn't unduly bind parties and how they conduct their own internal affairs. And I'm wonder in
10 that short time you've had since you've read section 71, if you, have you got any thought on how it might be strengthened?

MS FITZSIMONS: I was planning to come here and tell you it should be strengthened until I actually got hold of it yesterday and now what I'm saying
15 is, if it is actually being observed properly then let the public know how it is being observed. Let the parties publish their exact methods for observing it. If it's not being observed closely, then perhaps we need a different level of enforcement because I actually think the wording is fine.

20 **MR PEDEN:** The wording follows very closely the recommendation of the Royal Commission.

MS FITZSIMONS: Right.

25 **MR PEDEN:** And the other requirement in the legislation is that the parties lodge their selection rules with the Commission and they're published on our website so people can find for themselves what the rules are. And given that and if a public perception is that either a parties' rules don't reveal a great deal of internal democracy or that whatever the constitution might say they're not
30 following it, isn't that sufficient for a voter to be able to make a judgment for themselves about whether they want to vote for that party or they want to vote for a party that is manifestly following the highly democratic process.

MS FITZSIMONS: Theoretically yes but I think you might do the public a service by instituting some mechanism whereby you arbitrate as to whether this is a sufficient observation of the Act or not. That just publishing it on the website, if it's patently inadequate, perhaps it's not as helpful as it could be.

5 1205

MR PEDEN: But other questions around your written submission on the threshold and you're advocating that the threshold move to 4% and shouldn't there be any links? It should certainly not be lower than 4%. I wonder if you
10 can just say why you think that.

MS FITZSIMONS: I actually think I said I was sort of agnostic as to whether it was four or five, it should definitely not be more than five and I thought it should not be less than four. Maybe it's an inherent conservatism of having
15 lived with the way things are. I do think that if Parliament comes too fractionated with lots and lots of two or three member parties, it may be more difficult to manage. It's not an issue I feel very strongly about, which is why I didn't give it a great deal of emphasis. I feel more strongly about the one seat rule which I thought when it first came in had some merit to it and the example
20 I would give for where it had merit to it was where I think it was the '99 election when you New Zealand First missed the 5%, but it got 4.5 or something and because Winston Peters won his seat and was going to be in Parliament anyway, he had the right to have another four or was it five MPs alongside him because that is what people had voted for. When it's observed
25 that way, the one seat rule has a lot of merit, but unfortunately the way it is mostly observed now, is it becomes the subject of deal making between parties.

If in the last election Peter Dunne and John Banks had stood for the National
30 Party, which is where they have pretty much ended up in practice, then National would have had two seats less in the house, because their number of seats would've depended on their party vote. There is the potential with the one seat rule of splitting off into innumerable minor parties, which each stand in one seat which you then give them by not standing against them or telling

your people to vote for them, thereby increasing your total numbers in the house.

5 Now you can't completely do away with that by abolishing the one seat rule, that's still possible but there's less incentive to do it if they're not going to bring a lot of other people in with them and so I think because of the way it has evolved, it needs to go.

MS HURIA: Just a couple of questions if I may, the first one is around we
10 heard this morning about – I'm interested in your views of possible advantages to sitting MPs standing in by-elections for example. Do you have any comment to make on that?

MS FITZSIMONS: At first sight it doesn't make sense for somebody who had
15 a job in Parliament to stand for another one, but when you look at it more closely imagine the situation where a person is very well suited to be the MP for a particular electorate where they live, but there is an incumbent and they don't want to challenge that incumbent for as long as they're there. Perhaps they're in the same party. They're a sufficient capable and valuable person
20 that their party wants them in Parliament anyway, so they're there as a list MP. Normally what they would do is wait until the incumbent stood down then stand in the next election for that seat. If there's a by-election they can't do that and if they're not able to stand in the by-election and someone else is elected, then they're faced again with standing against an incumbent from that
25 party and I think for that reason, I would not, I would not stop the present practice. I think it's one of those areas where the voters can make their own decisions as to whether this is a wrought or whether this is a genuine thing and I would leave it to them. I think where we can just leave it to the voters and they've got sufficient information then we shouldn't try to regulate too
30 closely, but in many cases the public are not – where I mean people have often said about MMP, well the public doesn't understand how it works, they never understood how first past the post worked either actually, I mean lots of people said to me, "oh I helped elect the Labour Government," or the ex-Govern - the National Government, because they voted for that party in an

electorate which had overwhelmingly won by the other party and they had no idea that their vote had never counted, so you know perhaps a bit more Pacific education in schools is the way to get around that one. So I think that is a case where we can leave it to the voters to judge.

5 1210

MS HURIA: Thank you, and the other question was around benefits, whether or not you feel that one person elected in one electorate should be able to have a title and the resources that go with party leader, or whether they should be seen perhaps as independents.

MS FITZSIMONS: A party has just one seat?

MS HURIA: Mmm.

15

MS FITZSIMONS: Well, no I don't see why they would have resources that go with a party leader in that situation and from there it's a bit of a wrout. I mean potentially once upon a time it could've happened to me, I wouldn't have expected to have the resources of a party leader, because although I had a party to lead it wasn't in Parliament and those resources are meant to be spent in Parliament, they're not actually for the maintenance of your party somewhere else.

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MS HURIA: Thank you.

25

SIR HUGH: Ms Fitzsimons, just going back to the party rules and the selection of candidates, we've had one of the Commission officers do an analysis of the various rules that are lodged with us on our website and there is an extraordinary, as one might expect, extraordinary diverse approach on the part of big parties, small parties, to the way in which they select candidates. You'd be pleased to know that a number of submissions have said The Greens met the – seems to be the most democratic. First of all, what more could section 71 do to promote democracy in candidate selection within parties?

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MS FITZSIMONS: It could perhaps give the Electoral Commission, if that is the right body, the right to say this is acceptable or this is not acceptable, that it must be satisfied is often words that is used in law, Commission must be
5 satisfied that the method put forward by a party satisfies section 71.

SIR HUGH: Would that be the Commission or somebody's par to adjudicate on the rules or the way in which they are operated? Because we've had several submissions which suggest that some parties at times just haven't
10 paid much regard to their rules in their candidate selection.

MS FITZSIMONS: Mmm, well it's hard to know how to enforce that without having a mole in the party. I think transparency is the answer, that maybe they need to publish what has happened at each step. Maybe they need to
15 give you evidence that they have complied. I know you don't want to be too heavy-handed about this and of course in the end it should be the party members that call their party to account if they've not involved them when they should, but that requires a level perhaps of political maturity and assertiveness on the part of members that they are often not going to have.

20

SIR HUGH: Or maybe unwilling to exercise, given that –

MS FITZSIMONS: Their own aspirations, yes.

25 **SIR HUGH:** Suing your own party's not the best route to success is it?

MS FITZSIMONS: No, well one would hope it wouldn't come to suing, one would hope there would be internal processes. I mean I know what would happen in our party, I know what does happen in our party. If there is
30 suspected to be any hint of the leadership having a greater involvement in list selection than any other person in the party and in fact I can assure you that the date the list was published I was sitting there chewing my fingernails as long, as much as anybody else but perhaps our members are a little bit more

aware of their rights and willing to challenge their party leadership than in some parties.

SIR HUGH: There is a long history of members of various societies, clubs, organisations, political parties, suing their organisations, clubs, et cetera, in the High Court. It's, I accept that it's a pretty blunt instrument for enforcing compliance with rules but who else would do it? Who else would, is set up to inquire into compliance with a minutia of the Green Party's candidate selection rules?

10 1215

MS FITZSIMONS: Would the threat of a complaint by a group of members in the party to the Electoral Commission be enough to give their leaders pause in the way they...

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SIR HUGH: It should be I can assure you in litigation of that sort the High Court is required to inquire into the most – I was going to say excruciating – the most minute detail of, of rule compliance down to the selection committee was meant to have four members, in fact only one of those had been a member of the party for the period required by the etc. And the Electoral Commission I suggest is not best set up to look at compliance with the rules in that way particularly because section 71 has no enforcement provision in it.

MS FITZSIMONS: Right. I think that's what's lacking in it and I don't know how you would do it and you see it might be that – I mean if it goes to the High Court then presumably the High Court can declare the list non valid and say start again or impose a penalty. You might not need to go that far. It might be that a bit of naming and shaming is all that is needed and it might be that the Electoral Commission if a complaint was taken to it could have a look and say, "Well it seems to us that this party has not complied," and send them a letter and make it public and they could then choose to thumb their nose at you but they probably would take it more seriously than that.

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SIR HUGH: You see the High Court can do no more than say, “This party failed to comply with its rules and therefore we invalidate the selection process,” but all that happens is that the party has to start again which might be embarrassing in itself but is unlikely to result in the successful plaintiff finishing up as the successful applicant for a seat.

MS FITZSIMONS: Well certainly if an individual brings a case I would think they have probably done their chances for a very long time but it might not be done that way. It might be a whole selection of the party that brought a complaint and it's different from say a football club that doesn't comply with its rules and gets rapt over the knuckles. Parties are so conscious of public opinion, they depend on public opinion for their jobs, if you like, so I think a public statement that they had not complied would be quite powerful. I think it would affect the votes they got.

15

SIR HUGH: As a sideline I can say non-compliance by football clubs with the rules comes within the same area. That's what stopped the All Black tour of South Africa in the early 1980s. But the Land Transport Act to overcome these, should I be saying petty fogging, the, the numerous cases where people challenge the breath and blood alcohol legislation on very tiny points of procedure, overcame that by introducing a provision of what was, what is, what is called substantial compliance, you know, if what was done was roughly right then it's okay, if it's seriously wrong, then it's one. I know you've only had the briefest of chances to think about that in terms of candidate selection, but might something along those lines be enough and give the Electoral Commission the power to, to adjudicate on that sort of broad basis?

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MS FITZSIMONS: I like the term substantial compliance. I think it gives the Electoral Commission the right amount of discretion and I don't think a party should be hauled over the coals and made to start again because one member of their selection committee had been a member for a month less than they were supposed to have been for example. So substantial is good. I also think it would be good if their rules were subject to some scrutiny as – like their rules either meet the requirements of section 71 or they don't so that –

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SIR HUGH: That's actually quite difficult.

MS FITZSIMONS: I know, I know.

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SIR HUGH: Perhaps more than anyone else in this room except the academics. What is democratic in terms of candidate selection can mean a very different thing to very different parties.

10 **MS FITZSIMONS:** Okay, but the law goes further than democratic, "Current financial members of the party, you are or would be entitled to vote for these candidates or delegates who have directly or indirectly in turn been elected or otherwise selected." Maybe (b) is a little bit loose. Maybe (b) needs a little bit of tightening in terms of who – like if other parties mostly have a small
15 selection committee that chooses the list then those – that, the people on that committee have got to be directly responsible to the financial members of the party in my view to meet the intent of section 71 but possibly not in order to meet the wording of it.

20 **SIR HUGH:** Well I can think of ways that rules could be phrased which on the face mightn't comply but anyway can we move on to a different and important topic. You're somebody, perhaps best qualified of all those who have made submissions to us, whose worked with MMP in Parliament with varying numbers of MPs to support you. How many MPs do you think – what's the
25 minimum number of MPs you think that would enable a party to function satisfactorily in Parliament, be in the house, speak in the house, do the select committee work, all the things that parties have to do. What's the minimum number?

30 **MS FITZSIMONS:** There are degrees of satisfactoriness and what I can say is that even with nine MPs in the '08 to '11 term we were, there were four select committees we could not legally be part of it, that we couldn't cover at all. There are I think nine, there are 13 committees and you can't be – and we had nine places basically because we had nine members and we had to

choose and we had some very difficult choices as to which committees not to be on because each committee covers such a wide range of things. If we were getting on with the Government of the day to some extent we could sometimes negotiate a non-voting extra member on that committee but that

5 depended on our relationship with the Government of the day. So even nine was, in my view, not really sufficient to participate fully. On the other hand, at the other extreme in 1998 and '99 where three Greens had been elected as part of the broad Alliance grouping and when we refused to essentially dissolve our party into a single party with the others and said we are going to

10 remain Greens and we had a conference decision that at the following election we would stand under the Green banner and two of us, Rod Donald and myself were trying to serve out our time as Alliance MPs in the most ethical way possible observing that policy doing as we were told in terms of what the whips required, speaking in the house according to Alliance policy

15 and everything else because understandably our colleagues were not frightfully happy about our decision. We were in fact operating as a team of two and it was very hard but it was still better than zero. So, yeah, I actually think the Greens have just got to the stage now where we can participate fully with 14. You probably don't need quite 14 but at least they have every

20 selection committee covered, they have enough questions in the house to make an impact at question time. Nine was actually enough to cover house duty, to make sure there would always be somebody in the house and there would be people on leave and there would be people doing other things so you could manage in that respect with nine but it's a sliding scale until you get

25 up to about a dozen and then I think life gets easier. I know that as a leader of a small party and this was particularly true after Rod died, I had most of a term before Russell entered the house, trying to cover all of the things that the leaders of the large parties do with the resources of a small party meant very, very long hours indeed and very, very short nights.

30 1225

SIR HUGH: You've suggested that four or 5% perhaps should be the percentage threshold which translates to what's that five or six MPs. That's rather fewer than the number you've just been talking about.

MS FITZSIMONS: We had six from 2008 to 2011. Two of us also had quasi Government positions that would have been called Ministers except for the objections of some other parties that were also supporting the Government and so we maintained this fiction though I was doing ministerial type work as
5 was Sue Bradford for those three years and working with the Minister and we had a caucus of only six. It was really, really hard going but I wouldn't say that, I wouldn't say that we weren't a worthwhile representation of the people who had voted for us and that – or that we weren't playing a role in Parliament. You basically do what you can with the cards that you're dealt
10 and I'm a sufficient pragmatist to know over the years that that's all you can do.

SIR HUGH: Thank you very much that's very helpful. Professor Roberts?

PROFESSOR ROBERTS: Thank you very much for a thoughtful submission and very thoughtful answers as Sir Hugh has just said. I'd just like to ask you drawing on your experiences as a Member of Parliament for 14 years and as a party leader, going back to the bye elections question, some submitters have said why not get rid of bye elections. They don't hold them in Germany
20 for example, why not just replace who's ever gone an electorate or a list MP with somebody from the party list, keep the number – the proportionality of Parliament and that solves whether list MPs or electorate MPs who are in Parliament should stand for a bye election, they won't be able to because there won't be bye elections. What's your reaction to that drawing on your
25 experience? It's outside the scope of your submission, it's only tangential.

MS FITZSIMONS: It's a very interesting idea I've not considered it before. On the face of it it's got a lot of merit, it would save the country some money. I guess the electorate might feel a little short-changed if the next person on
30 the list lived at the other end of the country and may be that person ought to be prepared to move to the electorate for the rest of that term so that they, the people did have a local MP to attend to their needs and, yeah, if a person wasn't willing to do that they might have to cede to the next person on the list, but I can see that being a workable solution given that it's short term. Yeah

sometimes bye elections – they tend to have very poor turnouts when it's not affecting – when there's no list vote and it's not affecting the makeup of Parliament. It might lead to electorate MPs quitting more frequently or being kicked out more frequently if the party doesn't have to face a bye election. I think all of those implications would have to be thought through, but I think it's well worth considering.

DR ARSENEAU: Thank you as well for your submission. I found it really – very clear and very informative. We have heard, as Sir Hugh said, a lot of people raise the Green's list selection process as one that they classify as democratic. I'm interested, do you have a cut-off date for when a person needs to join the party to participate in the list selection?

MS FITZSIMONS: Yes they need to have been a financial member for six months.

DR ARSENEAU: Six months because the other thing I've been – as I've listened to different submissions about this, we know that voters are incredibly volatile now, they switch from election to election and they decide very late in an election campaign how they're going to vote. So a six month qualification does it limit the people's democratic right to order a list because they haven't actually decided which party they're going to vote for and do you think that's a problem?

MS FITZSIMONS: I do question how well you would know the candidates that are standing if you'd only just joined the party and I don't think it's inherently undemocratic to say if you're that new a member you maybe wait 'till next time to have your say on the list. We have had one or two people be quite upset because they have somehow not picked up on all the messages that it was time for them to renew their subscription and then found that they couldn't vote on the list. I think that's just something that if you're advised you members that their subscription's due, it's probably up to them to make sure they pay it.

SIR HUGH: So you say the Greens substantially met the test?

MS FITZSIMONS: Yes, yes. Nothing's quite perfect.

5 **SIR HUGH:** Can I just come back again to the candidate selection process. I think it's fair to say that from the analysis we had done that there are probably more layers to the Greens' candidate selection process than some of the other parties, particularly the smaller parties. Do you have an accelerated process in the event of a snap election?

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MS FITZSIMONS: Yes we have considered that. I'm racking my brains as to what it is, but there is a process.

SIR HUGH: Well we can, we can look it up but we can, but do you have
15 much more compressed process if a snap election's called?

MS FITZSIMONS: We do yes, yes. In fact 2002 was not a snap election, but it was an early election. On the other hand it was, you would've had to have your head fairly well buried not to see the possibility early in the year and we
20 did actually make sure we had the process in place early that year. One of the disadvantages of course was list selection you've got to, well with this list selection the way we do it, is you've got to close off the pool of candidates wanting to be on the list quite early if you're going to have a postal ballot of all members. You can't have someone sort of trotting up the day before the
25 leader makes a decision. That's not altogether a bad thing. I mean standing for Parliament is a serious business and particularly standing for Parliament and expecting to get a position that gets you elected, a little bit of forethought and planning is not a bad thing to expect people to go through.

30 **MR PEDEN:** Presumably a reasonably expensive process to administer too I would have thought.

MS FITZSIMONS: You do have postage to every member yes. We do hold a conference but that is, it is both a candidate training conference and a

campaign manager training conference but also a conference that's open to all members and that is attended by delegates from all branches where the candidates for the list all do a three minute presentation and are available to meet people and to be, and to answer questions. I think that conference
5 would have to happen anyway, even if you weren't going for a vote for the list, so it's probably the postage on the votes and then somebody technical and independent runs the computer system that puts all the numbers together in the end and I guess you've got a lot of data entry as well. I've never looked at the budget for that. I think all of us, it's never been questioned as to whether
10 it's money well spent. I think everybody feels that democracy has a price tag and we're very happy to pay it.

SIR HUGH: Well thank you very much Ms Fitzsimons, thank you for your participation and for your enlightening comments.

15

MS FITZSIMONS: Thank you Sir Hugh and members.

HEARING ADJOURNS: 12.35 PM

HEARING RESUMES: 1.30 PM**SIR HUGH WELCOMES JOHN LAWSON**

5 **MR LAWSON:** I don't think there's very much that I need to add to my submission except to correct one of the figures, apologies that my maths wasn't very good when I put the submission in, so on the second point I talked about. National, ACT and United Future have a majority with 49.3% of the vote and that should be 48.98% of the vote I think according to the
10 Electoral Commission figures, apologies for that one, but the point was still there. But otherwise I don't think you need to say anything. I still stick to the points which I put in the submission and hopefully you might take account of them, that as if it was worth coming along to talk to you to see if you had any questions about any of the points which are in there or to maybe clarify
15 anything which I did earlier, but I think earlier I didn't hear very much which leads me to – at what I've point here.

MR PEDEN: Well Mr Lawson, I'm going to submission around the overhang and your suggestion to increase seats of other parties to maintain
20 proportionality what I think is sometimes called balance seats. That could result in quite a substantial increase in the size of Parliament. Do you, you obviously don't see that as a problem. How acceptable do you think that would be?

25 **MR LAWSON:** I heard Jeanette Fitzsimons' answer to that and I think I'd tend to go along with her that we have got relative to a number of people, a relatively small number of legislators and if necessary to increase that. There seemed to me that proportionality is the most important thing because that
30 actually reflects the democratic will of the people rather than the chance of who wins what electorate and therefore it seems to me to be something worth having to actually achieve that proportionality.

MR PEDEN: I suppose a response to that might be that the size of the Parliament would increase or decrease in a rather random way if this provision was made for – to compensate for overhang seats.

5 **MR LAWSON:** Yes.

MR PEDEN: So it wouldn't really be a response to the size, to the size of population for example, it would just be as a result of the outcome of a particular voting outcome.

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MR LAWSON: As far as I can see the size of a Parliament's fairly unrelated to the size of a population and there is an attempt to equalise the constituencies but beyond that the size of the population as a whole doesn't really affect the size of a Parliament and if it seems a problem then maybe there needs to be a reduction in the nominal size of a Parliament to be able to accommodate the extra, but it seemed to me that following on from what Jeanette was saying earlier that it isn't really a problem.

20 **MR PEDEN:** Okay. Otherwise I found your submission very clear. The 2% threshold, you're not concerned that might result in a large number of small parties making it more difficult for Government's to be formed?

25 **MR LAWSON:** Well it seems to me that the problem is a large number of small parties could arise from again what Jeanette was saying earlier that there's an arrangement with one or other political party to allow individuals to win particular seats and that seems to be a much more likely way in which you get to hold series of single member parties in Parliament rather than having a 2% threshold, because 2% should result in at least two MPs being in Parliament and it seemed to me that with 2% of 125%, so it's over two and less than three so it's just how much over two it is. And it seems to me that having two people again as Jeanette was saying, is a way of having a party, not necessarily as effective as having a dozen or more which what she was saying is an effective party and I tend to agree with her that in order to achieve that you'd probably have to have at least the 10% vote and 10% vote

would up 'til now have resulted in just the two main parties dividing the votes between them and wouldn't have achieved the plurality of parties which an MP has been useful in achieving.

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SIR HUGH: Thank you.

MS HURIA: Taken my question.

10 **DR ARSENEAU:** Me too.

SIR HUGH: So the, you settled on 2% as being equivalent to two seats in the house?

15 **MR LAWSON:** Yes but I'm saying it's, to have a single MP is probably not very effective, we're seeing with the existing single member party, the three which are in the Parliament at the moment, they're not able to be all that effective because they've got to be in all places at all times and spread themselves much too thinly to be all that effective, but to have two people, you
20 start to have an effective party and you start to be able to form an alternative if people are feeling not happy with the two main parties. It seems to me that MMP is there to provide an outlet for people who don't like either Labour or National and feel there ought to be something else which is going in a slightly different direction.

25

SIR HUGH: Well you were sitting in the back of the Court when Ms Fitzsimons gave her evidence and heard her say that as many as possible is to make an effective party, perhaps a dozen or so, does that cause you to change your mind about the 2%?

30

MR LAWSON: Well as I say, I think she's probably right, that dozen there's probably the ideal but in order to achieve that you need a 10% vote to, let's say in the last election that the Greens achieve that 10% vote and if they hadn't achieved that, if they hadn't achieved the 5% in previous elections they

probably wouldn't have been able to build up to that 10% vote, so it is very much of a problem with a new party as to how you get it going. New parties are regarded rather suspiciously by the, many of the electorates, some of them see it as a valid alternative and if you look at the history of political parties, they've all started on very small scales and the Labour Party gradually built up and replaced the Liberals in the same way the Greens have gradually built up from just about being on the 5% vote to now fitting within that 10% vote, which I agree is a more effective party but it doesn't allow for that political choice in the electorate, it doesn't allow them to have some form of protest vote to say that, really we want to start changing direction and to point political parties in that direction.

SIR HUGH: Right thank you, Dr Arseneau do you have any other questions?

15 **DR ARSENEAU:** No, you took mine.

PROFESSOR ROBERTS: Yes I was wondering Mr Lawson, your proposal for a 2% threshold, do you think that in 1993 or again last year 2011, people would've voted for MMP if they thought that this was going to result in a 2% threshold?

MR LAWSON: it's very hard to say what people would've vote for, except me, I would've voted for it, whether other people would I don't know of any opinion polls which suggest one way or the other on that. Talking to individuals, I get the impression that there's a whole range of opinions and certainly the views I heard expressed early this morning were talking about 4%, it seems to me that 4% is quite a high threshold for a new party to achieve and I think if the Greens hadn't been in with the alliance to start with, they would've found it very difficult to reach that 4% or 5% threshold and if you're looking at MMP as a way of allowing, as I say, the electorate to have a choice and say we'd like to start seeing some change between just having the two major blocks then you need to start somewhere and it seems much easier to start with a 2% threshold than even a 4% and certainly a 5% threshold.

SIR HUGH: Thank you Mr Lawson, thank you for coming along and giving us your views.

MR LAWSON: Okay, thank you very much for hearing.

SIR HUGH WELCOMES DARRYL SMITH

1335

MR SMITH: Mr Chairman, Sir Hugh and Commissioners. I have discovered an error given in my previous submissions which I have this day printed and circulated to you on page 2. Page 1 summarises my proposed amendments to the Electoral Act. Time does not permit me to speak directly to my summary or the correction but I am willing to do so in answers to your questions. I regard myself as an expert witness rather more than a lobbyist for my own personal views. I have tried to put myself in your place in presenting my arguments on matters entirely for your judgment, discretion and responsibility. I submitted to this committee in 1993 and a number of my recommended changes, rather more than I had thought were incorporated into the Electoral Act. I am prepared to advise you further if you so wish. I now wait on your examination of my evidence.

15

SIR HUGH: Perhaps you should just give us a moment Mr Smith to read carefully through the couple of pages you've just given us.

MR PEDEN: Mr Smith thank you for your submission. The – I suppose the starting point for my questions are in your recommendation that New Zealand adopt optional preference voting. And as I read your submission you'd be proposing that in relation to the electorate vote?

MR SMITH: I would propose that in relation to all the votes, both of those.

25

MR PEDEN: All the votes both on the –

MR SMITH: Yeah, the preference vote would have – give a better outcome, a more fair outcome than the electorates and give more choice to voters but the principle is the same and should apply generally.

30

MR PEDEN: Right and would you envisage this being able to be implemented using a manual paper-based voting system?

MR SMITH: Yes I do and I have in my submissions included a recommended pro forma of the ballot papers. I appreciate that the – to meet all the requirements for the list vote may be difficult which I alluded to that the voting paper needs to be simple enough with the preferences of the elector to be actually disclosed and obtained and that may be difficult if you've got just one constituency of the whole consisting of 120 members. I indicate that it is possible for the Commission to consider I wouldn't necessarily believe it's the appropriate time to do it, but consider dividing the electorate of the whole into now in my most recent analysis into five electorates based on 14 constituency divisions and allowing for 24 members in each of the proportional parts of the house which would mean drawing 10 down from each of those and that gives a 4%, a natural order of threshold without having to have a special arbitrary introduced, but such an arrangement may be just a bit premature because the community at large has said MMP has been a proportion over the whole house via a single constituency of the whole. But I think it's worthy of consideration because there'll be some other challenges as well.

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MR PEDEN: So that sounds very much like a single transferable vote system?

MR SMITH: Well I should start by saying that I think that all the electoral systems merge into the others if you change some of the parameters appropriately. A single transfer – I think the issue that was put to the people both in 1993 and last year created a whole system without necessarily the need of a case of defining what the whole system was. The only system that people knew was the one they had to voted for, had voted for in the past. So single – a counting method similar to STV can be applied to an electorate of the whole as intend to be. In fact even preferential voting is only STV in the special case of one member seats. I'm a mathematician I might point out. That's where my expertise comes from.

MR PEDEN: I gathered that.

MR SMITH: I think the Commission will have on this body at least one mathematician, I'm sure that it won't be you sir.

MR PEDEN: And on – could you just explain how your proposal eliminates
5 provision or the effect of overhang seats? You're suggesting that there would simply be a constant of 50?

MR SMITH: That's the answer. In fact that recommendation and the one
10 prior to that about the forming of successive odd numbers are both mathematical errors and if you think long and hard enough and I think I have submitted in the slide show why it is that they are errors you get a better answer by using the sequence of odd numbers than you do – sorry, the sequence of integers or whole numbers than you do with the odd numbers. The odd numbers led to a distortion in the second seat allocated and my
15 example proves why that is the case. I've studied literature on this matter and some of the, some of the literature says that the sequence of numbers, whole numbers, favours large parties. What really is the case is the sequence of odd numbers favours smaller parties and what really worries me is that by using a sequence of numbers you can play with the numbers and cause any
20 distortion you like and you come up with a bias just by changing numbers and my earlier submission to the select committee pointed out the numbers first chosen did have a very clear bias. They'd been borrowed from one of the European nations where they used it, the bias, to actually deal with the problem of small parties and in the end they chose two methods. One was
25 that bias plus the five, what was in the 4% threshold and, and didn't realise I think that they had actually chosen to – ways of dealing with that threshold so I strongly recommend reconsideration of the sequence of odd numbers because I don't think it gives the most accurate result.

30 And the other point which I think is also not really too much up for debate is that the overhang – I have always thought there were problems with the overhand for other reasons why is where the error addresses, this is my error addresses, and that's the paper, the second page, is actually page 8, revised of the slide show I presented and I hadn't realised that the previous

considerations of the – of the Electoral Act had actually picked up my concerns and they had dealt with the case of the members who are elected by, as independents, and included them in the proportion. It also picked up the issue of parties being set up specifically to contest the, the constituency
5 vote but may well be in some kind of coalition with another party so they actually were picked up. The problem was that there is an issue in terms of, of parties that get small numbers or even large numbers in the lists vote who are then comprise a, an overhang and that could have been eliminated and should have been eliminated because what we are doing with MMP is
10 assigning 50 members to actually correct for proportionality over the whole house in a way which is quite different from supplementary method which only uses the portions we expect in the, it's in the members who are discontested seats. Proportionality is both for the whole house. Now there can be an error created but it shouldn't be resolved by overhangs. In the case of – if you treat
15 the – vote in the, in the constituency as a legitimate vote, part of the proportionality of the whole, then all of those 70 seats should not be – should all be regarded as members of the house and only 50 list seats applied. I think on very close examination reflection most people would, who are interested in these areas would come to the conclusion that they may well
20 have held a different view at some time but haven't thought it through correctly. I'm not trying to be disparaging in any way.

SIR HUGH: No, that's fine, thank you. Ms Huria?

25 **MS HURIA:** Thank you for your submission. I'm just a little unclear in terms of your submission around the – what you're proposing in ordering candidates on the party list.

MR SMITH: Well I mentioned it in some parts in a number of ways. One is
30 I'm a bit concerned about the way in which controls are placed over parties in selecting members but I don't want to go into that in great length. I think if they come up with a bad list well that's their problem and it's also the problem of the elector having chosen something that perhaps they wouldn't have done if they had a better chance otherwise. That's not my real concern. My real

concern is that, is that the voter should be seen as paramount in the, in this electoral process rather than the candidates. It's the choice of the voter that counts not the choices of the candidates and in that sense the parties are at a lower level of, of precedence if you like, priority, than the voters and I think
5 that what is actually intended by, by representative democracies and an ability for the Parliament to reflect in a strong way and a stable way the views of the people and that gives the Courts the reason to take notice of the statute law.

MS HURIA: Are you opposed to the selection of candidates by the parties?

10

MR SMITH: No, I'm not.

MS HURIA: I can't, sorry, I can't reconcile what you say in my mind.

15 **MR SMITH:** I'm sorry. No, I am quite in favour of what I call alternative voting. Alternative where, where the elector is allowed to make the choices of their own and over-ride the parties and at the same time allow parties to put up lists so that it's from a shorthand, a lot of voters may want as a supportive party rather than particular candidates but I think that ultimately the choice
20 should be, that of the voter and if they've got two ways of doing it that's alternative then that should be allowed for and I support that. The Australian Senate elections allow a very complex way of dealing with them, with alternatives. I don't suggest that we should allow parties to put up more than one list. The Australian Senate elections allow them to put up as many as
25 they like and which could make the ballot paper very large and their alternative voting system includes the names of everybody who's nominated on the ballot paper and though the senate elections are usually only, only six seats available to be filled they're sometimes under a double disillusion there can be 12 and even 12 is a little bit hard for an elector to get their minds
30 around all the qualities of the candidates and in the end I believe it's important that electors have got the ability to select on what they think are the competent representatives and what, that's why I favour alternative voting. I realised you need some form or shorthand particularly in the case of the

constituency of the whole where 120 seats is effectively up for grabs via that mechanism in some way or another.

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5 **SIR HUGH:** Mr Smith thank you for the industry that you put into this. I just wanted to clarify one issue. I have a series of three essays that you gave the Commission in mid February.

MR SMITH: Yes.

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SIR HUGH: They were based on data before the referendum I think?

MR SMITH: I was very –

15 **SIR HUGH:** So the later material that you want us to take into account is it?

MR SMITH: Yes in this case, but it, it was the information that I have gathered in terms of having to, I made a press release but none of it actually appeared. I think I got too long, too sophisticated, but yes I was hoping that
20 will be a straight runoff between MMP and STV. What we've got is revision of MMP but that gives a little great deal of scope to the Commission to make changes within the provisions of Parliament made.

SIR HUGH: Right thank you, Mr Roberts?

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PROFESSOR ROBERTS: Could I just make one very small point? I would like to echo Sir Hugh, you've done a huge amount of work for the Electoral Commission and thank you very much for your papers and the slideshow which I did look at. We haven't obviously been able to show it here.
30 I just want to raise on thing. On page 5 of your 16 May paper you say, "Algorithms that commence with numbers greater than one favour smaller parties." The Scandinavian states have this in Laguia formula that we've got dividing by success of odd numbers, but all three Denmark, Norway and

Sweden raise the first divisor to 1.4 precisely to make it more difficult for small parties to clear that first seat.

MR SMITH: Yes I'm aware of that item.

5

PROFESSOR ROBERTS: It rather contradicted with your statement. I just wanted to –

MR SMITH: No there's not a contradiction, it apparent contradiction. Really it comes back to the, the use of whole numbers or faction numbers, 1.4 is a fractional number. If the number at increment is less than one, then it favours the large parties and the reason for that, I won't go into the reason for that, but when you start with a very high number, say not 1.4 but 104, then effectively even with odd, even with odd numbers increasing it's really an odd number relative to 120 which is a small number and for that reason I think you get close, you get the exact answer the same as high school maths, if you just start with one and go up. If you want a bias then do that by either, if you want to eliminate small parties I should say, one should either make the house a lot smaller or divide the system by the electorate as a whole into regions and just use the natural area that arises from its size as an electorate and, or alternately put a, an arbitrary restriction (inaudible 13:59:15) the Act now has.

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SIR HUGH: With the threshold?

MR SMITH: With the threshold, but I have a, I don't like the threshold because they appear arbitrary and cause some, some parties and voters to feel that their vote hasn't counted in some way or the, that's why I don't like that. But I think it's permissible in the sense of the, that very small numbers may hold the Parliament to some kind of ransom, but I don't think you actually ever eliminate that. In Norway the voters can come up with an answer for the members which is subject to some instability in anyway.

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SIR HUGH: Thank you very much for that explanation.

DR ARSENEAU: And thank you, I also want to say thank you for your submission. Can I – I just want to make sure I understand what you're recommending in terms of by-elections? So if an electorate MP dies or resigns.

5

MR SMITH: Yes.

DR ARSENEAU: How do you think we should fill that seat?

10 **MR SMITH:** Well I think there was two things that I agree with just using the previous vote, I don't really think a by-election is appropriate in that case. I actually don't think it was appropriate in the single member seats either but that's another matter that would require a different way – you'd have to put a party list for the single seats to able to, to be certain that you'd got the
15 replacement, which was the wish of the people at the time they voted. But I won't go into that because I think it's almost the last of my summary stuff, which is the issues which could be considered by the Commission into the future rather than something in the present. But at the present time there is a problem of a very short list and if somebody puts up a – that I raised last time
20 and they did put an answer in and put it at one. Maybe it should've always been more than six to be in line with the 5% threshold but alternatively, I can see no good reason why an eliminated party's vote shouldn't be then assigned to the next preference, party preference over the list. That would be easy to do even if you don't give the right to individual voters to vote according
25 to their preferences. You could still make party preferences, preferences allow them, so you can vote this party ones for party two, this party three but don't give the opportunity to individuals yet to actually choose their own because they might need very careful analysis in respect to the other, Sir Hugh's question, a large analysis of how to make and draw up a ballot
30 paper that is simple enough to list, to obtain all the preferences.

DR ARSENEAU: Thank you for that, thank you.

SIR HUGH:

Thank you Mr Smith, as I said before we certainly salute your industry, thank you for coming along and giving us your views.

5 **MR SMITH:** If I'm still around sir I may submit to their selected committee in due course if they come up with anything. I hope sir that your Commission does make decisions that imply that Parliament should actually act on your advice.

10 **SIR HUGH:** Well as you know we only have a power of recommendation, we can't compel the house to do what we recommend.

MR SMITH: That's right. Well that's the way it should be.

SIR HUGH WELCOMES TONY BOOTH

SIR HUGH: You're Mr Booth are you?

5 **MR BOOTH:** Yes indeed I am.

SIR HUGH: We've all read your submission Mr Booth and we all want to have a chance to think about it. You address us on your principal points and anything new you wanted to tell us and then we'll take the opportunity of
10 asking you some questions.

MR BOOTH: Fine. I guess my main point is about the party lists. It doesn't matter whether you talk to pro MMP or anti MMP people, the predominant message that comes through is people do not like the party lists. On top of
15 that, personally I believe, that they're contrary to one of the basic principles of democracy and that is that the people should elect their representatives. So basically my proposal is that we do away with party lists entirely. Now I appreciate we have to find another way of finding the balancing MM – Members of Parliament for the proportional representation. My suggestion is
20 that once the votes have all been counted the parties list their losing candidates in order of the proportion of the vote in their electorate they were successful in achieving. The additional MPs then made up with those losing candidates who got the highest percentage of the votes in their electorate. The only downs that I can see is that some electorates would end up with two
25 or possibly even more MPs, but I don't actually see this as a disadvantage and nobody that I've spoken to has come up with any other reason why that should not be so. The advantages would be that even though they weren't elected in their electorate, they would still have a substantial amount of the electorate support which would signify that they're acceptable to the
30 electorate. It's a more democratic process than the parties having MPs who have not been elected or who in fact have stood and not been selected by the electorate sitting in Parliament. And not only that we have at least three Ministers that I can think of who haven't been voted into Parliament in the current session. I think that one proposal addresses something like four of the

questions that were on the questionnaire you put out on the submissions. Happy to field questions on that and then I'll make one or two other smaller points.

5 **SIR HUGH:** Thank you. Just before I invite questions, I notice that you are suggesting there should be no Māori seats in Parliament. You will be aware of course that one of the two matters that we cannot inquire into is the question of Māori representation.

10 **MR BOOTH:** I'm aware of that. I made the point because of a personal issue. I lived in South Africa for four years under apartheid and any sort of racial separation in the electoral system or Parliament is absolutely abhorrent to me. And I know the history and the background to it all, but I also feel the Māori seats are not needed any more under proportional representation.
15 They have a party who looks after Māori interests, they get a proportion of the vote, then they should get the seat proportional to that. But...

SIR HUGH: There is as you're probably aware a constitutional review in progress at the present time.

20

MR BOOTH: Yes.

SIR HUGH: The question of the Māori seats in the house is one of the matters that that Committee's looking at, so if you haven't already done so
25 you might be interested in making your submissions on that topic to the constitutional review body. We can give you the website contact if you want it. Now Mr Peden.

MR PEDEN: Mr Booth could you just explain why you don't think people
30 elected from the party list are elected?

MR BOOTH: I appreciate that some people would say that by voting for the party you're also voting for the party list. There are two issues there. One you have no ability to influence the sequence of the party list at the moment

so at the very least the electorate ought to be able to be given that ability. The second thing is that I don't believe that the majority, and I would say 90% of the people that vote even know who's on the party list at the time they vote. The vast majority of people vote either on principle, because that's the way they've always voted and that's probably the way they always will, all because

5 they've looked at the policies of the party and what the party is suggesting that it might do in the next three years and they vote according to that. I very much doubt whether many, if any, people vote on the basis of the party list.

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10 **MR PEDEN:** So if I can understand it then, the concern about the current system is that when somebody votes for a party they're voting on a party list, the information is there for them to look at but they don't look at it so they're not directly influencing the election.

15 **MR BOOTH:** Correct.

MR PEDEN: They think of people that they're – coming in on the party list So can you just explain how your proposal would be an advance on that? If you think of an electorate contest where the, say a party, let's call it party A gets

20 10% of the party vote so it's entitled to 12 seats in Parliament and so from the electorate contests we would need to find the 12 candidates for party A that didn't win an electorate but got the highest percentages across the – those electorate contests within, amongst the candidates of that party. Say a candidate of party A came third or fourth in an electorate contest and they, but

25 they are one of the 12 highest, would that really be a satisfying way, does that really address the concern that you're concerned about?

MR BOOTH: I believe at least it gives the electorate the chance to have their say.

30

MR PEDEN: How, if they're the second or the third or the fourth most popular –

MR BOOTH: Well firstly it's highly unlikely if they're the fourth, they would've got a high percentage of the eight votes in that electorate.

MR PEDEN: Second or third.?

5

MR BOOTH: I would think the majority of them would come from the second candidate and at least then a proportion of the people in that electorate would see the person that they had voted for sitting in Parliament, whereas at the moment they see not only people sitting in Parliament but ministers in
10 Parliament who have not been voted for.

SIR HUGH: Thank you, Ms Huria?

MR BOOTH: I mean, sorry if I could just –

15

MR PEDEN: Sure, please.

MR BOOTH: I understand that there are arguments that you vote for the party, you vote for the party list but as I've said we don't have any influence
20 over who goes onto that party list. The second argument that could be used is that the party knows best who we need in Parliament and therefore they go to the top of the party list. My answer to that is, is that that is also highly undemocratic. I mean it's only a short step from there to saying that only people that hold a party ticket can vote or only people with degrees can vote
25 or only people with Arian features and blue eyes can vote.

MR PEDEN: Isn't the response to your concern though, you obviously know which party you're likely to prefer, if you wish to exercise influence over who's on the list wouldn't you join the party and have a say when candidate
30 selection is taking place? Because you can't be concerned about the order of the list of the parties that you're not going to vote for.

MR BOOTH: True, or not true because those lists also put people into Parliament who haven't been voted in.

MR PEDEN: They get one vote.

MR BOOTH: We actually get two votes.

5

MR PEDEN: So would another way of addressing your concern be to provide voters with some form, some ability to be able to order the party list in the ballot, at the polling place?

1415

10 **MR BOOTH:** For me, that would be the absolute minimum of the change that we should make at this opportunity.

MR PEDEN: How would you see that, do you see a way in which that could be done?

15

MR BOOTH: Well the only way it could be done is by supplementary form within the election that the party that you vote for you get to list their, list MPs in preference. But it, to me that's an awfully clumsy way of doing it when there's a much more simpler way of taking the preferred losing candidates by a percentage of the votes cast.

20

SIR HUGH: Thank you, I'm just interested in your proposals about the overhang. You say no parties should get more seats in its share of the vote right, those candidates with the lowest percentage of the electorate vote should relinquish their seat to the next highest polling candidate so are you postulating that the house should be limited to 120 come what may and that if you happen to be, I didn't fear too well in your electorate tough luck, you don't get into Parliament, you're going to get bumped?

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30 **MR BOOTH:** It's the reverse hand of my first proposal isn't it basically?

SIR HUGH: Yes.

MR BOOTH: Yes, except I would substitute 100 for 120. That's also not under debate.

SIR HUGH: We're not allowed to look at that.

5

DR ARSENEAU: Thank you for your submission. I'm sitting here pondering what you've been saying and some submitters have talked about the electorate MPs are in a sense prioritising geographic representation so it's, it's really putting into Parliament it matters where the vote takes place right, versus the list is much more about nation representation, nationwide, and in that case some people might actually quite like to have a list that would indicate the sort of order that the party places these people and so therefore the most likely sort of Government or front bench you would have. So your system wouldn't allow them to see that and potentially the leadering wouldn't even end up top of the list. So would you, do you have any issue with that?

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MR BOOTH: I've got a possible answer to it. I don't necessarily have a problem with a party list showing the order in which the party would like to see its people elected, as long as those people all stand in electorate and only get in or not on the basis of the votes in that electorate.

20

DR ARSENEAU: But I wonder then if other people might come and complain that they voted looking at the party list, it's thinking that they were getting a particular thing to have to changed around substantially based on local votes in different electorates?

25

MR BOOTH: I think that's a distinction that could easily be made clearer in, obviously whatever changes are made are going to have to receive a certain amount of publicity so that everyone understands the new rules. And I think that could easily be made clear. Personally I'd rather see no party list whatsoever.

30

DR ARSENEAU: Thank you.

PROFESSOR ROBERTS: If I could just follow on from this, one thing your position would do would basically to be force all the attention on the marginal electorates because that's where you're likely to get the highest proportion of the vote as a person whose not an incumbent MP.

5

DR ARSENEAU: Yes.

PROFESSOR ROBERTS: And one of the criticisms of first past the post is that the election's centred on 20 to 25 percent of the electorates and the rest were irrelevant, so that the high profile much regarded candidate who is sent to fight an unwinnable electorate on behalf of his or her party would have no chance of getting into Parliament because they were only going to get 23 percent of the votes on their electorate whereas the person contesting the marginal electorate could get 48 percent of the votes. Isn't that going back to where the elections concentrates in the hands of a few and it becomes almost an accident of geography or where the candidates –

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MR BOOTH: No I don't believe it is because remembering under the current system and I'm not proposing we change this in any iota, we have two votes. We have one for the candidate or the person that we would like to see represent our area regardless of their party and we have one for the party which sets the number of MPs that party has. So the fact that a seat might be marginal has nothing to do with the actual election and who's going to govern. It is purely on which candidate attracts the most votes in that electorate. I personally didn't vote for the candidate representing the party that I voted. But that's a personal preference a lot of people do.

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PROFESSOR ROBERTS: I am say a National voter in the electorate of Rongotai and Chris Finlayson is the candidate in Rongotai, but I really like Annette King, I give my party vote to National and I like the local MP, it's not going to affect the party balance in the house by giving my vote to Annette King but it does mean that Chris Finlayson has no chance of getting into cabinet. Into Parliament.

30

MR BOOTH: It's democracy.

SIR HUGH: Thank you Mr Booth.

5 **MR BOOTH:** There was a question about the cut-off, 5%. I don't believe that
one candidate with a strong character and personality who carries a seat
should automatically bring in other candidates from that party unless the party
reaches a threshold. Now whether 5% is the right threshold or not I haven't
the faintest idea and I'm not going to comment on it, but the fact that for
10 example, in the '96 election the Christian coalition got 4.5% of the vote and no
MPs. In the '08 election Act only got 3.6% of the vote but they got five MPs
and to me that's basically wrong. The cut-off should apply regardless of
whether a party gets a seat or not.

15 **SIR HUGH:** Thank you and if we don't ask you any questions about that it's
because I can assure it's a subject that's been well ventilated in our hearings.

HEARING ADJOURNS: 2.22 PM