

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

**AT WELLINGTON**

**ON 15 MAY 2012**

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**HEARD BEFORE ELECTORAL COMMISSION BOARD MEMBERS**

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**9:25am**

**SIR HUGH WELCOMES KELLY TONKIN**

**SIR HUGH:** Good morning, are you Kelly Tonkin, good morning in New Zealand.

**KELLY TONKIN:** Good morning. Can you hear me ok. There seems to be a long delay – can you hear me ok.

**SIR HUGH:** Yes we can, thank you, your image is a little fuzzy, but we will proceed because we are short of time we will proceed even if you're not entirely clear but as long as your words are.

Thank you for agreeing to join the Commission with your submission on MMP. We have all read the submission. We have here, I am Hugh Williams, I Chair the Commission, next to me is Jane Huria, the Deputy Chair, Mr Robert Peden, Chief Electoral Officer, at the end of the table, and on the left of the table as you see it, Professor Nigel Roberts and Dr Therese Arsenau the political scientists helping us. We've all read the submission, please feel free to address us reasonably concisely on your main points and then we'll take the opportunity of asking you some questions.

**KELLY TONKIN:** Ok, sure, I will certainly try and be precise. I guess the main points of my submission are that to me MMP is at heart a proportional system based upon the parties. In addition, which is the mixed element, there's a place for individuals, who, are after the election, to represent an electorate in their own right. The system has been chosen by the New Zealand population three different times over the last decade and a half, including at last year, it seems to me in my mind, working reasonably well, but there are some key issues we should address.

In my submission I really had two main issues I was trying to raise – one was the number of electoral seats and the way that is determined. Our demographics are pushing this number of seats up, it's highly, highly, likely that the number of seats will continue to rise, and this is reducing the proportionality of the system, and as a side effect increasing the size of parliament. It seems to me that the current system of determining the number of electoral seats is pretty archaic, almost nonsensical in today's environment. I'm not absolutely sure where it comes from, I guess the early colonial era. We have neither the size of the seats nor the number of seats fixed at this point, rather a fixed number in the South Island, and this then gives rise to problems with the overall proportionality of the system. It seems to me a very simple issue to change, at the moment we have an arbitrary number of seats in the South Island, we could change that to an arbitrary number of seats in New Zealand, then that number is fixed, it will purely be the size of the number of electors in each seat that would vary.

That was point one of my submission. The second point was to do with the thresholds for entry to parliament. We have our two thresholds at present, one is an arbitrary size on the proportion of the vote that is achieved by a party. There can be arguments for and against that, that you want some minimum level of support for a party before it enters parliament, though I absolutely accept that it could also be argued that if you get enough votes to get one seat in Parliament, that is sufficient support. But the other threshold I fail to see any real rationale for that threshold, ie that if someone wins an electoral seat through their personal support, and happens to be a member of that party, then that party does not have to meet the first threshold and it is waived, and I do believe that this is one of the key popular issues that has caused disquiet with our electoral system over the last couple of elections. If that threshold were simply to be removed, and I believe that many of the criticisms that have been levelled at our system may have been addressed. It would clearly have an impact on the cases of the number of overhang cases.

They were the two main points that I wanted to put across, was that the system for the number of electoral seats, and the thresholds for entry into parliament. I'll stop rambling there.

**SIR HUGH:** Thank you Mr Tonkin. Mr Peden.

**ROBERT PEDED:** Thank you Mr Tonkin. On your proposal around the electorate seats, the effect of your proposal would almost certainly be to see a reduction in the number of South Island seats, and while I see as a current Cantabrian you wouldn't be concerned about that, but I wonder if the other proud Cantabrians and mainlanders would consider that acceptable, given that the very large size of the electorates already.

**KELLY TONKIN:** I can't speak for all the rest of my fellow mainlanders - I can assure you that my parents would not be concerned about it. What I do suspect is that the number of people that know that the number of seats in the South Island is fixed, that are not sitting in the room that you are sitting in at the moment, is probably counted on the fingers on a couple of hands - we have to have some system - I don't really see why it is determined by the number of people who chose to live in clearly the superior island.

**ROBERT PEDED:** With the - if the Commission was to conclude that this wasn't going to be a problem in terms of proportionality, and the ability to be able to maintain proportionality in parliament for the next 20 or 30 years, would you feel comfortable about leaving the problem until open to the time it becomes a real problem?

**KELLY TONKIN:** I guess the question would be that if you believe that there is a problem and you've got a group people that are looking to address problems, why not address it at this point in time, rather than wait for a couple of decades - I guess on your initial starting point I'd be very interested to see your - hear whenever it comes about how you would solve the problem of proportionality because it does seem to me that unless you decide the demographics will sort of turn around the trends of the last hundred or so years, that we are headed inexorably in one direction.

**MS HURIA:** Mr Tonkin, I am interested to know your views around the size of the electorates that are already they - we've heard from some submissions that they are quite hard to manage, particularly in the South Island, because of the geographical spread, that long skinny nature of the blessed isle, that you would have any concerns about that?

**KELLY TONKIN:** I understand the difficulties, well I've never been an MP, so I don't have any first-hand experience with this, but I can imagine the difficulties that are involved

but I don't really see why the fact that part of our country is vastly populated should then lead us to determine our electoral system so that we have substantial problems with the overall nature of our system, and I would go back again to saying to my mind the absolute heart of our system is that it is supposed to be a proportional system, and if that is a belief that was shared, then having anything in place that tries to address a subsidiary problem that then leaves to problems in your main heart of your system is not a sensible solution.

**MS HURIA:** Ok, thanks Mr Tonkin.

**SIR HUGH:** I might ask you something after our academic advisors, Professor Roberts?

**PROFESSOR ROBERTS:** I wanted to ask you to just expand on where you said "when a person wins an electorate seat, they are elected in their own right as a person, not as a member of a party" – I want you to just want you to justify that statement because there are arguments that in fact the most important thing is the selection by a political party, and there is the argument that in Clutha-Southland you could put a dog with a blue rosette and it would be elected, and in Wigram you'd put up a cat with a red rosette and it would be elected. In other words the Party label even in the electorates is paramount.

**KELLY TONKIN:** I won't make any comment on Clutha, and I will bite my tongue severely on Wigram as that is where my parents lived, and I spent my first 30 years – what I would say is that the selection by parties by people is absolutely paramount, but not the selection of people that sit in electorates, rather than make up the party list. In terms of the selection peoples in electorates, I guess that my belief in the way that MMP is supposed to work, and I think this is one of the reasons why you can't have too many electorates right (or rot?) at the side of parliament is that the actual person whose elected in an electoral seat should make no difference to the overall makeup of parliament as long as your system is proportionality.

**DR ARSENAU:** Thank you for your submission and for putting up with the time delay with the video link. Can I follow on from that point because you raised an in reference to the by-election, and so am I am right in thinking that you feel that after a by-election proportionality should be maintained in the sense that the result of the general election, so

if there's a switch – I wasn't quite clear on the point you were making in terms of by-elections, so I just want to tease that out.

**KELLY TONKIN:** Yeah, I think probably the reason that you weren't quite clear on the point I was making was that I wasn't quite clear on what point I actually had to make on that, it may well have been better if I had left that particular box blank. My belief is that the system, that parliament should look the same regardless of whether someone steps down or not, and so that was how I began writing and then immediately ran into the practical issues of the fact that you are then having two people impacted by the resignation, whatever the cause happens to be, of one person. So I take the coward's way out to answering that question and say that I would almost prefer to twink out that particular answer that I put in that box.

**ROBERT PEDEN:** Would the logical solution to your concern be that there be no by-election and that if there's a vacancy that arises you'd simply fill it from the next person from that party's list. That would maintain the proportionality of the ....

**KELLY TONKIN:** Yes, that would solve my main concern while of course raising a couple of other concerns about the fact that that person was chosen in their own right, nothing still with the party as such, and indeed you've taken away the right of that electorate to determine who is going to be the representative for that electorate. So hence again I am taking the coward's way out of that question.

**SIR HUGH:** Thank you Mr Tonkin, my question has been answered. Thank you Mr Tonkin for your participation - thanks for your contribution and we apologise for any inconvenience you may have had to endure to talk to us at this time.

**KELLY TONKIN:** No, absolutely no inconvenience, thank you very much for taking the time to listen to me and good luck with all your deliberations.

**END OF CALL: 9:42am**

**9:50am**

**SIR HUGH WELCOMES ROBYN GWYNN**

**SIR HUGH:** Yes, good morning, is that you Robin Gwynn?

**ROBIN GWYNN:** It is.

**SIR HUGH:** Robin, Hugh Williams here, former Massey Counsel and Chancellor and now Chair of the Electoral Commission. How are you?

**ROBIN GWYNN:** Right, it's good to hear from you.

**SIR HUGH:** We meet again, I knew you had retired, but hadn't realised you retired to the Bay, whereabouts are you?

**ROBIN GWYNN:** I'm on Napier hill.

**SIR HUGH:** Ok, how nice. Well we're all sitting here anxious to hear from you, Robin, and as I said I Chair the Commission, my Deputy Chair is Jane Huria, who is on my right, and to her right is Robert Peden who is the Chief Electoral Officer who is a member of the Commission, and we have two political science assistants here, Professor Nigel Roberts and Dr Therese Arsenau. The format we have adopted is to assure you that we have all read your submission, we've got unfortunately fairly compressed timeframe, so if you'd care to address us on the principal points you want to make, and then we'll ask you some questions, maybe the Commission first and then Professor Roberts or Dr Arsenau, so you fire ahead.

**ROBIN GWYNN:** Right, well thank you very much, and thank you for the opportunity. I'm sorry you can't see the whites of my eyes and vice versa, and if you could, for those of you who have not met me, I am a white bearded pakeha knocking on 70, and I am a former history professor from Massey and I've spent the last 16 years in Hawkes Bay where I served one term as a city counsellor. I think the only other possible relevant facts about me would be that I am not a member of any political party and in 1993 I was a member of the electoral reform coalition national body.

I would like very much to start by thanking you for your work and I hope the parliamentarians do take note of whatever your findings may be and do act on them because some retuning of the system is needed, although overall I don't think it's working too badly.

Perhaps because of advancing years, I am looking more to the future and how electoral things will work out over the next 10-20 years, and I suppose the prime thing is that New Zealanders need to have confidence in whatever system they've got, and I think that that means the system has to be fair, so I suppose the place at which I'll start then is the 2<sup>nd</sup> point in my written review, maintaining proportionality, because really the fairness argument overrules all the others I think – it is the basis for political legitimacy and the system must be fair. So I'm sure I don't need to develop the point, but it seems to me that it is essential that that principal of proportionality is maintained – everyone's vote should count equally.

And then if you jump to the 4<sup>th</sup> point in my submission, I think there's an implication of that with regard to people who bring MPs in for no better reason than they have won one particular electoral seat. I think that no party ought to have excessive influence because it has achieved that. I mean, when I think back to, heavens, I think it was in the 1980's and I am sure that one of your political scientists would remember the case, but I seem to recall a case where basically the government in NZ was decided by 17 individuals in Taupo who just happened to be in the right place in the right time, and I don't think that should be able to happen. So I think it is essential that the system is fair and that proportionality is maintained, and I think it is undesirable to have the current system where which is bringing in extra people just because you've won a seat, I can't really see a justification for it.

Perhaps we could return to the first point of my submission which is reducing the 5% threshold - now I didn't have figures to offer you on this subject, I certainly think the 5% is too high, and I think there are plenty of examples in the last 10 years where that has been demonstrated, and the result hasn't been fair and reasonable. So I think the 5% needs to go down, and the question is how far. I think 3% is possible, I think below 3% would be too low, my personal conclusion was that three and a half per cent would be good or 4% would be good, and I don't have a strong feeling between them.

Looking to the future we also need to see that New Zealanders are involved, and it's certainly a worry to me to find so many young New Zealanders who have no interest, don't think politics have anything to do with them, or that they have any duty to even go out and vote, and so I developed this point, and perhaps I ought to speak to this because you may have had fewer submissions on it about reconsidering the question of compulsory voting.

*Towards a Better Democracy* was a magnificent production – when it discussed this particular issue it said that it didn't think compulsory voting was needed, but it also said if the voting percentage falls, then we think it needs to be looked at again, and I believe it's now reached the point where it does need to be looked at again – the figures are quite startling really and the drop is consistent and of course there are many people not even enrolled apart from the ones who are enrolled and who are not bothering to vote. The Royal Commission, I think, got hung up on, sort of, fairly minor questions which I tried to deal with in what I wrote, which I don't think hold water, but I do think New Zealanders, especially young New Zealanders, need to realise that they've got a civic duty to vote, how do we achieve that is an interesting question. One way is to simply make it compulsory, maybe another way would be to say well for people below 25 we will give them a \$10 voucher towards something if they do turn up and vote.

**ROBERT PEDEN:** That had been suggested as a solution by young people.

**ROBIN GWYNN:** Well it's, I mean, it is if you like, the outcome of what happened in the 1980s where we threw out a society which was based on the idea of a common good and a common purpose and replaced it by a society which said the only thing that matters is money – and I have no particular time for that as a philosophy but it's what in fact governments have worked on over the last 30 years, so, yeah. Anyway I think that there is a need to look at this issue and to reconsider it - the more logical thing possibly would be to fall in line with what Australia does, I suppose – and then there's a beast in Australasian construct – so I think that needs to be looked at.

I closed my submission with a thought about a different seating arrangement in parliament which might help break down a them and us attitude – actually what I would really like to see in parliament is people seated simply alphabetically, not by party – it's probably not

possible in a party structure, but I think that would go a long way to breaking down some of the more stupid aspects of parliamentary behaviour.

**SIR HUGH :** I'd thought you'd finished, I'm sorry, Robin, carry on.

**ROBIN GWYNN:** Well I was just finishing, yes, I'm quite happy to finish, but thank you for your time and I'm not quite sure whether some of those things are in your brief or not, but those were my thoughts on that issue.

**ROBERT PEDEN:** Mr Gwynn, just on your point around compulsory voting, the Justice and Electoral Committee is undertaking an enquiry now into the conduct of the last election, and one of the things in their terms of reference is the question of turnout, and so I would expect that the question you raise will be considered by them – you didn't make a submission to that, did you?

**ROBIN GWYNN:** No I didn't, and I have to acknowledge I wasn't aware it was happening – newspapers, certainly in the Bay, are not particularly good at giving you that kind of information. I'm glad to hear it is being reviewed.

**ROBERT PEDEN:** The only other point I wanted just to ask you about – on maintaining proportionality and the ratio to electorate seats, so long as we could be confident that we could maintain proportionality - if we were to move over time to, say, a 77 electorate seat, 43 list seat split, would you be comfortable with that?

**ROBIN GWYNN:** You will have the mathematicians and statisticians to know whether that's practical and possible, I am surprised it is as high as 77, I would have thought it was a bit lower than that, but in principal, yes, I mean I think that the argument that needs to be kept is the fairness argument, and how it's achieved is to me a secondary issue, and I don't feel particularly confident to comment on it.

**ROBERT PEDEN:** I suppose just as a way of reassurance on the question of compulsory voting, you can be assured that it is something of concern to the Commission, and something that we are looking at quite closely.

**ROBIN GWYNN:** Good.

**MS HURIA:** Dr Gwynn I was just interested to know if you had any particular reasons, specific reasons for the 3.5 threshold, or whether it just felt about right, really.

**ROBIN GWYNN:** I'm afraid it's second. I don't know how you establish in statistical terms what the right thing is, it does seem to me one of the advantages of going to 3.5 rather than 4 is that it actually assists, I think does it not, in removing any worries about not letting someone bring in other people with them, should they win a seat – because if it's down there this is very rarely going to be a serious matter, anyway.

**SIR HUGH:** Thank you. I was going to ask you about compulsory voting, but you've answered that. Dr Arsenau, nothing? Professor Roberts?

**PROFESSOR ROBERTS:** I just wanted to thank you for a very interesting submission and particularly for raising this question of voting in its wider context, and decline in turn out. I should also say that I was speaking to a former member of the Royal Commission and asked him how they decided on the 4% threshold they came up with, and he assured me that it was on the goldilocks principal - 5% seemed a bit high and 3% seemed a bit low.

**ROBYN GWYNN:** Well, overall I have to say the authors of that book did a magnificent job, I think they got it dead right, probably, for the time they were talking about.

**PROFESSOR ROBERTS:** It's certainly very widely quoted internationally still to this day.

**ROBYN GWYNN:** Yes, and deserves to be.

**SIR HUGH:** Ok. Thanks Robin, thanks very much for talking to us, thanks for your contribution and participating in the call this morning.

**END OF CALL: 10:03am**

**10:10am**

**SIR HUGH WELCOMES PETER McCaffrey**

**SIR HUGH:** Good morning, Mr McCaffery. Presumably you can see all of us, I am Sir Hugh Williams, Chair, Jane Huria who is the Deputy Chair, Robert Peden who is at the end of the table, who is the Chief Electoral Officer – then Professor Nigel Roberts and Therese Arsenau. We've all read your submission – because we've only got a relatively brief time to discuss it with you would you care to address us fairly concisely on your main points, and then we'll ask you some questions - members of the Commission first, then the political scientist advisors.

**PETER McCaffrey:** Sure – alright, well thank you for having me. I am Peter McCaffrey – I was a student of Nigels at Victoria University where I studied Political Science. I am currently working in Canada for 6 months as a policy analyst for an independent Think Tank. While obviously this is my own personal submission, I'm also currently on the board of the Act Party, and while I know you've already heard from the Act Party I have talked to a few other board members, but I guess you could consider this kind of as a minority report if you like from Act, nothing official, but a few of us didn't quite agree with what the rest of the party said, so that's a bit of a background.

So, I addressed most of the questions in the proposal – the main points I make here is that I am proposing no threshold which would provide a default threshold of about .5% I think essentially whatever would be needed for one seat – I'm suggesting that the one seat electorate threshold is a necessary evil given the current high party vote threshold which I would like to see gone if the threshold were lowered below, say, 3%, but if the threshold were kept above 3% I believe that the necessary evil of the one seat threshold outweighs the evil of the existing party vote threshold, if you like. It's kind of a balancing act there. Perhaps the most interesting part of the submission is that I am suggesting we abolish electorates entirely - that may fall outside of your scope somewhat – but that's perhaps just something I wanted to put out there as that seems to be the way politics is heading, it's much more centralised nowadays, it's not a local community type thing where you elected someone that you know from your local community, like say in a council election – it's much more a party driven politics in New Zealand at the moment – that's the nature of MMP –

and I think that the work that local electorates MPs do could be done much better by other groups in the community, whether that's councils or whatever, and that then a pure list election system would be a much better way to go. I don't support allowing the public to reorder party lists, essentially my view is, that if you want to have input above and beyond choosing between parties, then you should actually get involved in the party of your choice and influence how they choose their list, and have an input on that which most parties allow everyone to do. With regard to the changing demographics which have set the electorate seat allocation, I would prefer to see more seats than a reduction in the number of list seats to ensure proportionality, and New Zealand actually has quite a small number of seats in parliament per capita compared to many other countries, so I don't see that as a big deal – might not be a politically popular move, but that would be my suggestion - and then finally with regard to, I mentioned one other issue, which was the party hopping – the issue of MPs quitting a party and switching to a new party, or staying as an independent – I actually think that that should be allowed, there shouldn't be any restrictions on that – and that's because when a person is voting for a party with their party vote, they're actually voting for the list of that party, not for the person at the top or for any particular thing. The best example I could give of that would be, for example, United Future, when they had three MPs in 2005, I believe, and the party decided to support the Smacking Amendment Law change, and one of their MPs quit, and became an independent and later set up his own party to contest the election, and his argument was that what Peter Dunne and his other MP said that this guy had left their party and therefore they had fewer votes than they had been given by the electorate, but Gordon Copeland argued that actually he was better representing the people who put the party into there in the first place. I don't think there is any way for you, or for law or for existing politicians to make that determination of what the voters were intending when they get that vote, and so the best way to determine that would be to allow them to split and to allow the electorate to decide who gets back in, and in that particular case only Dunne got back in and none of the others did, so I think the electorate sorted that one out.

In conclusion, I would advocate that you don't hold back on your recommendations, I think you should be advocating for whatever you think is the best system - I know the politicians will probably work in whatever is proposed anyway, cause they have to take into account

political considerations and, you know, all that sort of stuff, but I hope that you would recommend whatever that you think is best and let the politicians deal with the politics side of it, so thank you. I don't know if we have any time left if you had any questions?

**MR PEDEN:** Mr McCaffrey, thank you. On the question of the thresholds, I understand your preference would be effectively no formal threshold, but assuming a threshold somewhere between 5% and 3%, why do you think there should in that case be a one seat threshold. What's the reason and principal or practice for retaining the one seat threshold?

**PETER McCAFFREY:** I believe that the party vote that someone casts is indicating a preference, and that to put a line anywhere is to say that, well just because fewer people agree with you than agree with the guy that lives next door to you, your views don't matter, and I think that's unfair. I think that we should take account of everyone's vote as much as we can as possible – if that means that group of 1% of New Zealanders only gets one person to represent them in parliament, well that's proportional, I think that's fair. I don't see why if someone gains 2.9% as opposed to 3.1% that we have this arbitrary line that the only arguments for it seems to be cohesiveness of parliament, and things like that, and I don't mind those arguments – I mean a most recent case would be Israel where even since I made my submission there were some disagreements from coalition partners, Netanyahu who was wanting to make a deal in Palestine, and his more radical coalition partners weren't letting him, of course they have a big coalition of lots of minor parties there, so he went across to the Isle and he's formed a new government with the major opposition party.

**MR PEDEN:** I understand your argument for lowering the threshold, that the primary threshold to – what I'm wanting to understand though, if there was the decision not to remove the threshold to say, have a 5%, or a 4% or 3% threshold, I understand from your submission you would advocate retaining the one seat threshold, and what I'm wanting to understand is the rationale for that.

**PETER McCAFFREY:** Well, I think it's just an offset against the fact that I believe that the 3% or the 4%, or the 5% threshold is quite unfair – and it's not an ideal offset, I just think it's one that allows more people's views to be recognised in parliament, so the fact that Winston Peters won a seat, the fact that the Greens won a seat, the fact that Act won a seat, the fact that Peter Dunne won a seat allowed him to have his voters views recognised,

and I see that as a good thing, I'd much prefer if those views were recognised just because the party received the party vote they received – so I'm not suggesting it's the ideal solution, but I think unless you are to lower the threshold significantly, it would be a greater harm to remove the threshold because we're likely to end up with fewer and fewer of peoples votes actually being counted. So I am not suggesting it be a solution, it's as I said originally, it's a necessary evil that I believe outweighs the evil of the threshold we have at the moment. If the threshold were to be lowered, then that balance between the two might be changed.

**DR ARSENAU:** Are you enjoying Canada?

**PETER McCAFFREY:** Yes, it's a lovely 26 degrees today, Celsius – a couple of months ago it would have been Fahrenheit, but no it's lovely and warm now, nice early spring.

**DR ARSENAU:** That's great. Could I ask you a quick question, and that you for your submission, especially from the other side of the world - you talked about being opposed to open lists, and said that if people wanted to affect the ranks ordering lists and join the party – and you have been, I assume, very closely involved in the list ranking of the Act Party, being on the Executive – I was just wondering, we've had a lot of people complain that the process is not democratic – is your sense that in terms of your knowledge that there is real input in terms of how the list is rank ordered for party members?

**PETER McCAFFREY:** Well it varies between parties – I have advocated within Act for more input from members, but again, parties are private organisations and it should be up to those members of those parties to advocate for or against that. I suggest Act makes more democratic, I think that would make for better results for the Act Party, and give us better, more seats in parliament because we'd get a better list selection process, and ultimately I think the solution for that is, that if someone doesn't like the way the party is run, they shouldn't vote for that party, and so if we value parties having democratic list selection, and people having input into it, then over time things will trend that way because that's how voters will react. I notice in Australia at the moment the Australian Labour Party in New South Wales has just announced they're going to have an open primary for their selection for their Sydney Mayoralty candidate, so they're going to let anyone not even a party member vote for who their candidate will be, not even just the list – and they're doing that

because they think it will be popular, so I just think it's better to leave that to parties and that if we view that as valuable, then parties will be pressured into doing that anyway.

**PROFESSOR ROBERTS:** Peter, thank you very much for your submissions, and should point out that the person who got the job you set up a Facebook page job for, was actually Robert Peden.

**PETER McCaffrey:** Ha ha – it wasn't anything personal it was just that Nigel mentioned in class one time that he was the only one of three authors of the particular book who hadn't had the job yet.

**SIR HUGH:** You must have had a touch of the sun, you seem to be blushing.

**PETER McCaffrey:** No – it's really hot here.

**PROFESSOR ROBERTS:** Just to ask you to clarify your view on the thresholds and what you call the evils of the thresholds, one of the biggest criticisms of the one seat threshold is that it occasionally let parties into parliament, bring other MPs into parliament, despite the fact that there were parties that got a higher party vote that couldn't bring in MPs – most noticeably in the 2008 election, Rodney Hide's second victory in Epsom, brought in four additional MPs, the New Zealand First Party with a higher share of the party votes, 4.1% as against 3.7% brought in no MPs – and so I think that's why there has been a lot of concern, and you were concerned that the thresholds were unfair, but that's – so how would you respond to that criticism of retaining the one seat threshold?

**PETER McCaffrey:** Sure, well there are two responses – firstly that is that, and Winston Peters himself has acknowledged this – that it takes a lot of resource to win an electoral seat, and so in 2008, sorry 2005, Act basically took all of our activists around the country and put them in Epsom for a month to win that seat. We did that because we judged we couldn't have reached the 5% threshold, given what was going on. But we don't know that. Had we not spent the effort in Epsom, we may have actually reached the 5% threshold. Similarly, Winston Peters, didn't spend the time campaigning for an electorate, if he had, his vote around the country, because of the resources he'd used up, may have been significantly lower than 3.76% or whatever the Act got, because he would have had to have taken up resources from around the other country, and Winston Peters acknowledged that.

So that's just a particular occasion that highlights that issue there. But the more principal - the more direct response there is that two wrongs don't make a right, so the fact that Winston Peters' voters were disenfranchised and didn't get representation into parliament is unfair, but that is as a result of the high threshold. Winston Peters' voters didn't lose their representation because Act voters gained theirs through the electorate seat they lost it because we had a high threshold. If you were to remove the one seat threshold, all you end up with in that situation is having two party's voters missing out on representation in parliament, which is worse. So you are right, there is an unfairness there, but I don't think the solution to the unfairness is to make it more unfair for two parties, it's unfairer to both by raising the threshold.

**PROFESSOR ROBERTS:** Thank you very much, thank you – you've been well taught.

**SIR HUGH:** Thanks very much you for joining us Mr McCaffrey, and thanks for your contribution.

**DR ARSENAU:** Say hi to Canada for me.

**PETER McCAFFREY:** Great, will do. See you.

**END OF CALL**

**10:45am**

**SIR HUGH WELCOMES WAYNE BROWN**

**SIR HUGH:** Good morning Mr Brown. Thank you for joining us, I Chair the Commission, to my right is Jane Huria, the Deputy Chair and at the head of the table is Robert Peden who's the Chief Electoral Officer and a member of the Commission. The other people at the other side of the table are further from you, Professor Nigel Roberts, and closer Dr Therese Arsenau who are political scientist advisors to the Commission. We've all read your submission, you'd appreciate we've got a fairly brief time to speak with you. What we're doing is inviting you to talk to us briefly about main points, so it's over to you.

**WAYNE BROWN:** Thanks very much. I'm well aware of the need to be brief, I'm in the middle of five days submissions from the public about our long term plan, so I'll be brief.

My main point was you are discussing the link between having to get one MP into parliament and whether the 5% should follow therefrom – I'm not too fussed about the 5%, but I think that all parties should have one MP in before they can get any per cent in, if there's not one place in New Zealand where a party can't find a majority then they can't be representative of anything in my view. What's driving me is where, I'm as remote in a Mayor as you are from where you are, without falling off the country, and I am the Mayor because I've been democratically elected, as have the other three mayors in Northland, none of us are members of political parties – we have a combined vision of introducing mining into our district, and I'm being constantly assailed by members of parliament saying that I have no mandate and these are typically people for who have represent parties who have not even come second to anywhere in the country, let alone first – and there's not a single area of New Zealand where they can convince the people that they are worthy of a mandate and it's not as if it's particularly high threshold – we've got Hone Harawira has managed to get in on his own, Mr Banks, Mr Dunne – I think there are others as well in there that are in there alone, as has Mr Anderton has been – so if you can't convince one part of New Zealand that you are worthy, I don't want to hear from you – and I especially don't want to hear people telling us that we have no mandate. I'm not a member of any party, all of the mayors here have actively campaigned on the basis that we want to have mining in our district, and we are assailed by totally non-representative MPs telling us that

we have no mandate to do this, and I find that offensive, and is non-democratic, and of course those people are nearer the power based than we are, nobody ever bothers to visit the far north when they are doing a national campaign to find out what people think. I'm very pleased you've gone to this trouble to hear from somebody that far away. There's some occasionally visit Whangarei and say they've done Northland, but I live, my house in Auckland which I have when I'm there my business is closest to Whangarei than where I live. So that sums it up really. Basically, if you can't get in anywhere we don't want to hear from you. Allright?

**SIR HUGH:** So the MPs you have spoken to are all list MPs are they?

**WAYNE BROWN:** Every single one of them, most about all of them Greens, but, and from other odd parties, but what offends me is that the content of what they are saying is that I have no mandate. This is people who can't get second anywhere.

**SIR HUGH:** Well we understand your point – Mr Peden.

**ROBERT PEDEN:** Mr Brown, could I just – I understand you don't have any issue with the 5% threshold your concerns are about the one seat threshold. So do you support the idea of a proportionate party, a parliament of party where a party.....?

**WAYNE BROWN:** Yes I do, I do - but the minimum requirement is that somewhere in New Zealand you have to have a mandate, and look at - the rural voice of New Zealand is disappearing because 50 years ago there were half a million new rural New Zealanders, and now there is half a million rural New Zealanders, but the non-rural ones have gone from about a quarter of a million to four, so a rural party might emerge somewhere or another, but if they can't get somewhere to back into them, then the rest of the country shouldn't hear from them.

**ROBERT PEDEN:** I just wanted to test one thing with you, that – say a party gets 10% of the party vote, which would entitle them to 12 seats in parliament on a proportionate basis, but because their support is spread nationally rather than one particular location, they are unable to win and they are never likely to win one electorate seat, your proposition should be that that 10% of the constituency shouldn't be represented at all?

**WAYNE BROWN:** Well, it wasn't for most of my life and nobody seemed fussed about it, and when you just said what you said then was incorrect, you'd say that they would never likely to be, then they would likely to bother under the current rules. If the Greens, for instance, which is a party most likely to be in that circumstance, had to meet a one seat threshold, they'd make a damn good effort somewhere. At the moment they don't have to, they just go around telling the rest of us that we don't have mandates. If they had to get one seat, I can tell you they did get one seat or they're making a damn good go of it, but you have a look at their behaviour, it's completely impacted by the fact that they don't have to. It's not a matter that they'll never get one, it will be that they will never bother to get one, and you are encouraging that behaviour by not having a single seat minimum standard. It's not a very high one, if the Mana Party can meet it, if the United Party can meet it, anyone can meet it - it's just a matter of is there an incentive to meet it.

Thank you very much for listening to me.

**SIR HUGH:** Hang on, there are still some more questions yet, I'm sorry you can't get back to your public submissions for a moment.

**WAYNE BROWN:** I'm quite happy to stay here I can tell you, the standard of this debate I'd like to say, is a little higher - I've just had people suggesting that I change ratings systems of GST, as if I had the power.

**MS HURIA:** Mr Brown, I'm just keen to hear from you around your suggestion that voters should be able to reorder the top 10 places on a list, and I'm just wondering does this mean that you think that voters will have enough information or will have taken the time to have got the information to make it an informed choice?

**WAYNE BROWN:** Ha ha, that's a very large question isn't it? I mean, do voters make informed choices? Ha ha ha - I'm voted in as a Mayor - of course I've got to say they make informed choices. But, um, perhaps they make totally irrational choices, it's probably quite as well - but, um, why shouldn't they? That's not probably as strong a point that you'd have to hit one MP is the first thing (*sentence not clear so might not be accurate*).

**MS HURIA:** And the other point I was going to raise was about your suggestion that you prohibit dual candidacy? And I was wondering whether or not you placed any weight on the

fact that that may limit the choice of candidates, because parties won't field people they highly value in any electorate where it's not a sure thing – if there's such a thing - and that will limit the choice, they'll pop people on the list, that will limit the choice available to voters?

**WAYNE BROWN:** I think what it might do it will make people feel that they have to have to have some skin in the game. I mean, there are a few people that kind of swan in there without much effort at all and don't achieve much either. So you could say yes or no to both of those I suppose. Again, it's not as burning an issue to me possibly as if you can't get a seat, sod off. You know, that's my view.

**SIR HUGH:** You said that we should reduce members of parliament in direct proportion to the increase in population. Wouldn't that make every electorate seat progressively larger? They'd have to represent progressively more people?

**WAYNE BROWN:** Well they do. I mean, local government has been without much individual say, Auckland has now become the Mayor there is representing a hell of a lot more people there than previous Mayors, and I believe that most people think that's quite good. I'm not necessarily a fan of amalgamation for amalgamation's sake, but I think the Mayor of Auckland is representing a hell of a lot more people than we've ever had before, and I speak there as a – I'm not an Auckland resident, but I'm not a large Auckland rate payer – and I think a one representative down there is probably not a bad thing, so is that such a bad thing? I mean, as soon as we went to proportional representation the seat size has jumped like mad.

**PROFESSOR ROBERTS:** Thank you very much for a very interesting submission and the linking of the two thresholds, I think is something not many people have done, I think you've argued it cogently, particularly in this discussion. I'm just a little bit concerned – I want to tease out the implications – the Green Party gets 10% of Mr Peden's mention, say, for an example, entitled to 12 MPs and they get their 12 MPs because of a radical student in Dunedin North has won an election to that electorate. Would you respect their views anymore because they've got a student elected in Dunedin North?

**WAYNE BROWN:** Yes, because they would have had to make an effort somewhere to convince a small part of New Zealand, and a part of New Zealand that is close enough to them to actually understand that person, they would have convinced that person that that person would have convinced that area somewhere or other, you say it's a radical – it's more likely to be fair to be probably be an intelligent school teacher in the Coromandel or possibly it could be, I mean it – to make it more realistic it might well be – I mean I'm a developer and I am proud of looking after the environment, I mean that's why I live up in the countryside, but they've got this view that you can't be a – they have pigeonholed me because they've never had to actually be involved in an electorate level to really convince a group of population, a small group, that whatever they are standing for is sensible.

**DR ARSENAU:** Again, thank you for the submission, and it is an interesting point that you are making because we've heard some other submitters talk about how MMP mixes electorate representation or geographic representation with more nationwide – do you think your proposal of only having the one electorate seat threshold would do some damage to that second part of the representation, which is having more nationwide.

**WAYNE BROWN:** Well we don't now – I mean the Green Party which is the one sort of that has promoted my views, despite the fact that the environment is almost totally rural, that party is almost totally urban. Now, so what representation are we getting now at the moment? If they had had to go for convincing one area of New Zealand you probably, they would have to be genius to work out whether to have a crack and it probably isn't Dunedin. You know, there are some areas in New Zealand where the environment is a real issue, and this is one of them up here. We have no MPs from the Greens up here at all, we have input from urban dwellers who have no idea of the issues. Half of them don't know the life cycle of a lettuce plant, so I think it would improve because one member would actually have to be talking to the public in their area. At the moment the New Zealand First Party and the Green Party don't have anybody who is particularly talking at an electorate level. ....  
(*sound problems*) as a developer a local body relationship as the Mayor our local MP makes a bit of an effort to talk to you occasionally because he is associated particularly with this electorate. I'm not particularly involved in the party that that person represents and that changes from time-to-time, and even – but that person has a bind – he has to understand

what it is for talking to an electorate, and the others ones they can get on with it, they don't have an idea about that, it is no imposition to do that, no need to do that at all.

**SIR HUGH:** Thank you Mr Brown, you can cheerfully go back to your week of submissions. Thank you for your participation.

**WAYNE BROWN:** Thanks very much, cherry oh.

**CALL ENDED**

**11:05**

**SIR HUGH WELCOMES COLONEL BOB JONES**

**SIR HUGH:** Yes, good morning Mr Jones, or would you prefer we call you Colonel?

**BOB JONES:** As long as you don't call me late for supper, anything is ok.

**SIR HUGH:** That's fine – well I'm Hugh Williams and I Chair the Commission – thank you for joining us and participating in the MMP review – also present with me are the Deputy Chair of the Commission, Jane Huria, the Chief Electoral Officer who is also a member of the Commission, Robert Peden, and our two Political Science Advisors Professor Nigel Roberts and Dr Therese Arsenau. The way we have been approaching these matters is that we're assuring everybody that their submissions have read, which is accurate, you speak to us – given the short timeframe, fairly briefly if you wouldn't mind – you speak to us on the main points you and your wife wanted to raise in this submission, and then we'll ask you some questions. So it's over to you.

**BOB JONES:** Very good. Thank you. First of all I want to thank the members of the Commission for taking the time to hear my submission today, or our submission – and second I would like to state clearly that MMP as we currently have it is not my first choice of electoral methods. I would actually prefer a quota preferential system by employing a single transferrable vote and a party vote, but something like the Hare Clark system in Tasmania, but that's really for this time and place – MMP as we now have it is better than most electoral systems, and by far the best system we've had in New Zealand.

When I first came to Aotearoa, New Zealand, more than a quarter of a century ago, I fell in love with this wonderful land, which I assume most of you can understand - well all of you can grasp with te whenua of the land, and with what I think of as nga tangata whenua katoa which is all the people of the land, and my understand of New Zealand is that it's a nation built on giving everyone a fair go. Now, MMP provides that fair go because with MMP each voter's party vote counts equally to determine how many seats each political party gets. Now I've lived and worked in Broadwood in the far North, I've been to Bluff in the far South, but whether I'm in Broadwood or Bluff my vote counts equally, and I think that's important. I can understand why some politicians might not like MMP, unlike some electoral systems,

MMP admittedly makes some individual members of parliament work harder, but it's better for the people of New Zealand if not necessarily for the members of parliament, and after all the whole point of an electoral system really is to provide the best government for the people of the nation, so. The people of New Zealand have already voted in favour of MMP three times, and therefore it seems that wasting time, energy and the tax payers money on exploring changes is only the system can actually be improved. In my opinion, our opinion indeed, that would be accomplished only by reducing the number of electorate seats – that's a topic I'll address briefly a little further along – under MMP our parliament has clearly become more representative of the population of New Zealand, some people don't like that, I suppose some politicians don't like that, but even so it's better for New Zealand. Under MMP our parliament has better reflected the diversity of New Zealand and that must be a good thing, although some might wish otherwise. New Zealand can't escape a future as a multi-cultural society and MMP is an excellent system for a multi-cultural society. A fair and affective electoral system that works as well as MMP does provides stability for the underlying society - the Hare Clark system in Tasmania that I mentioned earlier, it's been in use for over a century and it's been a very stable place, of course that's not the only reason. Here in Aotearoa we're still becoming familiar with MMP and changing it now would be rash and foolhardy. Because it's fair, voters get what they vote for, the number of seats a political party gets, after all, matches the percentage of votes they win, what could be fairer than that. Under MMP we've had stable governments from both the left and the, well, at least the centre, and the right sides of the political spectrum, and small parties have learnt to compromise in order to get some of their key policies adopted, and major parties have learnt how to accommodate some of the small party positions while still governing on their own policies. The politicians from different parties have learnt to work alongside each other, that's to everyone's benefit so MMP works, it's affective so we've established that it's fair, it's affective that's really the whole point – if it's fair and affective it's a good system we ought to keep it. I have a few other remarks but I think probably I do know your time is valuable and so if you have particular questions I'll field them now, unless you'd rather I go on with further statements.

**SIR HUGH:** No, if you're comfortable with where you are we'll open it up for questions.

**MR PEDEN:** Mr Jones, your proposal to lower the threshold you say there's no justification for anything greater than 2% as far as the threshold is concerned, and you refer to the argument against a lower threshold being stability, the distances – concerns about stability of parliament and the formation of government, but I wonder whether you've thought about the degree to which New Zealanders may have voted differently with a lower threshold and what impact that might have on the stability of parliament, and of the formation of government, because it has certainly been a concern expressed to us by a number of other submissions.

**BOB JONES:** Yes, indeed I have thought about that and in fact if we simply look at what has actually happened on the ground I think that it gives us reasonable cause to expect that it wouldn't be a problem, and specifically, as I said, one of the things that has happened under MMP is that people in parliament have learnt to work together, learnt to work with each other, and voters haven't really shown any tendency to sort of go off on a tangent and I must say, I guess the bottom line for me is I haven't seen any compelling arguments at all that suggests that lowering the threshold would be a problem. I can elaborate if you want.

**ROBERT PEDEN:** You don't think the Israeli examples or the length of time it's taken to form a government in places like Belgium should be any cause for concern for us, if you think of the 1996, 1999 parliament, where if there had been no threshold we would have had 12 parties in parliament, 24 of them being one seat parties.

**BOB JONES:** Right - I actually don't think that's a problem – I think it might actually be a benefit rather than a problem – for the reasons I stated before, but I think also, in fact if we cast our minds back we can remember a time when we had a quite a long delay in establishing our own government – but I don't think that a lower threshold would have made any difference and in indeed it might have improved the situation at that time – but I think we can easily see that there are major cultural differences that would preclude, that may not be the best choice of word, but in a sense preclude transferring the Israeli example or especially the Belgium example to practice here in New Zealand, I don't think it's realistic to think that the problems that some of those countries have had, would be likely to occur here – there's a very different society, very different culture, very different situation, and I

think it is unreasonable to use them as examples of reasons for not lowering the threshold here.

**MS HURIA:** Colonel Jones, you made a comment about allowing voters to rank list MPs according to preference, and into the democracy of the process – have you given any consideration to the practicalities around voters doing that?

**BOB JONES:** Well, I've seen it in practice, and before I came to Aotearoa, as I say it's been more than a quarter of a century, and even though I talk funny, I am very much a Kiwi, but I lived in Australia, I lived in Tasmania specifically and had ample opportunity and interest to study their Hare Clark system, now – I frankly think it's an excellent system but I would like to see it combined with our MMP system so that you have the what they call the multiple, multi-member electorates with the ranking but also have a party vote in addition, in other words retain the best of both systems. Does that answer your question?

**MS HURIA:** I am not sure – I was just thinking about people getting their head around the various characteristics of the people on the list, coming to know them – the practical difficulties around that?

**BOB JONES:** Well, I think that's one of the advantages, and as I say, in my own experience I've seen it work, and I've seen it work very well indeed, both in Tasmania and in local elections in North America – I've seen it work very well and I dare say it would be likely to work very well here both because it's a good system, and also because we are a country that the size of our country is small enough that people do have an opportunity to get a handle on who these people are that are standing for election.

**SIR HUGH:** Would your system of voters preferentially choosing candidates apply to all party lists, or only to the lists of the party for whom the voter had voted?

**BOB JONES:** What I'm suggesting actually is that we, as we have in MMP now, that we have electorate seats that are elected - where they are elected by the ranking system, and then party lists that could either be ranked or not, I don't think it's important for the party to have a party vote – I don't think it's as important for that to be listed, to be ranked – the importance of the party vote as in our current MMP system is simply to ensure that the representation in parliament is proportional to the votes that each party received. I'm not

sure that it's important that those votes in fact be ranked, but that the electoral seats be ranked.

**PROFESSOR ROBERTS:** If I could just clarify following on from that point, Colonel Jones – so you would envisage that we would move from having single member electoral districts to multi-member electoral districts to elect our electorate MPs?

**BOB JONES:** Exactly Professor Roberts – it's precisely what I would like to see – I don't know if I'll ever be able to convince enough people to make it happen, but I think it would be the fairest possible electoral system that would match the actual members in parliament with the desires of the voters more closely than any other system I can envisage.

**PROFESSOR ROBERTS:** As a person who is a graduate of the University of Tasmania I'll happily explain the system to the Electoral Commission.

**DR ARSENAU:** Thank you for your submission, some people have also been submitting that we perhaps we should look at preferential voting in terms of the party vote, have you given any thought to that?

**BOB JONES:** I have, but as I say that to me that's not the important part – I'd certainly be happy to go along with it, but I don't feel that that's a crucial element.

**SIR HUGH:** Ok, thank you very much, it sounded to me when we invited you to impress us at the outset that you might have been reading from a prepared piece of paper, if so, would you care to email it into Louise Vickerman because your own submission is one of the shorter ones we have received.

**BOB JONES:** Ok, I would be very happy to do that – I frantically sat down and scribbled, not scribbled as I did it on a word processor – but banged out some notes last night so that I wouldn't be totally unprepared when you rang this morning, yes I do have some notes – sorry...

**SIR HUGH:** You sounded to me as though you were expanding a bit on what you had provided previously so we'd be interest in that if you could send it through.

**BOB JONES:** Ok, I will be happy to do that and again I very much want to thank you for the opportunity to present my submission to you today.

**SIR HUGH:** You are very welcome – thank you for your time and contribution.

**CALL ENDED.**

**11:25am**

**SIR HUGH WELCOMES DR PHILLIP TEMPLE**

**SIR HUGH:** Welcome Dr Temple – good morning Dr Temple, thank you for participating – I’m Hugh Williams, I Chair the Commission, also with me this morning Jane Huria, who is the Deputy Chair and Robert Peden who is the Chief Electoral Officer who is also a member of the Commission, and also we have with us two political science advisors Professor Nigel Roberts and Dr Therese Arsenau. We’ve all read your submission, Dr Temple, and have marvelled on the experience you have had on this topic, would you care to address us relatively briefly because we don’t have a lot of time, and then we will ask questions starting with Commission members and then our political advisors.

**PHILLIP TEMPLE:** Ok, I think it probably – my submission falls into three or four broad groups, the first is the context of the review, I made the point that without looking at size of parliament then to turn to Maori seats and so on, that just grooming the electoral system is like grooming the horse without fixing the wheels of the cart, and I hope that this point can be made.

On the second broad issue the thresholds, you are probably sick and tired of hearing this, the one electorate rule curtail rule should go and that the threshold should be dropped to about four in compensation. I would imagine you got about a 99% submission on that basis. Population change which affect the proportion of seats – again if, I mean the 120 seats was set back in 1993, nearly 20 years ago, population has increased and my underlying view is that if we do get an imbalance problem, an overhang problem then the size of parliament should be looked at, and in the meantime we’ve got to put up with an overhangs.

As far as the, whether people can stand for an electorate and a list, I really think there is a problem here that people who want to separate list from electorate MPs are actually exasperating the problem, and that is that treating list MPs is some other kind of separate race, and I think the thrust should be in the other direction, and should in fact – the electoral law should make it mandatory for anybody standing parliament must stand for an electorate, and is free to stand for the list or an electorate whenever the opportunity occurs. Ranking the broad one about determine the order of the candidates on a party list,

my main view is that the order of the list should be left to the parties, and if people want to influence that they join the parties, that should in fact not be very difficult. However, the process of preparing the list I think should be more clearly specified and more open and democratic within the party. When it comes to voting time, I don't think that a completely openness would work nationally that they are OK maybe for local elections under STV, but I think it would be too unwieldy under a national election – but I do feel that people broadly have a problem but with not being able to do something, and I have suggested the simple Bavarian system, or to look at the Scottish system where they've decided to group list MPs into regions so that at least the people in that region feel that the list MP do actually belong to them. So that's broadly it, and also I am very much against any reinstatement of the waka jumping law because I think that freedom of conscience should be preserved at all costs, and also, that there should be a regular review of MMP – I think that's really important because otherwise things slowly get out of skew and nothing happens without a lot of pressure.

**ROBERT PEDEN:** Thank Dr Temple. On your point about the ability of candidates to contest an electorate, really your suggestion that candidates be required to contest an electorate. I can certainly see from your submission the practical benefits for candidates doing this, but I wonder whether there from a party's perspective they should be required or candidates should be required to ..... contest an electorate whether there might be circumstances where it really doesn't, isn't in a party's interest to have all their candidates contesting an electorate, and if there are advantages....sorry?

**PHILLIP TEMPLE:** I think my issue here is that the, we do have a precedent of a person becoming minister almost instantly without ever contesting an electorate, and I feel that it is important for candidates to being in touch with the electorate in a very real way at least once every three years, and not to sort of be remote from the umm..... sorry?

**ROBERT PEDEN:** Doesn't this potentially exasperate the concern that you list members as a second class member of Parliament?

**PHILLIP TEMPLE:** Sorry, what's that? The...

**ROBERT PEDEN:** Doesn't this risk exacerbating what I understand you to see as a current concern that list MPs are a second class member of Parliament, and if you require a third candidate to contest electorates as a matter of rule, wouldn't that reinforce that perception?

**PHILLIP TEMPLE:** I suppose it's a point of view, but I think people would think that someone who hasn't contested an electorate at all would tend to be viewed not as a coat candidate, I mean this is just a – something that came to me while I was actually preparing the submission because the – it hadn't been apparent to me before that while there is a benefit of having for parties to have valuable candidates fairly high on their list the – and to be protected in other words – there has been a precedent where there's no contact with the electorate at all, and whereas one or two other very prominent ministers who are list MPs have gone through the process of campaigning for the party and also listening to what the electorate is telling them.

**ROBERT PEDEN:** There's just one more question I wanted to ask around your proposal for including expanding on the mandatory requirements in section 71 of the Act, and the requirement that it be mandatory for party members to have a right to vote in secret ballot on the list and how the list is ordered, and you note that the Green Party's process is close to this, and it is certainly the case that it's close, but it wouldn't comply with that requirement, and one of the reasons that it wouldn't comply is that the party executive has the ability to rebalance the list to provide for various things that are of concern to the Green Party – isn't it a risk that having a blanket rule as you suggest would impose unduly on a party's ability to present the best list that they want to the electorate?

**PHILLIP TEMPLE:** Well, I guess it's – the thing is there's no perfect electoral system and there's no perfect MMP, so the – sure in the end if the party at large has, for whatever reason at the time, is produced through the sort of if you like the grass roots democratic members process, something a little bit out of order then of course the sort of leaders, and leading officers of the party should have some final call on this, but – whether it is perception or reality it does seem to be the case that who gets put on the list or high on the list it tends to end up being dictated by party headquarters.

**SIR HUGH:** You mentioned the – I was going to ask you about section 71, but that's been answered – but you mention the possibility of the necessity for regional lists, but recognise that New Zealand's shape is rather antagonistic of that proposal, have you given any credible thoughts for that?

**PHILLIP TEMPLE:** Not exactly, I think there'd have to be some analysis to see exactly, you know, how that would work because we do have this problem – Scotland at least has a kind of a – is relatively small – and is not quite so attenuated in its shape. The main problem would be probably how you would organise that for the South Island, given that it's already only, what, about a quarter of the seats, but I think it's something worth looking at – I mean if you wanted me to look into it further I could do that – and perhaps see if it could come up with some numbers.

**SIR HUGH:** We've talked about possibly eight electorates per group – or that may have been the Scottish system – but certainly in parts of New Zealand that would be a very large geographic area being covered by the regions.

**PHILLIP TEMPLE:** Yes, I've just put that there really as the broad sort of worries of dealing with the closed national list – that if it's going to be altered and I'm not necessarily totally convinced that something needs to be altered – but that I think that either the Bavarian system or possibly looking at whether a regional list would work could be a way of meeting what I think is a very wide spread dissatisfaction with the closed national list.

**DR ARSENAU:** Thank you for your submission. So many interesting ideas, and I see one of them that obviously, and you point out, is beyond the scope of our review, but I was intrigued by the constructive votes of no confidence – I take it you would be in favour of such a measure?

**PHILLIP TEMPLE:** Yes, this is part of that larger situation where the electoral system really does sit inside the context to the size of parliament, the length of term and also the German system of that constructive vote of no confidence where there can be a non-disruptive change of government in times of political crisis which from what I have observed over time is usually tested fairly quickly anyway with a general election, but it – oh the other thing of course which is I didn't mention either of course this lingering ability to for Prime

Ministers to call snap elections – and um, so to me there's a larger picture that needs to be looked at.

**DR ROBERTS:** Thank you very much, Dr Temple, for an extremely interesting submission on a range of points. Just on the last point I just say if there is a course that constitutional review is going to be run through the Deputy Prime Minister's office and the Ministry of Justice and those very questions you are raising fixed term parliaments, the inability to hold snap elections – all those are on the table in that review - they are of course not on the table for the review of MMP. I just wanted to clarify one thing - you have a range of very interesting examples, and – are you recommending the Baden Württemberg one vote system of MMP, but I take it actually you can list it and not recommending it – is that right?

**PHILLIP TEMPLE:** No I'm not recommending it, but what I've discovered, I mean I've even encountered this in Berlin a couple of years ago, with a senior political journalist even suggesting that Germany should go to that which alerted me to the possibility of that system, and I've noticed other people talking about it so I thought well since it is in the air, it's worth looking at, and because in the sense that we've come out of the old first past the post system where electorates only, but this might appeal to a lot of people, but I think it has serious flaws, in particular, you can't have two votes – two separate votes rather – and you can't split your vote and also you do end up - almost, always end up with these big overhangs. Personally, I favour that one tick thing of the Bavarian system where you can either just tick the party or tick a particular candidate. The study on that doesn't show it has any marked affect in terms of improving women's representation or anything else, but it does - there was an example of the ruling party demoting one of their sitting members because of – she went against the party line – but the electors put her back up, so there is, it does have a certain use.

**SIR HUGH:** Thank you, Dr Temple for your particularly thoughtful submission – it has obviously generated a lot of interest at this end of the phone line.

**DR TEMPLE:** Well thanks very much for listening to me too, and I really look forward to seeing what you come down with and you'll be having my support I can assure you.

**SIR HUGH:** So do we – thank you.

**CALL END**

**12:00pm**

**SIR HUGH WELCOMES STEPHEN RUSSELL**

**SIR HUGH:** Good afternoon Mr Russell, is that Stephen Russell?

**STEPHEN RUSSELL:** Yes it is indeed.

**SIR HUGH:** Hi – I'm Hugh Williams - I am the Chair of the Electoral Commission, thank you for agreeing to join us by phone, I gather there was a slight hick-up about doing it by video.

**STEPHEN RUSSELL:** Unfortunately my broadband is not broad enough.

**SIR HUGH:** Ok, well I've got the other two members of the Commission with me, Jane Huria who is the Deputy Chair and Robert Peden who is the Chief Electoral Officer, and also on the Commission. We also have our political science advisors Dr Therese Arsenau and Professor Nigel Roberts. What we've been doing with the submissions we've been hearing is to assure everyone that your submissions have been read by every person present, and invite you to outline the salient points bearing in mind we don't have a lot of time with each person, and then we'll ask you some questions if that occurs us to require clarification. So it's over to you.

**STEPHEN RUSSELL:** That sounds perfect, and first of all, thank you very much for giving me the opportunity to speak with you. I will therefore give you the 60 second summary of my points.

Firstly, I support the retention of the 5% threshold for list seats, but I believe that the exemption for parties which win an electorate seat should be removed.

Secondly, I believe that the formula for determining the number of electorate seats at each five yearly adjustment should be altered to stabilise the ratio of electorate and list seats.

Thirdly, I think that there should be greater flexibility in drawing up electorate boundaries in terms of population so that we can allow some electorates to have a few more people or a few less.

Fourthly, I think the key issue with the overhang is not simply that we have one or two extra MPs in parliament from time-to-time, but the potential that exists for the overhang to be critical in determining the outcome of an election in a way that is inconsistent with the principle of proportionality, I have suggested two methods by which that danger could be removed.

Fifthly, I believe that the closed list method of choosing our list MPs has worked very well and it should be retained.

Six – I think that dual list and electorate candidacy should continue to be permitted and nor should it be compulsory.

The seventh point – I know that some people have been promoting the idea of term limits for members of parliament – I think that this would be an extremely bad idea – it would be undemocratic and it would be counter-productive.

Finally, I think that the Commission should give some very serious consideration to incorporating an element of preferential or alternative voting into the structure of MMP to enhance the legitimacy of electorate MPs and to reduce wasted votes. I think this may be very helpful in forestalling what many see as unseemly attempts to manipulate the system with the roll of little micro parties.

Now as you suggested you have read the submissions, I imagine that most of what I have said has been pretty well covered by many other people. I have flattered myself, however, that there might be some points here or there which are a little out of the ordinary, and which members of the Commission might think worthwhile of further discussion. So now I will turn things over to you to ask any of those questions, and if there aren't any, it means you get an early lunch.

**SIR HUGH:** Thank you very much Mr Russell – we're not anxious for an early lunch given the care with which you have prepared your submission. Mr Peden?

**ROBERT PEDEN:** Thank you Mr Russell – you’ve proposed that there be more flexibility in setting electorate boundaries, and you’ve suggested an increase in the tolerance, and you’ve also suggested that the criteria that the Representation Commission is required to give priority to community of interest – and that’s interesting because at the moment really by default the population quota is the driving criteria in determining boundaries – so I wondered whether you had done the calculations to determine whether a 10% tolerance would really be sufficient to enable the community of interest to be the overriding criteria, and whether we’d still find that population was determining the criteria – yes, that would be plus/minus 10%.

**STEPHEN RUSSELL:** This is rather like asking “how long is a piece of string?” There must be some population criteria that is the absolute, a limit to how large or small in population terms an electorate may be. While you have such a rule, there will always be some difficult decisions about how you deal with this community or that, and there will always be intersections with regards to drawing the boundaries to best reflect communities of interest. The larger the tolerance the easier those problems become – the more opportunity for flexibility and keeping communities together where that is most desirable option. So the calculation therefore is a subjective one. A greater tolerance will allow the Representation Commission to draw boundaries that better reflect community of interest, but it is always a receding goal. My interactions with the Representation Commission over many years, has suggested that while they may not be able to explicitly say this, that the very tight tolerance has been a considerable frustration for them because they would really like to have more flexibility so that they can pay more attention to community of interest, but of course the population must be the number one consideration, and that is non-discretionary and then it is a matter community of interest being the primary discretionary criteria.

**ROBERT PEDEN:** So would I take from that then that your proposal would be to increase the tolerance to whatever would be politically acceptable, but I suppose as a corollary of that you couldn’t make the community of interest the overriding discretionary criteria.

**STEPHEN RUSSELL:** Yes.

**MS HURIA:** I'm just interested to explore a little bit more, if I may, your view about sitting MPs in by-elections. Would you make any differentiation between electorate and list MPs there?

**STEPHEN RUSSELL:** I must admit I am in two minds about what happens in by-elections. There is a strong argument the voters can decide for themselves whoever they like, and if a by-election candidate is already a list MP voters can figure out the flow of consequences that will come from their election and deal with it themselves, but I think I am not alone in finding some absurdity in the idea that if voters in a by-election elect, and this is Blogs who is already in parliament, the actual change to parliament will be Mr Magwitch from somewhere else entirely suddenly becoming the new MP. So, I am at least somewhat sympathetic to the idea that if a sitting MP wishes to contest a by-election, they must first resign. Now that would have to apply for an electorate MP, I think, because you couldn't stand for two elec..., be an MP for one geographical electorate while standing for another. But I think it would have to apply to both if you sought election in a by-election, then you should step aside from your role as an MP first. However, I confess that I do have two minds on this one and I can see two sides to that argument.

**MS HURIA:** Yes, we have heard some, in some submissions, about the virtues of list MPs being in a position to be able to face an electorate? Do you have any thoughts about that?

**STEPHEN RUSSELL:** There is a more general argument that it's good to have list MPs facing an electorate in a general election, and I think that's fine and that's a good thing because it keeps them in touch with communities, but it should not be compulsory because there are many cases where a list MP's best service to their party and to their country is by seeking to represent a wider group. Now that might be an ethnic community that is spread across the whole country, it might be a particular interest group, it might be that perhaps as leader of a small party their best focus is focussing on the whole country rather than one small corner of it, and I have written a section of my submission addressing that issue – I think it may come up in one of the other sections.

**SIR HUGH:** Just to carry on from your comments about dual candidacy, you've analysed it very perceptively in your submission, I would have thought there are slightly more permutations in combinations than those you propose, some of which seem to raise the

public eye and some of which don't – for instance, is there much objection to somebody who stands both as a list and an electorate candidate for the first time, I think not.

**STEPHEN RUSSELL:** No, I have absolutely no objection to that myself, and I do not think that there is a lot of objection to that in the general public. My perception is that what people get cross about is the situation of a sitting electorate MP losing the electorate, and yet remaining in parliament because they are on the list. Now I am perfectly comfortable with that myself I think there are very good reasons why that should be permitted and I think it would have many perverse consequences to disallow such dual candidacy, but that is the thing which a lot of people get cross about.

**SIR HUGH:** There is public objection but I don't perceive to the same level where a sitting list MP contests and loses an electorate contest and returns to parliament, the principle concern seems to me, as you say, for a sitting electorate MP to lose in their electorate and return on the list, but you make the point very perceptively, that this confuses the views of the electorate with the views of the nation, does it not?

**STEPHEN RUSSELL:** Yes, or at least it can confuse the interest of the electorate with the interests of the nation.

**SIR HUGH:** Alright, I don't think there's an awful lot of difference there, but ok thank you for that.

**PROFESSOR ROBERTS:** Thank you Mr Russell. I'd like to thank you for an extremely interesting submission, I just want to take something up in section 4 presenting overhang anomalies which in fact in the section you enlarge, and say, actually it's not only in the overhang, parties that could possibly get more votes than the combined opposition but have fewer seats, and you've proposed two potential solutions. Solution A is what I call as the Maltese solution because that's what they do in Malta, if a party has got an absolute majority of the first preference votes in Malta, hasn't got an absolute majority of the seats, they're given bonus seats to give them a majority of one. I'm just wondering, though, under what circumstances would that apply? Would they have to be pre-announced pre-election announced coalitions or would it be a group of parties after an election could say – well

hang on we're in cahoots here now, now we've seen the election results and we've got more votes we should have more seats.

**STEPHEN RUSSELL:** I do not think there needs to be any preannounced coalition or arrangements here, because that is exactly the situation we have. We go into elections knowing that this party is well disposed to an agreement with National or with Labour, and there are some parties that say well we're not choosing, we'll make a decision after the election. So requiring a declaration beforehand would actually be changing that situation – if you had to have a declaration beforehand it would be the same as saying now you're not allowed to go into an election and decide your government position afterwards. I think that would be impractical. We can only have a situation where parties decide after the election what coalition they will go into, and we just to have to trust that parties will behave as we expect them to. I don't think this point makes any difference in terms of a mechanism to address the overhang.

**PROFESSOR ROBERTS:** I'm just thinking of that either proportional vote weighting or awarding of bonus seats. That could happen after the election when the parties are clarifying their views in pre-government formation discussions.

**STEPHEN RUSSELL:** Yes, if as it might be the Labour Party and the Green Party after much discussion post-election agree to form a government, whether coalition or otherwise, and if, only if, they are in a position where they had a plurality of the affective votes cast over all other parties, but did not have the majority because of an overhang, they would then be able to declare, we possessing between us the necessary votes, having effectively won the election on the votes, we should now have won the election on the seats and therefore get one extra seat as it may be in order to give effect to the will of the voters.

**DR ARSENAU:** I also want to say thank you very much for your submission, it was very clear, very well argued. I just was wondering if you could walk me through though your last section on preferential or alternative voting, and you say either one of those would work, am I right though in thinking that you actually prefer the just the one alternate vote, or are you not picking one that over the full preferential?

**STEPHEN RUSSELL:** I may have a slight preference simply on the basis that that seems to me the simpler option from the point of view of a voter. Using the system that I describe, it means that the ballot paper appears just the same as we've got now, except for a little bit of explanation on the side, and anyone who wishes to vote for a small party that might not get the threshold can then just put a number (2) to create that alternative vote. That seems to me the option that has least potential for confusion, but I am sensitive to the fact that any addition to the complexity of the system is something we would prefer to avoid, and I think that there would need to be some very careful thinking, and maybe some empirical testing as to how you could set up a preferential or alternative system along these lines in a way that is going to be least confusing for the public, and most effective.

**DR ARSENAU:** And you would want that as well on the electorate side just as one alternative?

**STEPHEN RUSSELL:** Well, I think the critical thing here is on the party side, but logic says it would be really weird to do it for one vote, and not to do it for the other vote, and have it on one side and not on the other is again a potential source of confusion. All I was about to say was that this is why my wording was that I urge the Commission to give very careful thought to this idea because there are so many complexities in here, and why I have not said this is the best option, rather just please give it some really careful thought because this is a fairly potentially a really important reform here but there are a lot of fish hooks to be thought of.

**SIR HUGH:** Well thank you for that Mr Russell, we will certainly give consideration to that, and all your other interesting suggestions. Thank you for your time.

**STEPHEN RUSSELL:** And thank you for your time, and thank you for the flattery as well, and good luck with your deliberations.

**CALL ENDED.**

**12:25pm**

**SIR HUGH WELCOMES JACK COWIE**

**SIR HUGH:** Thank you for joining us. It's a bit later than we originally thought. I'm Hugh Williams and Chair the Commission, to my right here is my Deputy Chair, Jane Huria and at the end of the table Robert Peden, Chief Electoral Officer and the third member of the Commission. As you can see on the left hand side of the table are our political science advisors Dr Therese Arsenau, closer to you and who has just waved to you, and Professor Nigel Roberts or you may or may not know. What we've been doing yours is one of the more detailed submissions where we have received, everyone has read it and what we've been doing is asking people to address us briefly on the main points to be made, and of course we don't have a lot of time, and then we'll ask you questions about points that may seem unclear. So it's over to you.

**JACK COWIE:** Well, ok, obviously in my submission I address all the points that are asked about by the Commission, by you guys – I won't go into detail on all of it because I think the main issues are clear, I think my argument is to why we should abolish the single seats electorate threshold, I think that part is reasonably clear – I think that may heard that from elsewhere as well. I don't want to go into too much of detail about those things, the primary things I want to go into detail are on are my two sorts of things that go beyond the normal stuff.

The first thing is the preferential voting thing – and the second thing is my idea of making votes in parliament respite(?), so rather than rounding it to one member gets one vote, each member gets a certain amount of votes for the number that they represent. So, that is the primary thing that is really of interest to me here – so to my view is basically that MPs as they are, however, when they are in parliament instead of each one gets one vote then all the votes a party gets are divided evenly between the MPs, and the MPs get the votes in parliament, I'm sorry you've got that point there, and there's a few details there about how that relates to various difficult situations with independence and the 3% threshold which I suggest you change it to – and I go into a few details on those things.

What I do want to say is some reasons why I think this is an advantage, some of which is in my submission, and some of which has come up since then – I noted in two submissions, firstly the Labour Party submission – in the Labour Party submission they state that they are not unopposed to increasing the number of electorate seats, and they also – and one of the advantages of my idea is a means to increase the number of electorate seats and there's no fear of having overhangs because that doesn't affect anything, ok? And also the Labour Party submission mentions, which is the point I do bring up, and this is that under the current system there are possibilities of gaining the system, and they are likely to happen as things are at the moment, but it is personally plausible that a party to run a whole of slate of complete independence per..... the party, and those independence give that party a disproportionate amount of power which they didn't earn, and eventually the MMP system becomes a supplementary member system which I believe actually happens in Italy at some stage before they changed their system completely anyway. So, anyway, my idea just provides a solution that before the problem actually occurs, but rather than waiting for this problem to happen and then solving the problem, by which time it may be too late.

**SIR HUGH:** We understand that point, thank you. Are there any other points you want to emphasise?

**JACK COWIE:** And there was one more point, and that was National Party submission – in this they say they want high tolerances for electorate sizes – and I believe this is also very compatible with my idea, because if an MP represents a certain number of people, and their voting power depends on that, then we don't need to be focussed ..... in enjoying our electorate boundaries, and that gives us plenty of advantages in that we can draw more sensible shaped electorates rather than having some of these rather odd ones.

**ROBERT PEDEN:** Thank you Mr Cowie. On your proposal for dealing with the overhang problem as I understand it applying it to the case of the Maori Party, which has currently produces an overhang, the Maori members of parliament, their votes would have a lesser value than other members of parliament.

**JACK COWIE:** that is correct, yep

**ROBERT PEDEN:** I'm wondering what the constituents of those electorates would feel about that, having elected a member of parliament to represent them, wouldn't they expect that member of Parliament to have an equal vote in parliament with other elected members of parliament?

**JACK COWIE:** Well one of the things I said in my submission, is that we sort of have a choice between either we have MPs having equal votes and rights where voters have equal voting rights and we still have to have one or the other, we can't have both, and so what my argument is that I think ..... of the voters to have equal voting rights in the election than the MPs to have equal voting rights in parliament.

**SIR HUGH:** I was interested, but I confess I didn't really understand, your suggestion as to how we grapple with the problem of an electorate's party representation changing in a by-election. You deal with this on page 7, and you say that if the winning candidate is from a different party the polls above the 3% threshold, the by-election's vote subtracted from the predecessor's party and given to the winner's party. I don't really understand that.

**JACK COWIE:** Well under the current system, I believe, a by-election can change the shape of parliament, if there's a different winner, this is just trying to be consistent with that, and all these three options I have just worked out in terms of what is consistent with that, and what doesn't leave any voters represented twice, or not represented at all. So that is the method, so say a party has a certain number of votes in a by-election and they lose one of their MPs, well that new MP elected in the by-election, has only received so many votes, so that's because of the mandate we've got, and without anyone's vote counting twice, those votes have come from somewhere, and that's where they've come from. I believe I've worked it out correct, but I yeah...

**SIR HUGH:** Yes, I understand that now, thank you.

**PROFESSOR ROBERTS:** I would just like to follow up that point, because the method you propose is then saying that from the unsuccessful party that successfully failed to defend the by-election, you are subtracting the electorate vote from their party vote in effect, aren't you, because they have the number of seats to have in parliament because of their party vote not because of their electorate vote.

**JACK COWIE:** If you look in my submission one thing that I propose is that to deal with independence and parties beneath the thresholds, we have to count the electorate vote and discount the party vote from those ballots, and that was the method by which we ensure that no vote counts twice and no votes get represented twice, and this again consistent with that, and that's in the section where I propose this whole method where I say – that we must on page 5 – I say that we must treat the MPs from parties that missed the threshold as sort of independent, and they receive their constituency votes and the party votes on those ballots are excluded.

**SIR HUGH:** Alright - we understand that. Thank you for the work you've put into that Mr Cowie, and for all of the puzzles you've thrown up for us to try and work through. Thank you for your time and contribution.

**JACK COWIE:** Thank you, I think it all makes sense, but it might take some thinking about.

**CALL ENDED**

**13:05pm**

**SIR HUGH WELCOMES LESLEY SOPER**

**SIR HUGH:** Good afternoon Ms Soper, Hugh Williams, Chair of the Electoral Commission here with other members of the Commission, and our two political science advisors, and we have the other two members of the Commission who are Jane Huria who is the Deputy Chair and Robert Peden who is the Chief Electoral Officer – our political science advisors are Professor Nigel Roberts and Dr Therese Arsenau. What we've been doing with submissions is inviting people to speak to them and bearing in mind we don't have an awful lot of time with everybody make your salient points and then we'll ask you some questions if we need to. So the floor is yours, take over.

**LESLEY SOPER:** Thank you. You will have read my submission of course, so I won't repeat it all, but you will have noticed I focussed on two main points, the proportionality of MMP and democratic participation in our MMP voting system, so I'll just very quickly...

**SIR HUGH:** If I might interrupt, I think yours is probably the most experienced MMP's submission we have received.

**LESLEY SOPER:** Thank you very much - thank you - it's nice of you to say that. Regarding the democratic participation, what I wanted to say there because I know that talking about participation is perhaps slightly out of the scope of the enquiry, but to me, an essential part of our MMP voting system, and in fact why many New Zealanders voted for MMP was a belief not only that it was a fair and more proportional system, but that it would increase participation in their elections, and as we all know there has been a down turn in participation. So what I'm hoping you may consider doing is just putting a comment in your final report that refers to the concern around the dropping participation levels, and some possible further action that could be explored in that area, and I've made a few suggestions about things that we could do, such as adopting the Australian compulsory voting, and a wider access to the unpublished roll. But it was just a given that comment that I think is really important in considering our voting system about participation.

So to move from there to the proportionality issues, and the substantive part of that – the specific issues, first of all the threshold – I would very much like to see the threshold

reduced to 4% - I would also be happy if it was reduced to 3%, but I think 4% is probably the happy medium and the original Royal Commission recommendation, and I've given my reasoning there for why I think that would be a positive contribution to our MMP system in my submission, and I have discussed that with a large number of individuals and groups.

The threshold issue, when I have spoken to people – and I've done a lot of presentations on MMP over the years, and in the lead up to the review a number of organisations have asked me to talk about review issues – the threshold issue was probably the one of most concern to people and many members of the public and service groups I talked to focussed on the ridiculousness of the threshold in the election where the NZ First Party, which I have never supported, got over 4% of the party vote, but gained no seats. Whereas the Act Party which got around 3% of the party vote the same year gained one electorate seat, and of course ended up in parliament with five electorate seats, so that pointed up for a lot of people that there was a problem with the 5% threshold and a one seat exception. So it seems to me that we should lower the threshold and remove the one seat exception, so that's a strong part of my submission.

Dual candidacy – I speak obviously from the experience of a list MP who has been an electorate candidate at the same time as having my name on the list – I believe that there is no sensible argument for splitting the electorate and party list candidacies and that dual candidacies should remain as a candidate decision. I think that there would be a very – that forcing candidates to stand only on the list or only for an electorate would very definitely create two classes of MP in New Zealand, and there are already some people who think list MPs are a bit of a lower group of MPs than electorate MPs in our system. I think that that would aggravate the lower regard for the roll of list MPs in New Zealand – that it wouldn't in any way contribute to having a better running of parliament or to MP accountability. So I believe very strongly that there should continue to be a choice to be a dual candidate and to stand both on your party list and for an electorate. I've also made the comment there, it would become ridiculous if we forced candidates to stand on one of the other for a party list not to feature the party leader if that leader was an electorate only candidate, it would be extremely odd.

The ranking of party lists – I hate the terminology of referring to them as closed and opened party lists, but it seems to me that the simple truth is in New Zealand that our parliamentary politics is dominated by parties, and that if you want to influence the ranking of a party list you should join a party. I think it would be extremely messy, lead to extremely long ballot papers, and a lot of extra confusion at ballot boxes and in polling booths if we tried to have some system of ranking party lists as part of our election process that is open ranking by voters as a whole.

Moving on to overhang – I've talked to and consulted with a number of people about the question of overhang – and my conclusion is that the, on balance, the risk of an overhang and a party that wins more electorate seats than its share of the party vote it entitles it to, the system whereby, our current system where that party continues to hold those seats until the next general election is the most sensible option. The other alternatives, I believe, are much less palatable to voters creating extra balanced seats – as I went around various service groups etc explaining how that would operate – generally their reaction to that was it would be unpalatable and the alternative of taking the number of additional seats from other parties' entitlements to maintain only 120 MPs, myself and others can see that would not only disrupt proportionality, but reward the party that created the overhang, so in balance I'd leave the status quo as the fair system on overhang.

Proportion of electorate to list seats – looking at the projected population figures obviously the proportion of electorate list seats is going to change probably by 2051 to 71 to 43 rather than its current 65/55 – my personal opinion is that that is not such a serious change as to upset proportionality. However, I'm comfortable if your recommendation was to do so that the general electorate seats could be capped at a figure somewhere between 72 and possibly 75. A big concern for me in this is that any recommendation there can't be allowed to lower the guaranteed number of South Island seats. I did make a slightly tongue and cheek comment there but perhaps some of the 16 city seats of Auckland could be given a greater upper tolerance, however, I don't expect you to take that tongue and cheek comment too seriously.

So that's my submission.

**SIR HUGH:** Thank you very much.

**ROBERT PEDEN:** Thank you Ms Soper. On your points around compulsory voting, the Commission has reported there and the Minister of Justice parliament on the conduct of the last election and has commented on our concerns around voter turn-out, and I understand, well I know that as part of the Terms of Reference of the Justice Electoral Commission to look at turn out – so I think your concerns are going to be considered in that context. On your submissions within the scope of the review that we are undertaking, the – did you have any suggestions around what an alternative terminology for closed lists – did you have any suggestions yourself?

**LESLEY SOPER:** I've given that quite a bit of thought, and I don't know that there's any term I've considered that gets away from the sort of open and closed connotations, and I suppose my preference is that we just talk about ranking of party lists, and how ranking is done and avoid the slightly worrying contrast between open and closed which sometimes when you are discussing it with people sounds as though you are talking about a secret as opposed to a non-secret hidden, a sort of hidden system as opposed to a completely open one. I think probably what I try to do is avoid referring to the two things as closed and open and talk more about the process of ranking, and ensuring that parties have a transparent and fair process that is known in the ranking of their lists. So, no I haven't come up with a terminology that I think is a good replacement terminology there, I'm sorry.

**ROBERT PEDEN:** Thank you, it's worth a try. With the overhang are you, I note that at the moment you don't see it as a particular, as a concern that warrants any effort to remedy it, would that still be your view if we had a substantial overhang, for example, an overhang of 126 or a parliament of 126, or 127 something like that. Would you have more concerns about overhangs in that situation?

**LESLEY SOPER:** I'm not sure that I would have concerns myself because to some extent the democratic process could return such a result, but I would comment there that I know from the number of service clubs and other organisations that ask me to speak about the MMP review that there would certainly would be a strong public concern at the idea of a parliament of as many as 126, 127 – 125 was the number that really triggered a lot of the people I talked to say that would be absolutely ridiculous. There's still that bit of a strong movement in New Zealand that says we should only have 99 MPs. I've done a bit of

discussion about why 120 is a very good number at which our parliament works, as Select Committees work etc, but it seems to me from the discussions I've had with members of the public that 125 even 124 is where the general person who has always voted, takes a bit of interest in politics, they see that sort of number as getting worrying from their point of view. Mainly for the extra expense that they see in salaries and admin and what is often referred to as the parliamentary spending, so that's the number at which I've certainly heard public concerns.

**MS HURIA:** Ms Soper, this is a naïve question I'm have a feeling – your comment about enrolling on the unpublished roll, is that likely to be taken advantage of do you think by people up to no good? The electoral roll is used for quite wide range of things including...

**LESLEY SOPER:** I think that suggestion would need careful thought, but it's a suggestion that has been made to me by so many people who have a reluctance, quite honest and open people even business people, who express a reluctance to have themselves easy to find on an open electoral roll who don't put their phone numbers in the telephone book any longer because the value privacy etc, and I thought it's an issue worth exploring. At the moment the criteria for the unpublished roll is extremely tight, and I think it is valid to suggest the possibility of widening it.

**SIR HUGH:** I've got no questions, Ms Soper, other than to assure you that you mention on page 1 of the submission the possibility of an initiative in electronic voting, we are certainly interested in pursuing that, we've mentioned it in reports we have made, but it needs some extra money – and in today's strained circumstances unfortunately it doesn't look as though we will be able to pursue that initiative.

**DR ARSENAU:** Thank you as well for your submission, you mentioned you would accept a greater tolerance in terms of variations of population size of electorates, have you got a number you would find acceptable?

**LESLEY SOPER:** Probably up to the tolerance at the moment is 5% either way, and I've thought about how much higher that could go. I suppose I would be comfortable with an electorate size that went up to around 60,000 as a size for New Zealand, so an extra per cent on the tolerance. Thank you very much for the time you have given me.

**SIR HUGH:** Just old on for a moment. Mr Peden, do you want to raise anything about the suggestion of electorate size?

**ROBERT PEDEN:** Well, I suppose that what you were talking about there, Ms Soper, was that I suppose the population quota that would be determined by the application formula in the legislation, and then the question for the Representation Commission is to what extent it can vary an electorate size from that quota, and at the moment as you say it could be plus or minus 5%, and to be able to allow the Representation Commission any real flexibility to take account, greater account of communities of interest than it can now, I suppose the question would be how greater tolerance would be required to make a real difference, and I expect that it would be much more than a 1% increase, and my question to people who have made submissions that it should be 10% is that really going to make a difference because I doubt myself that it would.

**LESLEY SOPER:** I haven't crunched the numbers on this, so I'll defer to your greater research, but it does seem to me that a greater upper tolerance is certainly worth exploring.

**SIR HUGH:** If we increase the electorate numbers to that sort of extent, it would make it more difficult for electorate MPs to service electorates, when you were a list MP, what did you do about servicing the electorate in which you were living, if anything?

**LESLEY SOPER:** I worked in Invercargill, I shared an Invercargill office with Labour's Te Tai Tonga MP so I did do constituency work in the Invercargill electorate which at that time was held by the National Party. Various parties choose to use list MPs in different ways, of course, but yes, I did serve my local electorate which is geographical quite a large electorate. That also meant that I serviced enquiries from the Clutha-Southland Electorate as well, so my office which was not a full-time office, I didn't have obviously the allocation as a list MP to run a full-time office, but the office did serve both Clutha-Southland and Invercargill constituents.

**SIR HUGH:** So you treated yourself very much as an electorate MP within that area?

**LESLEY SOPER:** I did take on a role because the closest available Labour MPs were in Dunedin in very busy electorates, yes so I did take on that role. I had quite a busy time

because I was also used nation-wide in my speciality areas of health and education, and I was on three Select Committees, so it was a busy life.

**SIR HUGH:** But you regarded – although a list MP you regarded yourself as part of your job as advocating for voters in those two electorates who had particular problems they had brought to you.

**LESLEY SOPER:** I thought it was important to – I do think it is an important for any MP electorate or list to keep a very close accountability to the place they come from, so yes, I did see it as being important as the seat I lived in was held by an opposition member that there be the availability of a Labour MP of my party.

**SIR HUGH:** Thank you very much, it was very interesting – thanks for your help and contribution.

**LESLEY SOPER:** Thank you for the time, and good luck with your outcome.

**CALL ENDS**

## **SIR HUGH WELCOMES BRENT PIERSON**

**SIR HUGH:** Hi, I'm Hugh Williams, I am the Chair of the Commission. With me here in Wellington I have the other two members of the Commission, the Deputy Chair, Jane Huria, and the Chief Electoral Officer, Mr Robert Peden. We also have with us our two political science advisors, Professor Nigel Roberts, and Dr Therese Arsenau. What we've been doing with submission is to assure those who have presented them that they have all been read by all of us, inviting the person making the submission to outline the major points they want to put forward, and then we'll ask you some questions. So away you go, this is your chance to talk to us.

**BRENT PIERSON:** I would just like to say that with this percentage, I would really like the percentage to go down to 3% because I believe that would allow more small parties into parliament, and I think the 5% is far too high. As well I'm very opposed to this loophole which allows one MP to get in and bring his party in. So that's very important for me.

As well I'm very in favour of open lists so that the voter can actually move the list around, as you know, and as well, when an MP, you know when you have a by-election, it doesn't seem very fair to me when an MP can stand in a by-election when he's also an MP, so I would prefer MPs, if they want to stand in a by-election of course, they can also resign from parliament and stand in the by-election – but they shouldn't be able to stand as an MP if they are already an MP – it seems quite ridiculous.

Also, the polling around the elections, I find that very sad in New Zealand, the poll is really leading the voter, and I would prefer to take away a lot of this misleading stuff and just have no polls close to the election if that was possible, and as well one strong point for me is that all the parties should be treated equally, and I don't see why we should have this two horse race with National....? Pardon – yes I'm still here – and ranking of the list, and I think if you're going to stay with a closed list, which is possible because some people don't like open lists, then you'd at least the commission to make the parties be democratic and have democratic forms of selecting, listing the list of course some parties are left democratic than others, and I would think it was a very good idea that all parties must have a democratic process for ranking their list, and of course the final one for me is all the voters should be on the same electoral roll but of course that's outside your parameters.

**ROBERT PEDEN:** Yes, thank you Mr Pierson, your proposal around open lists – I just want to understand with regard open lists as more democratic – isn't democracy achieved when you get to exercise your vote as a voter for the candidates which are put up in the electorate, or on the party lists by the parties?

**BRENT PIERSON:** Yes, but of course the ones who are voting for the party, they are the ones, they are the main supporters of that party, and I think they should have some say in that party. They are actually the ones who vote for that party. Obviously, only people who vote for a particular party can list that party. So if you vote for Labour you can list Labour, but you can't list another party that you haven't voted for. So I would say that it's a very good democratic way to allow people to have a say in the political parties because not many people these days join political parties, and political parties can be run by a small elite group and it might not actually reflect the voters so I think an open list would reflect the voters' wishes, and it won't change everything because most people will just accept the list as it is, but some people will want to change it, and if there was enough voters who are obviously supportive of that party, they would be able to change slightly the list, and I think it is very democratic and many countries do it that way, and I think New Zealand would be on the right step if it went that way.

**MS HURIA:** Yes, Mr Pierson, your point 4 about not allowing MPs to contest by-elections, I am assuming that you are referring to both to electorate and list MPs?

**BRENT PIERSON:** Yes, of course. It doesn't make any sense to have an MP standing to be an MP. Why would an MP stand to be an MP that's already been elected as an MP? It allows, I just think it just means that the elections, there are quite often by-elections and we are told it's already known, because all the people standing are either MPs, it's not a really a very good system. If you want to stand in a by-election for that candidate in that area and you are an MP, you can resign from parliament and do it, but I don't see why we should be playing these silly games.

**MS HURIA:** We've heard Mr Pierson some submitters say that there should be opportunities for list MPs to actually face an electorate. We've had one today that said it should be compulsory for them to have to face an electorate, and others say why should they not be able to. Do you have a view on that?

**BRENT PIERSON:** I think that parties should be able to have list and electorate MPs, and I don't have a problem with that as long as it's up front, as long as you know straight away the guy is on the list, the other guy is on the electorate, but small parties don't have that much leeway, most small parties they have to be on the electorate as well, and I would be opposed to stopping small parties having both because small parties don't have the resources of big major parties like National or Labour. So a little bit of flexibility I think is better – I think that people get caught up in this whole concept of how the MP is elected, a list MP is an MP just the same as anybody else, he just got there a different way that's all, in my view.

**SIR HUGH:** Mr Pierson, you suggest that television and broadcasters should treat all leaders equally. Do you mean by that they should all be accorded equal time?

**BRENT PIERSON:** What I mean is – example – when you had the Labour and the National leaders having a debate on television, where were the other leaders of the parties – where were the other leaders of the parties that were actual in parliament? Nowhere, because the television just concentrates on what is in their opinion more popular and they just reinforce this Labour/National concept. It's not fair, elections are about the people's will, and we shouldn't determine the will before the election is held. I think TV, you know both channels and radio as well, they need to have a fair basis, every leader of a party, particularly those parties in parliament or parties are likely to get in parliament, should get treated equally and I don't think – I think that if John Key says he doesn't want to go to a leaders' debate with anybody else except for the leader of Labour Party, then it shouldn't happen that way because he shouldn't be able to determine that – and unfortunately that was the way it worked at the last election.

**SIR HUGH:** Well the only power the Electoral Commission currently has is to allocate time and money for election advertising, and particularly for opening and closing addresses for the leaders of all parties. Things like the Leaders' Debate are organised by the television stations. Are you suggesting that that should be outlawed?

**BRENT PIERSON:** What I'm suggesting is that television or radio broadcasting should by law have to treat political parties as equals and they shouldn't be able to have a leaders' debate which consists of just Labour and National – that is against the democratic process,

that's unjust and just reinforces this two dominant party system. I think it is wrong, and I think many people think it is wrong and whatever can be done to stop that, I don't know what can be done, but I personally would be in favour of having law that says that you must treat all leaders the same and making a television station either have all the leaders or have none.

**SIR HUGH:** Let's look at by-elections, an example, we have been putting to people who advocate as you do that list MPs, any MPs, can't stand in by-elections unless they resign. Is Ms Hekia Parata, a current minister, she should stand as a list and electorate candidate in 2008 and in 2011 on each occasion she was unsuccessful as the electorate candidate, but entered parliament as a list MP. Midway between those two elections, there was a by-election in Mana where she stood again for the electorate unsuccessfully as it turns out. On your rationale, she would have had to resign as a list MP to contest the by-election despite having been a successful contender for both the 2008 and the 2011 elections. Isn't that a bit odd?

**BRENT PIERSON:** No, I think she is, look an election is about electing people for parliament. She was already in parliament, so it was a bit odd to me that she has tried to get a job that she already has. Of course, when it comes to the general election, she can stand like everybody else, but a by-election is different and outside the norm, and I think myself that it's a bit rich for people who are already MPs to stand to be MPs. They are MPs, so why are they standing to be MPs again? The fact of the matter is, if she really had the belief that she could win that seat, she has the legal right to resign from parliament and then contest the election. It's up to her, and if she's so successful, the voters will vote for her.

**SIR HUGH:** If your proposal was enacted, existing MPs would be the only people in the economy who had to resign their existing job in order to apply for another job.

**BRENT PIERSON:** They are resigning to get the same job – how can they apply for the same job, a job they already hold? They are MPs. They want to be elected as MPs, and here they are - it's quite ridiculous they are MPs, so they don't need to get elected to parliament, they're already in parliament. We want to get new people into parliament, all we are doing

is putting the same people who are in parliament back into different seats, it's ridiculous and I think it should stop.

**SIR HUGH:** Thank you for your time Mr Pierson and for your contribution with your submission.

**BRENT PIERSON:** Thank you very much - thank you.

**CALL ENDS.**