

PUBLIC HEARINGS ON THE 2012 REVIEW OF MMP

AT WELLINGTON

ON 24 APRIL 2012

HEARD BEFORE ELECTORAL COMMISSION BOARD MEMBERS

SIR HUGH: Good morning everybody and welcome to the second day of public hearings on the MMP review that we, the Electoral Commission, are conducting. I won't go again through all the introductory remarks I made yesterday morning. The format we've proposed to adopt is that each of those who have made submissions can rest assured that the each, every member of the Commission has read them, as has in this case I was going to say, both our political science advisors, only one's able to be here today, Dr Therese Arseneau on your left. So submitters can take the view that we've read everything, we've all annotated them and it's so, those presenting confine themselves to either outlining the main points or any additional points that may have occurred to them since they filed their submissions or additional points that may have come to them as a result of reading other submissions, that would be helpful, then we'll ask some questions, beginning with Mr Peden, the Chief Electoral Officer on my left. My deputy chair, Dame Huria on my right, myself and then possibly Dr Arseneau.

Now the first submission this morning is Mr Ashcroft's.

TERRY ASHCROFT: Members of the Commission, ladies and gentlemen kia ora. This is my wife –

SIR HUGH: Can I just interrupt a moment Mr Ashcroft to tell you that not only do, does the Commission have your original submissions but it has the supplementary submissions that you handed in earlier this morning.

MR ASHCROFT: Thank you. And in this supplementary submission if you like, I'll just outline in a far better organised fashion what I presented to the Commission.

SIR HUGH: You're being assisted by your wife I gather?

MR ASHCROFT: Yes. She had two hours' sleep last night because she flew in. So I'm asking the Commission to advocate improving MMP seat allocation by improving its understanding and fairness. For a seat allocation to be more easily understood would the Commission please consider advocating the use of proportional calculation rather than the method of quotients. This is because most people either understand or know somebody who understands calculating by proportions but I don't think you can say the same for the method of quotients. So maybe quotients better handles the rounding effects but I think it's very important for good democracy that most people can understand how it's calculated.

To improve the fairness of seat allocation we have two advantages available or unavailable as MMP was introduced. Firstly last year's referendum reconfirmed that voters' preference for multiple parties to be represented. Secondly we have the 2011 election results to enable us to examine MMP's seat allocation. Both these advantages came, from what is to me, an MMP-savvy electorate.

Fairness will be looked at by comparing each party's total list, total of list and electorate votes with their allocated seats. These totals best match our hybrid combination of list vote in electorate seat allocation method. For simplicity I'll refer to each party's total of list and electorate seats as the total party vote or if it's suitable to the context as just votes.

This graph demonstrates the average number of votes per seat. Of course unfairness caused by splitting the total seats by list votes doesn't appear to affect the parties on the right. Now the 2011 election results show that to get each seat in the House, Labour required 40,500 votes compared with

New Zealand First's 23,500. In other words, a New Zealand First vote was worth 1.7 times a Labour vote, or that Labour required an extra 17,000 votes per seat. But this isn't just one lot of 17,000 votes. Labour won more seats and 14 hundred thousand votes compared with New Zealand First's 200,000 votes. So the question is, how many seats would Labour have at 23,500 votes per seat? We finish up with a 188 seat House and a quite different-looking structure.

Unfairness can also be seen just by looking at the list seat votes. Sorry, it doesn't reflect this graph. For each list seat, National needed 63,000 list seats, Labour 51 – sorry, list votes, Labour 51,000 and the Greens and National – Greens and New Zealand First each needed 18,000 votes. So, for list seats, each New Zealand First list vote was worth 2.8 times Labour list vote.

In the paper it also referred to some risk of unfairness with a party splitting into two, I'll explain that later in the questions if you want me to. Now, I've sort of talked about three types of unfairness but they're not a put down of MMP, rather I see it as a way of celebrating a growing pain as New Zealand has moved from voting for First Past The Post or party representatives, to a party representation, a step in its evolution of democracy.

The Commission can now further improve MMP's seat allocation by advocating the introduction of full proportional party representation. This change needs to keep the well accepted separate and electorate list votes and recognise that 99.5% of New Zealanders vote along party lines.

The suggested way of achieving fairer proportional party representation is to allocate seats by proportionally splitting the total seats by each party's total votes. At the moment we're splitting the total seats just by the list votes and this graph just shows the breakdown of the 120 seat house.

Now, Labour has had significant gains and that reflects also that they got more electorate votes than missed votes in the last election, they were the

only party to do so with list votes. Now, in the full submission I treated looking at limits as out of scope of what I was trying to cover, but in case you're wondering if these total seats were split by total votes under the current limits, National would have 59 seats, Labour 39, Green 11 and New Zealand First five. The government's majority would also increase by one.

Anyway, back to totals splitting the totals by votes without limits. The blue line shows the average of the total base votes based on the 2011 election results and that is exactly the same as the first grey area. The red line shows the average, when seats were allocated by splitting the total seats by the total votes. The single line towards the right just shows where parties didn't get list seats have an unchanged average. However, all parties gain list seats, that's the four on the left plus the conservatives on the right, that's a fitting place for them, have about the same average number of seats, so I'm saying that shows it's fitting, the total seats by the total votes it significantly reduces unfairness.

Also important, this approach makes every vote more useful and I think this will encourage voting.

So, the Commission is asked to advocate splitting the total seats by each party's total votes. While it's a simple change, this request to shift from unfair party representation to a proportional party representation, is not tinkering and must only be made recognising that it is a step in our democracy's evolution, thank you.

SIR HUGH: Before I open it for questioning, there's a couple of housekeeping issues I should've mentioned earlier on. The first is that the proceedings of the Commission are being recorded and transcribed remotely so that people can speak at normal speed and be assured words will be recorded.

The second is I note that there are a couple of folk present who are taking notes. If you, it would be more comfortable if you wanted to use the media benches over on the side of the room, please feel free to do so. Mr Peden?

0930

MR PEDEN: Thank you Sir Hugh. Thank you for your submission. I suppose my first question is around your objective which I understand to be to maintain proportionality, you support the MMP system in general –

MR ASHCROFT: Yes.

MR PEDEN: - and you're wanting to maintain proportionality. Under your proposal would voters continue to have two votes?

MR ASHCROFT: Yes, definitely very much.

MR PEDEN: I suppose what I'm struggling to understand and as I understand our current system, the list vote is there to enable New Zealanders to express their view on what the overall shape of parliament should be and that's I suppose the proportional aspect of the MMP system. The electorate vote is focussed on the electorate within which they are located and it's not a proportional exercise at all. What I'm struggling to understand is how combining the electorate vote, which has a very different purpose from the list vote, together gives a fair picture of how seats should be distributed proportionately? I would've thought that would've had the opposite effect.

MR ASHCROFT: The problem is that the list votes don't only split the list seats. When we come to splitting the total seats we say look National has already got so many list seats so that will leave more for the other people and so while the list voting is sort of, at the moment setting the proportionality, it is actually affecting or being affected by what electorate seats the party have already held. Do you see what I mean?

MR PEDEN: Yes.

MR ASHCROFT: Pat, if you could just bring the next graph up because that will show it too. The blue bars represent the electorate seats, the red bars on

the top represent what would happen if we just took the list seats and divided it only by the list votes and so we would then get back to a very much First Past the Post style. But at the moment because we're trying to moderate and get away from that effect and I'm sure the people who introduced the MMP saw that. They said look, you know, somehow or other we've got to avoid that, we'll start the house, taking into account what seats people have won in the electorates and that's giving this unfair voting representation I talked about.

MR PEDEN: So at the moment is it your view that it's not just a question of understanding the Sainte-Laguë view formula, the quotient approach, it's not – in your view does the application of the Sainte-Laguë view formula, the quotient approach deliver a proportional result?

MR ASHCROFT: Oh, look the quotient calculation versus proportional calculation would apply whether you took total seats or list seats. It's a method of just working out proportions and I looked it up on the internet and found quite a few foreign language papers that were no help to me and then I found one that said very good for working out the volume of irregular vessels and I thought aha, Mabel Howard's bloomers, that would do that but I am saying it's a pretty obscure method. I guess it was taken because it better rounded off but I don't think people understand it well enough and I think the Electoral Commission have got a website where you can put your figures in and work out what's going on but you don't know why the method's there and what the pluses and minuses of it and you can't do it yourself. That's why I think we should just calculate by proportions. Now I think calculating by proportions is one argument, the second is what we are going to split by proportions.

MR PEDEN: I suppose my concern or my, what I'm still struggling to understand is why combining the electorate vote with the list vote which, as I say, at the moment had two very different purposes ...

MR ASHCROFT: Right.

MR PEDEN: It gives you a fair picture of what voters want the overall picture to look like. At the moment people can vote strategically and do so with their party vote and their electorate vote.

MR ASHCROFT: And they could still do it under this.

MR PEDEN: But wouldn't the overall result of your proposed method be to undo that?

MR ASHCROFT: To some extent. I think you would get rid of the Epsom cup of tea type approach but if you feel you have got a very strong local candidate for one party, you might vote for them and you might vote for another party to bolster that party throughout the country. Coming back more to your original question, I obviously didn't explain myself well enough on my second try. What I'm saying is that what you say sounds quite fair on the surface but because, when they use the list vote to divide the seat holding they look at the result, it incorporates the result of the elections and so if a party's won quite a few seats in the electorate, like National and Labour did, they are getting very few of the list seats.

MR PEDEN: Yes.

MR ASHCROFT: Thank you.

MR PEDEN: Thank you very much Mr Ashcroft.

MS HURIA: It might be – I'm just wondering, what are the risks you see to adopting this method of calculation on the downside?

MR ASHCROFT: In my submission I said it could handle any number of seats, thinking about it afterwards if we only had 10 electorate seats and – sorry 110 electorate seats and 10 list seats, that sort of proportion wouldn't work. The risks, probably getting people to understand it a bit more. We've

learnt how to be sort of, you know, cast strategic votes as you say and we've got to relearn what this means but I think the most important thing or one of the important things is not only it's fairer but every vote is going to count more. So people are going to have to learn that look even if I turn up in an election, in an electorate where the opposition to my vote has got a 10,000 vote majority, my one vote for the party is still going to be recognised.

SIR HUGH: You're not the only presenter to have suggested that parties, particularly the larger parties, might divide themselves so that they'd have party X campaigning only –

MR ASHCROFT: Yeah, I'm not surprised, yes.

SIR HUGH: - for the list vote and party X only campaigning for the electorate vote but is that a realistic possibility? Wouldn't they be punished by the electorate if any political party followed that line?

MR ASHCROFT: I don't think so because at the moment the majority of the voters, if you like, the people that support the two big parties are being treated relatively unfairly and so while some of them will say well look it doesn't seem right to do this, to party split our votes, I think most of them will accept it because after all it's only restoring fairness for them.

SIR HUGH: Would adoption of your proposal delay the formation of government after an election longer than is now the case?

MR ASHCROFT: I think, looking at that, well sorry the previous, one of the other graphs, the two larger parties will be stronger but it will still always be a balance, you know what the balance of the small parties are, I think they will just be more fairly represented.

DR ARSENEAU: Thank you for the submission, you've obviously put a lot of work into it.

MR ASHCROFT: Thank you.

DR ARSENEAU: As have you, so we really do appreciate that. The problem, I suppose, with this is that technically it be a significant change to MMP because MMP, the mixed member, so that would still be mixed member but it's proportional based on the party vote and so that would actually be a significant change to MMP. I am intrigued though by your description of the Sainte-Laguë formula as better at rounding –

MR ASHCROFT: Oh no I'm talking about the – I don't – I couldn't work out what that formula was but it did talk about using the method of quotients and that's what I want chasing.

DR ARSENEAU: Yes and I think it's a pretty fair thing to say that it's better – it's chosen really because it's good at rounding –

MR ASHCROFT: Yes.

DR ARSENEAU: – rather than, perhaps, in terms of ease of understanding. Can I just ask you, if we were to get rid of the quotient, do you have any suggestions on how you would round? So if you had – if a party is entitled to two and a half MPs –

MR ASHCROFT: Yes.

DR ARSENEAU: – what would you do?

MR ASHCROFT: I would round. Now, I thought about this – I mean, I would round using the standard rules of if it's 0.5 or above you go up, otherwise you go down. What the result of this is going to be is we would have a bigger variation than the total number of list seats than we would with the method of quotients, but I only see that being, at the most, one for each party, but as I say, that's, I believe, better balanced by the fact that more people can actually say, look, that calculation looks right.

DR ARSENEAU: Thank you.

MR PEDEN: In terms of an explanation of the Sainte-Laguë method, we do have on our elections results website a brief one and a half page description. I don't know if you've come across that.

MR ASHCROFT: Yes, I did, and I wasn't separating out what was the method of quotients, which I thought was just part of that versus what was the whole thing.

MR PEDEN: I just wanted to make sure you understood.

MR ASHCROFT: No, I thought – in fact, I want to make it very clear that I don't think there's any fault of the Electoral Commission behind these results or any parties being shonky, and I think the website you talk about, you know, it behaves well, and it gives a description, but it doesn't really say why we chose this method, what the advantages and disadvantages of it are.

SIR HUGH: Well, thank you, Mr Ashcroft. As with many other submissions, we're most appreciative and most impressed with the amount and time you've obviously put into the material you've put before us. Thank you for doing that, and thank you, too, Mrs Ashcroft, for your selfless devotion to duty. The second submission for the morning is from the Council of Trade Unions. I've just been told, I think Mr Conway is to present the submission, is that correct? Again, Mr Conway, you can take it, as I said earlier, that we've read the submissions with interest. Perhaps you can elaborate on them.

PETER CONWAY: Good morning. We welcome this opportunity. We welcome the review, and our submission is not about quotients or technical matters, it's more at a level of principle.

The first matter we want to raise is that we support reducing the threshold to 4%, possibly lower. That's something we'd have to think about, but certainly

4%, and we note the comments of the Royal Commission in 1986 in respect of that. The particular concern we have is over the one seat threshold, which we believe distorts election outcomes, and really our submission to you is that this is by now a credibility issue around MMP, and is an absolutely crucial issue for you to wrestle with, as I am sure you are.

In respect of dual candidacy, we note that the Royal Commission stated that removing dual candidacies was undesirable in principle and unworkable in practice. We believe that would create a significant separation between list MPs and elected MPs, and within parties.

In respect of the overhang issue, we don't have a lot to say on that. We don't believe that that has attracted a high level of concern.

In respect of the proportion of electorate seats to list seats, we note the Department of Statistics' extrapolation that by 2051 there could be 77 seats. I think for us the key principle here is around proportionality, and a reluctance from our perspective in seeing a dilution of the current proportionality. So by implication, that would mean that we would support a larger Parliament as things roll on, due to population pressures.

In respect of list ranking, on balance our view is that the risks of making the ballot paper much more complex and the potential, therefore, of putting some people off voting, outweighs any advantages of an open list and we also observe in our submission that possibly an open list may reduce diversity and representation of minority groups.

In terms of list MPs standing in a by-election, we believe this situation is effectively managed by transparency. People are well aware that the person they are voting for is a current list member and can take that matter into account when they express their voting preferences.

I have tried to be brief because I'm aware that, in some respects, we are repeating submissions you will have heard in respect of a number of the

points from what I heard in the news media, so I have confined my comments to just a very brief summary of our submission.

MR PEDEN: Mr Conway, your advocating at least a 4% threshold, a number of submissions to us who have advocated a 1%, the removal of the electorate seat threshold have suggested that as a consequence of that the threshold should be reduced quite dramatically. Is your organisation, you don't have a view at the moment about how much lower the threshold could go. Is there a point at which you think it would be too low?

MR CONWAY: Well we don't have a clear policy on that but can I say that I completely accept the risks of going too low. It's well known –

MR PEDEN: How low is too low?

MR CONWAY: Exactly. Well I think that the Council of Trade Unions will have to give very serious consideration to much below 4% because I think the risks that sit there are very much around very small groups and also the risks to democracy of very wealthy individuals in essence creating a party, bankrolling it et cetera and we do have some concerns around, you know, the influence that you could have on the makeup of parliament if the threshold went too low. So, you know, we're not, at this stage, looking at anything below three but at four we're comfortable, below that we'd have to have more of a debate.

MR PEDEN: If the one seat rule was to be removed, that would increase the chance of overhang seats and I've noted your comments that overhang seats don't concern you but if there were say six or eight overhang seats in parliament, would that be something of a concern?

MR CONWAY: Not hugely but I see your point and that's what I suppose I'm saying that we are making submission at the point of – at a level of principle and we accept that there's consequential impacts, spill over effects, of one

change on other aspects of the architecture of MMP. Certainly you can create scenarios that would start to raise concern.

MR PEDEN: Okay. You made some comments about section 71, the requirement of the Electoral Act for parties to use democratic processes for list selection. Do you – would you just like to expand a bit on what your expectations of parties would be in terms of how they involve membership in that selection and whether you think there's any need for any further regulation in the Act, as far as that's concerned or whether it should just be left to parties for themselves to determine how they select candidates?

MR CONWAY: Well being from the union movement where we have rules that require us to be democratic et cetera, you know we do support there being strong democracy within such organisations and so possibly there is room for further amendment in that regard to ensure that happens. Certainly there should be a process whereby party members can at least elect or choose, if you like, the Council or the body that might be involved in that list selection because that at least gives, even if it's one step removed, gives quite a say, it makes it a contestable element within that party as to how the makeup of the body chooses the list is determined and that would be a good principle.

SIR HUGH: Can I just check a couple of things, in para 6.6 of your submission you say that the CTU supports retaining parity between electorate and list seats but did I understand your little, in your oral submissions to say you wouldn't like to see any dilution of the current proportions?

MR CONWAY: Yes that, with respect that was not well worded.

SIR HUGH: The written or the oral?

MR CONWAY: The written. Yeah, I mean we accept there's not parity there now.

SIR HUGH: Do the CTU really opt for the status quo?

MR CONWAY: In terms of proportionality, yes. I mean it was, you know, a bit different in the past, there were 65 and now we've got the 70/50 arrangement. We'd be not keen on seeing a dilution. We accept that there does need to be work done and there is being work done about the impacts of population changes. There are issues around electorate size. We have made some suggestions about resource issues around that but there's lots of trade-offs in that space, we accept that but for us to maintain MMP for us means that you could not dilute too much the proportionality between list and electorate seats.

SIR HUGH: Even though maintaining the 70/50 or thereabouts proportion inevitably means expanding electorate numbers?

MR CONWAY: Yes.

SIR HUGH: You see no difficulty in MPs servicing greater numbers?

MR CONWAY: Well we also, in our oral submission, accepted there could be more seats.

SIR HUGH: So you would say, the CTU would say that an expansion of the House beyond 120 would be the way to address that problem?

MR CONWAY: Yes it would.

SIR HUGH: Unfortunately we can't look at the number of MPs.

MR CONWAY: I think that's a, you know, as populations rises and given this system, that surely has to be looked at, at some stage.

SIR HUGH: Just turning to list rankings, the CTU suggests that open lists might reduce diversity and representation. Is it not at least arguable that it's now imbedded in the New Zealand voters' consciousness that we benefit from

having more women, more Māori, more Pacifica, more various other diverse groups in our community represented in parliament?

MR CONWAY: Perhaps so and perhaps also, given transparency, then people having a choice around that is intrinsic to MMP, so I certainly recognise that point. I think for us there is a real complexity issue. There has been at least some speculation that the STV in the District Health Board elections was quite complex for people and so we do have concerns about complexity of the voting system. For us people turning out and voting and understanding the system, we're always incredibly disappointed at election time as to how complex people find even the current system. Even with easy vote cards and things like that, the confusion that some people have about what the status of those cards are and whether they're entitled to vote if they don't have the card. You know when you've got people misunderstanding very, very basic elements of our voting system then you do have to be careful around complexity.

SIR HUGH: I can certainly understand that, a number of presentations have remarked on what the ballot paper would look like if you had an open list voted on, on election day but I really wonder whether an open list would reduce diversity and representation.

MR CONWAY: It's arguable.

DR ARSENEAU: Thank you for your submission. A couple of points, just for my own sake to make sure I understand them. So 4.3 you talk about dual candidacy could result in less diversity in Parliament, basically. I'm just wondering if you could just speak a bit to that.

MR CONWAY: Well, I guess it just reduces the choice of who the party is able to put forward.

DR ARSENEAU: And on the point of lists on the spectrum, so there's closed lists, there's open lists, and there's a variety of things in between, in a sense,

so there's semi-open lists, does the Union have a view on, say, the ability to change one person on the rank order of, say, one person on the list? Would that still be considered too complex, or would that sort of ease some of your concerns about that?

MR CONWAY: To be honest, we haven't considered that. I think it still risks some complexity.

SIR HUGH: Thank you very much, Mr Conway. That was very helpful. The third submission of the morning is James Shaw. Mr Shaw, yes. You've been sitting here this morning, Mr Shaw, so you know the rules, and I don't need to make any introductory remarks. You, of course, have the advantage of being a dual candidate just last year, I think.

JAMES SHAW: I do, yes, so obviously I have an opinion about that as well.

SIR HUGH: You can give us your first-hand knowledge.

MR SHAW: Yes. So good morning, my name is James Shaw, I was the Green Party's candidate in Wellington Central last year. In my professional life, I'm actually a management consultant, and one of the areas that I work in is organisational behaviour. So my submission has been formed both by my experience as a candidate and also, you know, my professional experience.

I will try and restrict my oral submission to supplementary comments or things that I've thought of since I wrote the written one.

SIR HUGH: That's one of the principal purposes for asking people to address us orally.

MR SHAW: Great. Well, my thinking has evolved somewhat. I just want to say, my framing is really from the perspective of what are the things that influence both voter behaviour and also the politicians' behaviour. The idea that we have two classes of MPs, which is entrenched in the system, but we

also have a first class and a second class at the moment, and I think that some of the design of the system entrenches that, so I'm interested in making them, I guess, two classes but of equal kind of footing, if you like.

Looking at the long-term rather than what are the immediate consequences for any given party, and I guess one of my disappointments with the party submissions that I've seen so far is that they seem to be mired in, you know, what would that mean for the next three to six years rather than what would it mean for the next couple of decades, but I guess my most important principle is the idea of perceived integrity of the system on behalf of the voters. That's not to say that the system doesn't have integrity, but actually that it has a perception, I think, in some areas that it doesn't have integrity, and I think that some of the changes here are to deal with the perception more than the reality.

So in summary, I am asking the Commission to retain dual candidacy, but to bring in preferential voting for the constituency vote, so you would rank your constituency vote rather than place a tick next to your most preferred candidate.

I'm asking the Commission to recommend removing the one seat threshold and to count people who win their constituency seat but don't reach the party vote threshold as independent MPs until their party attains the party vote threshold. By implication, obviously, I'm suggesting that we retain the party vote threshold. I'm agnostic about the level of the threshold. I tend to follow the wisdom of the Royal Commission that said 4%, maybe 5%. I would be reluctant to drop it much, you know, maybe 3%, and I'll explain that briefly, why I'm against a much lower threshold. And I also believe that we should move to a form of public voting on list ranking via either registered voters, the way that they do in the United States, in a sort of a primary election sort of a way, or via asking all parties to move to a member vote, a vote of all members. In some of my experience in the Green Party where we have a form of that already informs that as well, also some of the complexities of that, because it's pretty horrendous.

I do have – so those things, I think, have an interplay with each other, doing those four things. I have another comment about proportionality which is not related to those four things which is just to say that I believe that we must retain proportionality either by allowing population density of the seats to increase or by expanding the number of seats in parliament which I know is outside your brief but I think the principle of proportionality is critically important to a proportional representation system.

In terms of, I'll just sort of work through why I think some of these things. In terms of retaining the party vote threshold, from a behavioural perspective I think what it does it encourages politicians to seek to engage in dialogue and to join together rather than to play to very narrow constituencies. So it –

SIR HUGH: Do you mean within a party or across parties?

MR SHAW: Well I think it encourages them to form parties or to coalesce. So in a behavioural sense, if you're talking about the health of a democracy I think it's, you know, I know that we have an entrenched oppositional system but I think that that produces obviously some, it has its own negative set of consequences, that it works better when politicians are in the habit of conversing with each other and trying to seek common ground and I think that the margins sort of below, you know, at the 1% kind of, one to 2%, all the politician needs to do to get represented in parliament is to play to a very narrow set of concerns and they don't need to engage in that compromise or dialogue.

I mean it's – I know a lot of politicians. I for the most part trust all of their intent in terms of being, you know, their sort of sense of public service across both sides of the aisle. I think there are very few, literally a handful, who are you know self-interested above their public interest. They are also very egotistical and I think that, almost all of them, and I think that we just need to, you know, consider what are the kinds of conditions that they operate within

that would induce that the kind of behaviour that we're looking for and that's why I believe that we should retain a threshold.

I think if you weren't to have a threshold or if it was to be say 1% then you could see an increase in a number of parties with only one MP or maybe two MPs because there would be a class of individual who would have the resources and the ego and the intent to play to a very narrow set of concerns. Whereas at the moment at least those people are encouraged to talk to each other to try and form a band and, you know, looking at the Green Party, we have a very wide spectrum, I mean there is only 14 MPs but we have a very wide spectrum of opinion but being kind of, I guess forced into a party ensures that we have to talk to each other about those things and to find some kind of compromise and that's, I guess, what the threshold does.

Removing the one seat threshold and counting those MPs as independents until they reach the party vote threshold, I notice yesterday National said that they were concerned about an overhang. I actually believe that, you know, because they're looking at the results of the last election, that there would be quite a substantial overhang but of course that forgets that there would be any kind of change in voter behaviour based on the system because you wouldn't have the incentive to vote for an MP in a constituency for the sake of getting that party into parliament if the threshold didn't exist. You would only vote for a MP who did, you know, as an independent effectively, if you honestly thought that that MP was the best representative for your local electorate and you might see one or two of those around the country but you wouldn't see them, you know, people sort of comingling the party vote with their constituency vote as a sort of a get out clause. What it might do is it might actually increase the incentive for people to vote for those parties with their party vote because if you thought, you know, if for example I was Epsom voter or a Sydenham voter for that matter, prior to Jim Anderton's retirement, if I thought that, you know, kind of I wanted a Labour led coalition or a National led coalition but I wanted to support a support party to that party then I would actually be forced to consider whether I wanted to vote for Labour or for the Progressives or, you know, whatever they were called or on the other hand

Act or National. I would actually be forced into that choice. At the moment we can aggregate our responsibility for that to the voters of Epsom or Sydenham or Ohariu and say well look I don't need to touch them because somebody else can handle that for me.

So, yes and I do think that some of the submissions have been focussed on the near term. At the moment the sort of centre right is very monolithic and the left is, you know, more fragmented. That has not always been true but that won't always be true as well in the future and so I think we just need to be very careful about making decisions about the voting system based on what are the implications for the short term. So that's dual candidacy.

So, the dual candidacy, I think if we were to remove dual candidacy it's really hard to find good strong, you know, 60 good strong candidates but having to find 120 is, you know, incredibly difficult and I don't just mean for a sort of mid size party like the Green Party. National and Labour obviously find it difficult as well, if you look at, you know, some of the MPs who end up in parliament.

So, I believe that we should retain dual candidacy, but one of the things that I noticed on the campaign trail is that people have a real problem with what I'm calling ghost candidates, that is candidates who are campaigning for the party vote, primarily and not necessarily for the constituency vote, because they believe that that is some kind of, you know, these are out of integrity in the system there, that we're gaining the system, because we know that, you know, in Wellington Central for example, I know that I have kind of no real opportunity to un-seat Grant Robertson who is the sitting MP there and so, you know, I effectively kind of say, well, you know, it'll be great if you vote for me, but actually what you really want to do is vote for Grant because what it does is it causes strategic voting and there's something about the kiwi character that doesn't like strategic voting, it sort of feels kind of out of order.

So I believe that removing dual candidacy would actually entrench Labour and National as the constituency seat parties and entrench all of the other parties as list only parties and that would actually increase the idea of first class and

second class members of parliament and extend it to first class and second class parties, that there are two real parties and then there are some others.

So I think that that problem can be partially solved by the idea of having preferential voting for the constituency vote because there, and I'll use Wellington Central as an example. Twenty eight percent of voters gave the Green Party their party vote, 13% gave me their constituency vote. Grant increased his majority 13% of the people who voted for the National Party voted for Grant, so I don't think that, you know, for example if we had preferential voting for the constituency vote, you might've seen that I would've had a higher constituency vote in the first round because people who had a preference for the Green Party also wanted to vote for their candidate but they probably would've given their second choice to Grant.

Clearly, also, National Party voters also like having Grant as their local MP, so he would've picked up their second preferences as well, even if their first choice was for their own candidate and so probably the result would be similar, Grant would continue to be the member for Wellington Central but he would have a majority of the seat behind him, you know, not just a polarity.

So it would increase the integrity in the system because it would allow all candidates to candidate for both votes with integrity to say, yes, I do want your vote and it would give voters the assurance that they would be left with an MP who represented their kind of hue in the electoral system and I think it would also help in places like Ohariu and Epsom and Sydenham and so on and so forth where, I mean, particularly Epsom where it was National Party voters who voted in John Banks effectively on National Party instructions.

Public voting on the list, if we were to move to some form of public voting on the list, that would actually remove a competitive advantage that the Green Party currently has, because we are the only party that asks all of our members to vote on the list, but I believe that it's important in terms of having some form of integrity, you know, introducing that level of integrity in the system. I'm unclear whether it would reduce the, you know, the

representation of, you know, in terms of ethnicity or gender and so on and so forth, I think there are ways that you could get around that and you have to remember that every party first has to vet and approve all candidates to go into the pool, so they can partially get around that by just ensuring that the selection of candidates that voters had to choose from represented all of those constituencies and then effectively they would have to be – I think it would raise the bar in terms of candidate – you know, parties looking for candidates because effectively they'd then be saying we would have to be satisfied that any of these people would become our MPs, so for example, in Green Party you've got 60 candidates who have currently got 14 MPs. We would have to be comfortable that any of those 60 could actually be those 14, so I think that that's a way that you could get around that. I realise I've been rattling on for a bit so...

SIR HUGH: I was about to curb your enthusiasm Mr Shaw.

MR SHAW: I noticed you looking over my shoulder at the clock.

MR PEDEN: I suppose two questions, I was struck by your comment that New Zealanders don't like voting strategically because it seems to me how MMP has demonstrated is they quite enjoy the opportunity to vote strategically and that's been demonstrated by the high level of split voting that we have throughout and so I suppose I just want to test how big a problem what you describe as 'ghost candidates' is and balance that against the complexity in the voting system that preferential voting on one side of the ballot paper would introduce and I wonder if you just want to briefly comment on that.

MR SHAW: Yeah sure. Well I do think that it's pretty easy and, you know, it's not a very complex change to move from having a tick to going one, two, three, four. I recognise it does introduce an element of complexity. You said that on one side of the ballot paper, I didn't say this in my submission but there are some people that actually suggest that you should also move to preferential voting for the party and that that would actually change a lot of your issues around the 5% threshold because effectively if your first choice

was a party that was kind of polling below 5% and you had a concern that, you know, they wouldn't get in that, you know, effectively and I'm not sure who this works which is one of the reasons why it wasn't in my submission but effectively by being able to rank your party preferences as well you would also ensure that some of those parties that, you know, support parties got more votes and ended up with, you know, getting over that threshold.

MR PEDEN: So you're comfortable with the idea of preferential voting on both sides of the paper?

MR SHAW: I would too but I'll leave it to wiser heads than mine to work out what that would mean in terms of the party vote.

MR PEDEN: This is subject obviously the Green Party is presenting that today and we will be able to ask them this but you, I think you used the word "horrendous" in describing the complexity of the Green Party process for finalising its list.

MR SHAW: Yeah.

MR PEDEN: Do you just want to briefly elaborate on your experience of how it works?

MR SHAW: Well I mean first of all I don't think it needs to be as complex as we make it. So it can be simpler than that than the system that we use because we have effectively three rounds of voting on the list, one of which is the all members ballot. I think the main problem with it, so what we notice is that we get, I think, something like an average of about a 40% participation rate and we have, I think, 4000 give or take, members. So it's a reasonable mandate, if not an overwhelming mandate in terms of, you know, members participating. I believe that one of the reasons why they it's as low as 40% is because what we are asking people to do is to rank, you know, up to 30 candidates because what we do at the moment is that we only rank the first 30 and we alphabetise people below 30 and I think that if you take the vast

majority of our members that they, you know, they just don't have personal knowledge of all 30 candidates, you know, largely, you know, because you might know the people in your region, in the Wellington region for example but you wouldn't necessarily know them from Auckland or Invercargill and so on. That tends to favour incumbents then because you have, you know, name recognition. I don't think that that's necessarily a problem but, you know, or those who have been around for a while, you know, who have kind of travelled the country and gone to conferences and so on and I actually think it's quite a good process of getting us ready for the actual election. You know a lot of people talk about the United States with their system of primaries that it really prepares candidates for the general and my own experience is that going through the list, you know, first of all seat selection and then list ranking was actually quite good personal prep for what came after.

Sorry, I also think that, sorry the thing that I wanted to say is that there may be ways of doing it with sort of sub-lists. One of the things that we are considering at the moment is actually gender balancing the entire list. So instead of having to rank 30 candidates in total you would do a, you know, effectively a top 15 men and your top 15 women, and then we would zip those together, one, two, one, two, one, two, right? From a sort of a behavioural perspective, it's a lot easier to do two lists of 15 than it is to do one list of 30, just in terms of being able to kind of see the names swimming in front of you, so there may be ways that you could do, you know, that kind of thing, which would make it easier for people to participate in.

SIR HUGH: You've answered all my questions in your oral presentation. Dr Arseneau?

DR ARSENEAU: Can I just ask one quick question in terms of the 'ghost candidates' and your desire to make a, I guess, legal change to deal with that. Some of the submitters have suggested that the best way to deal with those sorts of things is behavioural, so if voters don't like it then they can penalise. What's your sense?

MR SHAW: I don't think so, because I think that people tend to treat their constituency vote as another form of party vote, right? So they tend to say, "I'll vote for the candidate" – so for example, the statistics show that roughly 80% of National Party voters will vote for their candidate kind of no matter what, that there's a reliable constituency, that effectively what you're doing is you're casting two votes for the National Party, and so, and my experience is that the feedback that I've had from people who voted for the Green Party is that they also wanted to vote for the Green Party candidate, because that is the party that they support. They may not know me from a block of soap, probably not, but they did want to, you know, support the party, but they didn't feel that they could because they would run the risk of a National Party candidate becoming the MP, and therefore they gave their constituency vote to their second choice, in other words, they're actually using the two votes as a form of preferential voting to start with, which is, you know, sorry, what you're saying about strategic voting and you say, "Well, we quite like it." We quite it because the system induces it at the moment. What I'm suggesting is if you change the system it would clean up a, you know, I mean, I can't tell you the number of meetings that I went to where people said, "Do you want us to vote for you?" You know, "Are you really standing here?" To which, you know, I had a very convoluted response, and was forced to have a convoluted response. Great, thank you.

SIR HUGH: Thank you, Mr Shaw. Thank you for your insights stemming from your experience as a candidate. That's very helpful. Mr Beaumont? Good morning, Mr Beaumont. You probably heard the rules being discussed. If you'd just like to address us reasonably briefly on the salient points of your submission and any additional matters that you want to cover. I see we've just been given a supplementary submission.

PAUL BEAUMONT: Yes. Well, first of all I arrived very hot and bothered. I couldn't find a carpark in the building, and then no one would lend me any coins to put in the meter. My submission – I sort of agree a lot of things. The threshold is the whole problem I have and have had for a long time. I attempted to put a submission like this, a verbal submission, to the 2000,

2001 original MMP select committee and they, by some devious means, refused to let me talk. It was strange.

SIR HUGH: We noted that comment towards the end of your original submission, but we are charged with conducting an independent public review.

MR BEAUMONT: Yes, yes, I realise that, but the same issue applies now. I mean, I find the shenanigans around, certainly the electorates of the likes of Epsom and Ohariu are sort of just pretty low, really, and I just think we should eliminate the electorate member threshold as a, you know, as a way of introducing members, and we should also reduce the threshold itself. And probably the aspect from left field that I might suggest is that because everybody seems to be paranoid about tails wagging dogs we should allow members to be elected, if they have, 120th of the vote, I guess, but they shouldn't be allowed to vote on confidence and supply unless their party has perhaps 4% support, with these sort of sat on the crossbenches and be a ginger group, I think that would be great. We don't have enough, you know, ours is a very small parliament, really, we've barely got critical mass and I know the judicial side of things would be complicated perhaps for the legal side, but I can't see why that couldn't be overcome.

It seems to me much better to give everybody who votes a sufficient, well, sufficient votes in a group to get a member in, that they shouldn't have a representative there, restricting somewhat, if he's part of the very small party, but don't eliminate him, I mean this is like going down Lambton Quay and booting every 20th person off and that's just one party in there that reaches 5%, into the gutter, that's saying, yeah, useless. You might as well treat them like criminals who are not allowed to vote at all. I find that fairly preposterous really.

Also, on national radio this morning I see the National Party spokesperson sort of defending the antics in Epsom and Ohariu in saying it helps proportionality. I'm not quite sure how, but I'm sure if they lowered the

threshold, they'd help proportionality much better. What is the real problem with the system is that's being worked at the moment is we get the unholy tea party type fiascos but we also – we just simply don't, yeah, represent people that, yeah, try to vote, good, honest citizens who attempted to vote, but only those minor parties unless they were a charismatic member, only those minor parties that the major parties look upon with favour and they only do it for entirely selfish reasons. I find it just bizarre that this is part of our democracy.

SIR HUGH: Do I understand your proposition correctly, that a party must obtain 120th of the votes to be represented in parliament?

MR BEAUMONT: Well, it would be an individual, yes, certainly.

SIR HUGH: But that's essentially as with some of the submissions saying that it's a .83% threshold or something of that sort?

MR BEAUMONT: Something of that sort, yes.

SIR HUGH: You then say that if a party doesn't get 2.5% of the party vote, it shouldn't be able to vote on confidence and supply, how would that work?

MR BEAUMONT: Well, I think that if you're a member of party that has less than perhaps that – I mean that's just arbitrary, that's like 5%, simply, and of course the politicians just quickly made that 5% because it suited them, it's a bit like superannuation I think, it was as quick as that, wasn't it? I think 2.5 is just a figure that seems to be fairly low, but I suggest that every – you should be able to be in parliament with 120th of the vote, over 2.5 or perhaps even 4%, whatever. Your party couldn't vote on confidence in supply, so it couldn't upset a government. Your members couldn't vote on confidence supply and those would be legal, legal people would just throw up their hands in horror, I guess, but that seems much better for me than throwing away the votes of these good citizens who have taken the time to vote and then you disregard them, they're trash.

SIR HUGH: So it's the party that would be unable to vote on confidence in supply unless it had attracted 2.5% of the party vote?

MR BEAUMONT: 2.5 even four, I don't mind, but what I would like is –

SIR HUGH: Well there's quite a substantial difference, of course, Mr Beaumont.

MR BEAUMONT: Oh, no, I realise that, but what I'm saying is that what my, my real issue is that that the public should be represented if they voted 120th of the, yeah, the vote that was for that party or an individual. It terrifies me that charismatic individuals like the All Blacks or something could populate the place, but if they couldn't vote, if their party didn't hold – 2.5, four, I know that can be determined, if they couldn't vote on confidence in supply, they couldn't be accused of really wagging the body of this non-political dogsbody.

SIR HUGH: Thank you, I think I understand that.

MS HURIA: I just had a question thanks around the Electoral Act requirement in section 71 around having an element in democracy and ranking the list MPs and I note that in your submission you draw our attention to the fact that it wouldn't be a good thing to have voters out there doing it and I just wonder so how would you see the requirement, the legal requirement being met around having some democracy in the ranking of list MPs?

MR BEAUMONT: Well the parties entirely select the electorate MPs, we don't have any input into that, so they entirely elect their list and I don't really have too much problem with that and I think they really do it with an eye to what the public are going to like. They must, if they don't they are pretty foolish but yeah I don't think that if we – if we try and get the public to rank the list I think that you'll get a dramatic plunge in voting activity because it's just too complicated, it makes it – ignorance out there is just huge. It's a huge

leap to educate a trend and they haven't got a clue in how it works and many of them are not interested particularly but, yeah.

SIR HUGH: Thank you Mr Beaumont. I was going to ask about your proposal about voting ranking, perhaps Dr Arseneau, have you got any questions?

DR ARSENEAU: No I was going ask about the intriguing idea of being there but not being able to vote on confidence and supply. So just to be clear, so they would be fully participating in –

MR BEAUMONT: Absolutely.

DR ARSENEAU: - in say select committees and everything, just not being able to vote on confidence and supply?

MR BEAUMONT: That's, yes it's a relatively rare vote but I think we need more, well even dissent, if you like, it's a small parliament, no upper house or house of review, things get steamrolled through by the major parties pretty easily and if the group up there can say, "Hey, hey, hey". I might add that I voted for Winston Peters, he's not here today is he? Only, only would he have been my third choice, perhaps fourth because I felt that nearly 5% looked like they might be making it and I felt that those people deserved to be represented. I think the democracy is important.

SIR HUGH: Thank you Mr Beaumont, you obviously put a lot of thought into your voting choices, you've obviously put a lot of thought into your submissions and we appreciate that.

MR BEAUMONT: Voting choice, I don't know whether I had to put much in, I just thought this is a democracy and these people, it looked like they might miss and that wasn't fair. I really think, yeah, we should have fair representation. Thank you very much.

SIR HUGH: Thank you for coming. Our next submission is Joanna Moss. Yes Ms Moss you've had a long interest in politics haven't you? You go back a long way. Thank you very much for your submission. Would you care to address us? I don't need to tell you about the ground rules because you've been here for a good deal of our hearing.

JOANNA MOSS: Thank you very much for the opportunity and it's a great pleasure to be here. I want to talk this morning about four points in my submission, just to expand on a few things. When I did my presentation I deliberately thought I could do a very long submission for you but a lot of the points that I would have covered will be covered by others, so I wanted to focus on the other issues and so what I'm going to be doing today is just giving you the four points. They will be supported by Hansard and then I want to – I made 19 points on yesterday, so I will be then doing a supplementary based on the points that have come up today.

So the four issues I want to talk about today, the first one is the issue of list MPs versus electorate MPs. The second one is how to make list candidates and list MPs more valuable. I'm giving you a handout so... The third issue is the objectives of electoral reform in 1992 just to revisit those, based on Doug Graham's speech and then the fourth issue is the democratic candidate selection.

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The issue for me really is the divisor between list MPs and electoral MPs and let me begin by saying that there's a fundamental difference in behaviour of the list MPs between the small and the large parties and so I think if we start with a one size fits all we're actually missing the point here and I say this from observing the MPs in Parliament and also out in the community. New Zealanders are wedded to the electorate concept, and that happens because they regard their people as their MP. And I – yes, I think it will change for younger people, and earlier submitters have said, but basically people want to relate to their local MP, and so I think we need to look at that concept and how

we can make list MPs different, and this has been really reinforced because we now have list MPs behaving like pseudo-electorate MPs, and that's reinforcing their lack of legitimacy. And this has happened because of party rules and party procedures, and also for financial reasons. If they look like a duck and they quack like a duck, the chances are that are ducks.

If you look at, for example, Chris Finlayson in Kilbirnie, if you go down there, you'll see the signage, that he runs constituent needs forums, and he has a person that looks like an electorate agent in his office. Now, if you didn't know he was not a – if you didn't know he was a list MP you'd think he was the local MP. Now, the question you have to say is, and it's not a criticism of Chris because it's what the party says to do because the National Party procedures are that their list candidates must stand in a seat, and they do that for funding and other reasons. So basically they're forcing their list MPs to be pseudo-electorate MPs. And the question I think we need to ask as a society is would people prefer that he spent that time working on his portfolios. Would it be better to relieve people like him, who have specialty knowledge, of those types of responsibilities? And as I said before, they are forced to stand in unwinnable seats for the funding reasons, for profile, and also for what James was talking before about what he called the 'ghost candidate' issue, so the idea being if your name isn't on the electorate ballot paper, we won't get your party vote. So we have to think about what we're going to do about that.

If we look at the loss of rural seats by Labour, this has been mitigated, too, by the pseudo-electorate offices, too, and I think we've seen, you know, such a massive swing in the rural areas. It's been, you know, you know, quote profound from my perspective.

I think we need the list MPs to behave like real and valuable MPs, and I think this will involve a sea change in thinking and behaviour, and it will involve a sea change both on the part of the individual MPs and the parties. But I'm afraid I don't think it's going to come cheap. Now, that's not saying I believe we have to have list-only and look at the issue of dual candidacy because I think we can't do that. That's just practically – and not desirable either.

So let's come back to the issue of how to make list candidates and list MPs more valuable. And I think two issues come to mind. First of all is to look at the issue, particularly in the major parties, of balance of tenure, because we want people who will come in for a particular – you know, they may have a particular skill or expertise or they may have a project that they want to do, and you'll remember Dr Jackie Blue wanted to bring her screening in for breast cancer, and there will be other people who have a, you know, a real passion in their heart to do something. Now, if we don't allow those people to come into Parliament we, as a nation, are poorer, and I really would like to see that change.

So I think I'd like to recognise that the party list is largely irrelevant to the election of many MPs, and so my attitude to that is, really when there are candidates who are definitely going to win the seats, do they really need to be on the list? Is having a very long list that we present to voters that relevant? Yes, okay, the party may want to rank their MPs. Fine. But we saw last election with Labour a massive change. We had Labour MPs who said, "I will not go on the list." So that suddenly created three classes of MPs, and nobody really talked much about this, but for me I think it was very fundamental, and we may see other party members taking that approach, but once the party list is not reflective of the party candidates, you're in a very, very difficult situation and a very, well, potentially altering situation because imagine if the reason you vote for Labour would be say because you like Damien O'Connor and Lianne Dalziel, you get your voting paper and you think, "Oh, they're not on the list, maybe they're not standing this year, oh, okay, maybe I won't vote for them," so that's why I think we actually have to acknowledge that there will be people who will not be on the list and how do we go about that? Well, we could put them in a side category on the ballot paper, but I think again, the party list is becoming a more internal document, perhaps more than an external document, because if we force people to be on a list, do we say unranked? I don't know, that's a certain question.

So I want to make list candidates special. I want to highlight their specialty skill and knowledge and that may be something that you may want to do on the ballot paper, for instance, you might have a person's name and then beside them, you might have a one or two word, something like Treaty issues or energy or education, so that it showed that that person had a particular skill in that area.

Now, I think, you know, we know that we have areas in parliament where it's very difficult to retract specialty skills and I'll give for example energy. So, anyway, that's, I think that also the party leaders and deputies must lead by example and get off the party lists, because that was what we had, an idea of the list was to relieve people of the onerous duties of being electorate MPs, but of course Helen Clark and John Key have said, well, you know, "We are electorate MPs," and he's proudly said, "I support my constituents." Well, yes, he does, but is that really what we want? And I think we owe a great deal of credit to Bill English taking on Clutha Southland and continuing to represent that seat because he has to have three electorate offices, it's so difficult to get around and you know, a lot of people probably wouldn't want to do that because it's actually hard work.

The second thing, the objective – sorry, point number 3, objectives of the electoral reform in 1992. If you look at Doug Graham's speech in Hansard on the 15th of December 1992 and I've got copies for you to look at. He talks about six major things, he talks about representation, that the aggregate views of the population may not be properly represent and he has particular reference to third small parties. The second point was the lack of controls on the government and the need for greater constraint on the executive by-change. The tolerance there was plus minus 10%, open lists and the threshold of 4% but waived for Māori interests. Then point number 6, the most difficult issue was the establishment of an electoral commission and the rules government the selection of political candidates.

So, my first point is about democratic candidate selection –

SIR HUGH: Ms Moss, I'm wondering if I might interrupt you and I apologise, because we've just been advised that Mr Crampton who is to make the next submission has an unbreakable appointment and he must be away by 11.30 at the latest and obviously a little earlier, could we postpone the rest of your submission, if you don't mind, and hear from him?

MS MOSS: That's fine, certainly.

SIR HUGH: Thank you very much. Mr Crampton?

DAVE CRAMPTON: Sorry about that.

SIR HUGH: Not at all Mr Crampton, thanks for letting us know so that we didn't inconvenience you and please address us as you wish, but I'm sure you will address us –

MR CRAMPTON: Okay, I'm ready to go, as you know I have to go, as you know.

Now you've seen my submission, what I will do today is just give you a bit of a brief and extend some of the points that I made in my submission, okay. I'll be happy to take any questions as a result of that. But in brief, what I'm seeing and advising you to do is lower the 5% threshold, to remove the one seat threshold, to attain dual candidacy and the overhang and to ignore the move to provide open lists, in other words the status quo and entrench MMP.

I will start with entrenching MMP. We have the two tick method of voting in our electoral systems entrenched under section 168 of the Electoral Act, but MMP itself is not entrenched which to me seems a little inconsistent and I'm seeking to have MMP entrenched. I know I hadn't written too much about it in my submission, that was written quickly too, but I would like to put that in my oral submission for your consideration.

In terms of the 5% threshold which we have at the moment, I'd like to see that lowered to 2.5%. I think 3.5% or higher is too high. I certainly don't want it increased. But, what I also believe is I believe the Commission should investigate the impact of various thresholds.

In terms of a party's workload in parliament, obviously if you have two MPs that's quite a high workload, in terms of old questions in the house, particularly primary questions, the ability to do that can be effective, select committee memberships have to be considered and how many MPs there are in a particular party and also how able they are to scrutinise Bills and I would like to have one threshold set as opposed to a combination of thresholds as recommended by the Electoral Commission in 1986 where you'll know that the Māori parties had no threshold whereas everyone else did, you know, that was for the increase to 5% later on, so personally I don't believe that if we were to remove the threshold to nought, that we would suffer the adverse consequences people fear, but I do think 2.5% which is three MPs is a compromise between those who want nought and those who want four, I don't really want to compromise with those who wanted higher than five, okay, that's quite clear, yeah, because that will disenfranchise voters further and also bar groups and citizens to have access in parliament. I believe that would be good, if possible, to have an electoral system where we can had a fitter party in parliament that has not had an MP in that party prior. Since MMP we haven't had that and I'd like to have a system where that's possible.

It may be noted that the Christian coalition in 1986, I think it was, had a 2.4% or something like that, a low threshold, they missed out but had the threshold being 2.5, this is higher than what they got, some of their voters may well have voted for them and they might've got in, you know, and that would've been the first party to get someone in parliament that wasn't an MP, ideally that one Christian Heritage member used to be a National MP and that would provide fairness to small parties and also much more importantly those who vote for them. They got 2.38%, so just under the 5%, okay.

Thresholds, of course as you'll be aware and polls also, influence voting behaviours, so these things should all be considered in the mix.

In terms of the one seat threshold, I, like many people, would want that removed. This would avoid a scenario where voters of one electorate effectively determine whether tens of thousands of other voters have their vote counted or wasted as the case may be. As you know in Epsom, but, you know, that's decided whether thousands that are going to back their party vote are actually going to be represented. If we have the one seat threshold removed, that will not happen, yeah.

Dual candidacy, I would like to have that retained and the reason for that is that a ban on dual candidacy will only mean that top quality candidates will seek the softest option if they decide between one of the other, because they know they will be more likely to get into parliament if they have a high list placing and it will also mean that a list MP, if he wants to contest a by-election prior to a general election, may not contest the by-election but may contest the general election to the electorate MP and a classic example of that would be the situation of Mana where Hekia Parata contested the by-election, sure she didn't win but she came pretty damn close, 1000 votes as I understand and then she contested the general election and if we didn't have dual candidacy it's highly unlikely that she would've done both because she would've had a high list place, enough to get into parliament.

The other thing I would also like to put in front of you is that if we did remove dual candidacy we would be writing laws that would encourage parties to chop to change their candidates, like I just mentioned but also if a list MP wants a by-election, they are automatically an electorate MP, that's what happens and normally they resign and a list MP – the next list MP fills their place, you know but what if they don't resign, are they still a list MP? Are they both? And the law is not very clear on that matter and what I'd like to do is clarify the Electoral Act to that extent so that in order for list MP to win their seat they would have to resign, the next list MP would take their place, just what

happens now but clarify the law to ensure that it does happen and that sort of thing. I think that's quite important.

Bringing in dual candidacy may make candidates who successfully contest electorates more important than list candidates and if voters wanted that, if they did, if they wanted more electorates and less – and more importance attached to these they would've voted for the Supplementary Member system and I note that a lot of submissions are actually calling for a much higher number of electorate candidates which is pretty much SM, which really we have not voted for in this country.

The next point is the overhang. I'd like to retain the overhang, as I have said in my submission but I would like to add though that one option to avoid an increase in the number of MPs due to the overhang is to remove the same number of list seats to keep the number of MPs to 120. That's an option which you might want to consider. If you consider the overhang people can still keep their seats but proportionality is a bit stronger which I think is important.

Personally I'm not bothered either way whether we have overhang or not. It's just that if you want an overhang and you want proportionality but you don't want an increase of seats, that's the only option I can think of which would ensure that happens.

There's also consideration regarding the list and open lists and closed lists and we have a closed list at the moment. I think that the intention of open lists would mean that, if you have open lists it would mean that those voting for a certain party would not know in many cases when they vote, who in that party is likely to be the senior MPs until after the election and I don't think that's a very good thing. I think people should know who they're voting for and they should know who is going to be at the top of the list and not have to re-jig it. It just gets too complicated, these other matters and I think Graeme Edgeler who unfortunately I missed his submission yesterday, I couldn't make it, has mentioned that as well and I've been in touch with him to discuss some of

these things and that's, I think, he's probably I guess spoke with you in a more fuller way than I have, he had half an hour, I didn't. So that's that.

The hardest thing for me to work out what to do is the whole electorate versus the list seat split, how many should we have, how many should we have? Suffice to say I believe there should always be more electorate seats than list seats but not for too many more because that's Supplementary Member which I mentioned before, okay.

MR PEDEN: Explain why. Why you have that preference for electorate seats over list seats.

MR CRAMPTON: Because electorate seats are voted by a small group of people to represent them and in my view if we – my personal view is that an electorate MP is an important member of parliament. I have an MP who I know personally who I deal with, in fact the last I dealt with him was yesterday to help me out on a matter and I think if we have more list MPs they won't be as tied to an electorate as electorate MPs. That's just a given, you know? Sure, list MPs do have electorate offices, but those people weren't voted by the electorate to represent them, and I just – otherwise we may as well just have all list MPs and I think that's real bad. I just want to – it's good that everyone has their own MP that they vote for. I think if we had fewer electorates and more list MPs, which we could have, the spread of electorate – the electorate would just get too big, and it'll be a big, it'll be a lot to cover by some MPs who have particularly large electorates, particularly on the West Coast, as you know.

I also think that proportionality should always be considered, and it's up to you to work out how you would consider that. When discussing numbers of list versus electorate seats, and it could be decided that there may be a set ratio of electorate seats to list seats or else cap the number of electorates. I haven't got firm views on that at the moment. I'm still working that one through. As I've said, I wrote this pretty quickly, in sort of one night, you know. I would have liked more time, but that's how things go, you know that.

But I would note also that in my submission I suggest that we increase the number of seats to 60 from 20, and I've thought about that further, because that will increase the number of North Island ones as well, I guess, 'cos the population of the North Island is increasing further. And that would also reduce the list seats, but if it was capped at 72 that means that the South Island seats would be 20 and the North Island seats would be 52, less the number of Māori seats, and given the Māori population's increasing, it could be that maybe there'd be more Māori seats, which would sort of cause problems, so I think we need to consider that. I know Māori seats in the electoral option is not part of this, it's part of the constitutional view, but they are linked up, you know, and they are linked.

SIR HUGH: We are very conscious of your commitments.

MR CRAMPTON: Eh?

SIR HUGH: We are conscious of your commitments.

MR CRAMPTON: Yeah, yeah, okay. Just a summary. Now, I think the party should have to cross a minimum threshold of 2.5%, certainly no more than 3.5% or 4%, that's too high, just to qualify for the allocation of list seats in Parliament. I believe list MPs should be able to stand as candidates in a by-election. A person – without resigning, that is, yeah, yeah. A person should be able to contest a general election both as a candidate for an electorate seat and on a party list at the same time. And when a party wins more electorate seats, then it would be entitled to undo its share of the party vote if it was to keep them. And there should always be more electorate seats than list seats, and party lists should be closed, as is the case.

So in summary, we should lower the threshold, remove the one seat threshold, the threshold, the 5% threshold, lower that to 2.5%. I'm not too sure about zero. I think that's too low. I know Graham mentioned to you in discussion with you about that about the 0% thing, and that's something that is up to him, and he's got that sussed out much more than I have.

Yeah, lower the threshold, the 5% threshold to 2.5%. That's my preference. Remove the one seat threshold. Retain dual candidacy and the overhang. Ignore open lists. Make lists closed as per now, and entrench MMP.

So that plus my written submission is pretty much it. Any questions, happy to take them now before I go.

DR ARSENEAU: Can I just clarify on capping electorates, so it would have been capped in the South Island quota, or –

MR CRAMPTON: Yeah, that's the most – as I said, that's the most difficult thing to get your head around, eh? If we cap seats – what I'm trying to do is not just have a blowout. We have 16 in the South Island at the moment, okay? If we – if the North Island population gets bigger and bigger and bigger, there'll be more and more and more seats, there'll be more electorates. I would like to have a good, good few amount of list versus electorate seats as we have at the moment.

DR ARSENEAU: So if you capped it at 72 you would advocate reducing the number of South Island seats to allow for that?

MR CRAMPTON: I would not want the South Island seats any less than 16 at the moment. I have just had a submission to increase it but I will not be changing my mind at the moment. You know these things take a while to get your head around eh?

DR ARSENEAU: That's great, thank you very much.

MR CRAMPTON: Is that cool? Anything else?

DR ARSENEAU: No that was all.

MR CRAMPTON: Am I able to, after the submissions are over, am I able to do more written submissions through?

DR ARSENEAU: Supplementaries.

MR CRAMPTON: Supplementaries?

DR ARSENEAU: Yes.

MR CRAMPTON: I might just do them when I get some time but I'm a bit pressed for time at the moment but thanks for your time and thanks for getting me in so early, I appreciate it, thank you.

SIR HUGH: Ms Moss, I suggest we complete your submissions Ms Moss and then have a shorter morning tea than scheduled. Mr Munro might have to, if he doesn't mind waiting a little longer than he expected.

MS MOSS: Sorry –

SIR HUGH: You talked about Sir Douglas Graham's speech.

MS MOSS: Yes that's right, I finished that bit. So I want to take you to my submission point number five which is about the issue of people who win a seat but their party vote doesn't – and their a party leader and I talked about the win, win, win and I just want to make another point in that regard. As a party leader in the house, whenever there is a major issue you get to speak, so that this person also gets an advantage in terms of their, as it were, exposure through the parliamentary network. So there's a funding issue, there's a time in the house, speaking time in the house issue, there's a status issue, so it really is a very disproportionate advantage being a one MP and of course effectively Monday – sorry Tuesday morning is usually the time for caucus, well how can you have a caucus of one. So effectively I think you say they are party leaders outside the house but for the purposes of the house they are independent MPs.

Okay, coming back to my point the democratic candidate selection. Two points I have to make in general. First of all if we go back to the Royal Commission and to trace the history of section 71, it was noted that a large number of submissions address the issue of candidate selection procedures to be adopted by political parties. Now as you will recall in the past the issue was whether there would be harmonisation between the parties and clearly that couldn't be achieved because every party had their own rules. I think we've now got to a situation which really addresses the credibility of parliament and because the Green Party have used very democratic processes, I think they have put in the public mind that a lot of the parties are not using democratic rules.

So okay, if the perception is that the parties, other parties are not, what should happen about that? And I think two issues is that having looked at the issue the Electoral Commission is the best body to enforce the provisions, so we need to expand section 71 and put some guidelines there and for instance currently there are no penalties for non-compliance. There are no real avenues to address grievances and it's, I think currently there is a disincentive for quality people to become candidates or even to apply to become candidates because the process is such that they may lose their reputation, their public standing and therefore that is acting as a disincentive because if the process is unfair why are you even going to begin and there are a lot of people up and down the country saying if only we could get better candidates in parliament. Well we won't get better candidates if the rules are perceived to be undemocratic and unfair and so I think section 71 revision is vitally important for the quality of our democracy and also addressing the issue that's been raised by the Electoral Commission of voter turnout because I think voter turnout is going to go, unfortunately, against us and so we have to do everything we can, within the ambit of the brief. I mean we can't change the fact that if the public says the politicians behave like kindy kids and therefore I don't respect them, you know, that's not something that we can actually change. That's up to them, they have to decide how they're going to behave and how that their behaviour impacts on public credibility.

Bryce Edwards gave a seminar in Wellington on the 6th of July last year. I hope that he makes that available for you. I've given a reference in here to it, but it was really a very salutatory position of the state of politics in New Zealand and I do hope you will consider that. He entitled his speech "Hollow Democracy - why New Zealand elections are increasingly meaningless to voters," and I think there are quite a lot of lessons from that.

But of course, we come back to the main point and the candidate selection is if the person who puts their name forwards doesn't even get before the party officials, they certainly won't get before the voters, so we don't really know who are the candidates who may have put their names forward at the earlier stage and haven't made it, so that's really the crux of my oral submission today, thank you.

SIR HUGH: Thank you Ms Moss, Mr Peden?

MR PEDEN: Thank you Ms Moss. I found your submission very interesting. You've raised a lot of questions for us to consider. I'm not so sure about any of the solutions, particularly this reading of what you said about list and electorate MPs on page 4 and 5 of your submission and following your thinking through, you've identified the issues you have concern around status of electorate candidates and list candidates and what the list should represent, but at the end of it you seem to come down to the need, perhaps, for parties to still have the flexibility to make a judgement for themselves about.

So, at the end of that, is it – are you suggesting that the rules as they currently stand, the formation of the list stand, but there needs to be more public education about what list MPs are about, what electorate MPs are about?

MS MOSS: I think everyone knows what electorate MPs do, but I think the essence of what makes a list MP a list MP, I mean one definition could be that

a list MP is a failed electorate candidate and that's, of course, very simplistic and wrong and very unfair, however you might say that some list MPs are electorate MPs in the making.

MR PEDEN: I suppose another way of thinking about it also and I mean, I think, didn't the Royal Commission have an idea that in some areas of the country, list MPs might very well provide a service, making themselves available in a constituency capacity, you could just take you know, your example of Mr Finlayson and obviously if there's an electorate member there that people can go to for constituency services, but they preferred to go to Mr Finlayson, why shouldn't they be able to do that and around the country, isn't that actually something that a list MP, a service that list MPs may be able to provide?

MS MOSS: Of course, that's fine, I mean I don't have a problem with that if that's your consent, but the point is, that's not how the public perceive it. Some members do and, yes, of course it is providing choice and I think that there is a lot of advantages to do that. But what I want to focus on is really the specialist list MP who doesn't have electorate considerations. That whole concept which was one of the big reasons for having list MPs, where is it?

MR PEDEN: Your idea about annotating the list to providing more information for people. The, as you know, at the moment the party list is lodged by the party secretary at nomination day, it's available in polling places and it's included in our easy vote package, provided to every voter so that people can look at the party list and they judge about which party vote – which list they want to vote for. If we were to annotate that with additional information, that would increase the length of the list that the amount of information that voters had to absorb. That would be one consideration. The information necessarily would have to be provided by the party with the candidates themselves, wouldn't they?

MS MOSS: Yes.

MR PEDEN: So – which in itself might be a matter for contention, mightn't it?

MS MOSS: Oh, of course.

MR PEDEN: You know, a self-described expert on Treaty issues.

MS MOSS: Well, I think it would just give people more information. My sense of talking to people in the provinces is that they actually have no idea, and they don't understand how Parliament works, and they don't even understand much about the candidates, and certainly if we don't value people, why would they put their names forward? That's really what I come back to. I mean, your point about the dual candidacy, that's fine. I don't have a problem with that, and I think that that's very valuable, but where is that specialty area that we wanted? The person who would be a short-term MP who would serve a particular, you know, a particular constituency or a particular area, and as life has become more complex, those kind of people have become more valuable.

MR PEDEN: I was also very interested in the comments you made under your heading, "Other matters," and I take it that you've obviously got some considerable experience in political parties.

MS MOSS: I've had some, but mainly I just talk to people and look around and observe, yes.

MR PEDEN: Yes. I'm wondering whether any of that – in thinking about your suggestions as far as involving parties and list candidate suggestion, we've had submissions, you would have heard them, I think, to the effect that enabling greater party membership involvement in list selection might actually have the perverse consequence of making party lists less representative or balanced. Do you have a comment on that?

MS MOSS: Well, listening to the National Council of Women comments yesterday, I suppose my comment would have been, look, if we're going to have quotas, as it were, then that may achieve one objective, but what about

the people who are – who just say, “Look, we actually want the best people regardless,” and yes of course we do want some representation of different groups, but I think we have to stop looking at the issue of representation in that sense. I suppose because I lived in the States for many years and I saw how affirmative action had failed, and how it actually didn't serve blacks very well at all, so I think I would really be – I think we should stop being fixated by how many women are partners in law firms, how many women are doing this and that. Let's be honest. Parliament is a bit of a bear pit. There are a lot of women who will say, “Look, it's family unfriendly, it's a bear pit, I don't want to be involved with that, but I'm quite happy to do something in the Parliamentary arena that's not being an MP where I can make a contribution.” I think the bigger perspective is better.

MR PEDEN: One last question I've got and noted relating to a comment you made about by-elections and the idea of list members on page 4, you regard it as a no-no.

MS MOSS: Well, I think that the – first of all, the incumbent has, or the MPs have a natural profile through being in Parliament for a start, so they have an advantage. Of course, it triggers if they're a list MP the issue of if they become the MP then someone else comes in, and we've seen that effect with the former MP for Auckland Central. In a way, a by-election is a chance to bring in someone new. If the person has, you know, an unfair advantage, well, maybe it's countered, you could say, well, it's countered by the fact that someone low on the list comes in anyway. You can say that – so you've got the profile advantage versus the disadvantage of the last person on the list, balancing it up, I can see that perspective, yes, but in lots of ways, I think, really, a by-election – we should have a disincentive to have by-elections in lots of ways because they're expensive and they're disruptive and of course people die, well, you can't help that, but I personally regarded what Hone Harawira did, was an abusive process.

SIR HUGH: We need to push on. Thank you.

MS MOSS: If you want to ask me some questions another time, that would be fine too.

SIR HUGH: Thank you. Dr Arseneau, I was going to ask about the by-elections but that's –

DR ARSENEAU: I was going to ask about by-election too, can I just, I know we're out of time, so just – I was intrigued by your idea of limiting the number of dual candidates to five or six. We're hearing a lot from people that dual, getting rid of dual candidacy would hurt smaller parties in particular. Would you keep that number the same, no matter what size the party?

MS MOSS: No, I think you probably have to have a – I think maybe I was probably too conservative on the figure, but my focus really was how can we encourage pure list candidates in parties and as I said before, the difference between smaller and larger parties is quite profound, but anyway, the thing is, with the small parties they, you know, they have to spread themselves thinly and in my experience a lot of them are far more productive than major party MPs.

DR ARSENEAU: I found your submissions very interesting, lots of unique ideas, thank you.

SIR HUGH: Thank you Ms Moss for your presentation. I'm sorry we had to interrupt it in the middle.

I suggest now that we take a break. We'll take 10 minutes, if we recommence getting on towards 20 past 11 and if Mr Munro wouldn't mind waiting until then.

HEARING ADJOURNS: 11.12 AM

HEARING RESUMES: 11.21 AM

SIR HUGH: Mr Munro. Have a seat. Sorry to delay.

GAVIN MUNRO: I don't intend to be excessively long.

SIR HUGH: You know the rules, you've been sitting there listening to them, fire away.

MR MUNRO: Okay, well, thank you very much for the opportunity of presenting my submission to you gentlemen and lady, of course. I was interested to see in the paper yesterday that the main political parties had actually present to the Commission and that their view was that there should be very little change to the system and this was a report that didn't surprise me, because in my view the current system enhances the power of a political parties to the detriment of the electorate and my view is that the political parties wouldn't actually wish to hold on to as much power as they can.

So my submission, in regard to the MMP system is focusing on two aspects of MMP which I believe breach fundamental principles of democracy.

The first question is a question that is covered under the Commission's list of questions and that is the issue of whether a candidate should be permitted to be both a constituency and a list candidate and, in my view, this breaches a fundamental principle of democracy because it removes the power from the electorate to vote against the sitting candidate due to the practice of the major parties in putting all of their sitting MPs on the list. What it means that if an MP loses his seat, he remains in parliament, contrary to the wishes of the electorate. So, the electorate no longer has the power to remove an MP from office and this, I believe, is a fundamental breach of democratic principles.

The second issue is a question that has not been put on the list by the Commission but nevertheless I believe remains within your terms of reference and that is the issue of list MPs being permitted to serve as cabinet ministers.

In my view, MPs can be divided into two categories as we know, list and non-list, but the way I see it is that they are divided between elected and unelected MPs because the electorate really has no say in who the list MPs are going to be. So, to allow a list MP to be a cabinet minister, is to me, fundamentally wrong, because the country has a right to be governed by persons who have been elected.

So, as a consequence of this contention that they should not be permitted to be cabinet ministers, I believe this would result in different categories and MPs, essentially senior and junior MPs, because in order for an MP to attain to high office, he would have to be elected, so that a list MP, in order to become a part of the cabinet would have to cease being a list MP and become an elected MP. So that is my view of the two fundamental changes and I believe that if only these two changes were made then the MMP system would become inherently a more democratic system.

Now I have briefly mentioned in the second part of my submission regarding the other matters raised by the Commission, it's my view that these matters are of only peripheral interest, that they don't address, they don't touch on fundamental principles. So for instance where the voting threshold, whether it is 5% or 4% or 3%, to me it's simply a number, what difference does it make? It will make no fundamental difference to the overall composition of parliament.

I believe that currently political parties have an excessive power in being able to determine the composition of parliament and this power should be returned to the electorate to decide how parliament should be composed. So that is essentially my submission gentlemen and ladies. I appreciate you all listening.

MR PEDEN: I just have one question, when you vote in New Zealand elections you have got two votes, one for your electorate MP and one for your

party vote. When you're voting on the party vote you are voting for lists that have been lodged by the party secretary of the party, of all the parties.

MR MUNRO: Yes.

MR PEDEN: And those lists are available to you, so you know in advance who you are voting for.

MR MUNRO: Well yes and no because you don't know how many people on that list are going to get into parliament.

MR PEDEN: But you know, don't you, which ones have a chance of getting into parliament?

MR MUNRO: Yes for those who actually read the lists. How many of the electorate actually are aware of the lists. I mean, if I can give you an example, the recent by-election in Mana, where I was actually a constituent, the choice open to me was to vote for the Labour Party candidate, who is, I believe, a local person and to vote for the Honourable Hekia Parata who was a sitting MP, list MP. Now a vote for Ms Parata would have meant if she lost the election she would remain in parliament. If she won the election an unknown person would then come into parliament. So effectively I was voting for a person who I have no idea who it was. Now I agree with you I could have looked up the list and tried to find out who that person was but I would suggest that most of the electorate are not going to do that and I found out subsequently that the person who would have come in on the list would've been a person from Dunedin with no relevance whatsoever to the Mana electorate. So a vote for the sitting list MP was a vote for a person from Dunedin.

SIR HUGH: Given that we currently have 70 electorates and 120 MPs, is it not at least conceivable that in some electorate contests there are going to be at least two, or maybe more, strong candidates?

MR MUNRO: Mhm.

SIR HUGH: One of those is going to win the electorate but why should the other be excluded from parliament if dual candidacy is abolished? They should only stand in the electorate, they can't stand on the list. Are we not depriving New Zealand of the possible services of a good MP?

MR MUNRO: No because if he was not voted in then he was not elected and he shouldn't be in parliament.

SIR HUGH: The list MPs are, in the contemplation of their party at least, strong candidates in the order in which the party sets them out. The party is saying, is it not, we want at least the top part of our list to finish up as MPs but if only 70 electorates, not all of which are safe seats, aren't they risking the fact that they will not get those good MPs into – good candidates into parliament if dual candidacy is abolished?

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MR MUNRO: They may well do, but the electorate may not share their opinion of who should be in Parliament, and it should be the electorate who decides and not the parties.

SIR HUGH: Well, the electorate decides for those who – obviously, the voters within the electorate, but the party is putting forward a list on a nationwide basis.

MR MUNRO: Yes, I understand.

SIR HUGH: Isn't that an essential distinction?

MR MUNRO: Well, it's a distinction, yes, but we still come down to the fact that those individuals have not, on their own merits, won an election.

SIR HUGH: I take that point, yes.

MR MUNRO: Yeah. I mean, I could, for instance, compare the system in New Zealand with what happened in a recent election in Australia where Mr John Howard actually lost his electorate seat, even though he was the Prime Minister. Now, conceivably, in New Zealand the Prime Minister could lose his seat and yet retain his office under the New Zealand system.

SIR HUGH: That's certainly possible.

MR MUNRO: It's possible, but I believe that's wrong. We should not have a Prime Minister who's a list MP.

SIR HUGH: Thank you. Dr Arseneau?

DR ARSENEAU: Can I just ask you one question about your submission. Would an open list address your concerns, because it would allow the voter to rearrange the order on the list and give some indication on who on the list they wanted?

MR MUNRO: I don't really see that would make a fundamental difference, simply because the vast majority of voters have no clue who's on the list anyway, so they don't know who these people are. There's a long list of people and, you know, at best they might know who 10 or 20% of them are, but they really don't know who they are. I certainly don't know who they are.

SIR HUGH: Thank you, Mr Munro, thank you for your contribution. Sorry you've been delayed a little. The next submission comes from Mr Broome, another of the former Parliamentary candidates who's making a submission to us.

DAVID BROOME: Yes, Sir Hugh, Ms Huria, and Richard, thank you very much for giving me an opportunity to present today. Yes, my sins I confess. I was a former electorate candidate for the National Party back in the dark days

of 1996, when I had actually black hair, rather than grey, and I stood in the incredibly safe electorate seat of Mangere. So as you knew, you know, I was a shoo-in to get elected to Parliament, but more on that later. I was not a list candidate. I was an electorate candidate only in what proved to be New Zealand's first MMP election. I've also spent time in the United Kingdom where I was a local Government lobbyist, and I'm currently general manager of strategic communications at Federated Farmers, although I am speaking in completely a private capacity.

I'd like to stick very much to my submission, but elaborate on some points, so I'd just like to go through the points which I made, dealing with the threshold first. For me, the threshold should not be changed. It's a very black and white case for me. Arguments to make it lower, which there have been several which I've heard in the media that have been reported, I believe pose extreme democratic risk, even going down to 4%. I would point to the 1996 election, my first and subsequently only, that had the threshold existed, the Christian Coalition would have been elected to Parliament. I do recall they got 4.4% of the party vote. It has proven itself to be an unsustainable political movement, and that does not even factor in, of course, the inevitable Graham Capill dimension which came later.

The 5% threshold itself has not proven an impediment to the Green Party or New Zealand First in the current Parliament, nor ACT between 1996 and 2002, or United Future, indeed, in 2002, from reaching the 5% threshold. I believe the 5% threshold does provide a very strong yardstick, and that's very important. There's got to be a strong threshold for what is a sustainable political movement and what might be a cause-led or a flash in the pan or a highly politicised issue popping up. Need I point to the teapot saga from the past general election which, according to some political commentators, may have actually New Zealand First from being sub-5% to reaching the 5% threshold. I don't want to go into too much conjecture about that, but it does illustrate the point that a tactical issue, and that might be one relating to race or a divisive social issue, might be enough to catapult a completely unpalatable political movement into Parliament and give them a stage.

As a military historian in my private capacity, the Weimar Republic, of course, in Germany ran a very pure MMP system and that, itself, led to a fractured body politic and inevitably led to its own collapse, of course, with some externalities. So, my view is the 5% threshold must remain 5% as a very strong yardstick, but not an insurmountable one.

The one electorate seat rule, I'd like to apply the same logic, however, I believe that it's been a failure. What it's become, is it's become a crutch to political parties which have actually failed to build a strong national political organisation. Conversely the Act Party from the 2005 election until the past one has been in serious decline. United Future breached the threshold in 2002, being the one and only time it's breached the threshold and subsequently formed –

SIR HUGH: (inaudible 11:36:16) perhaps.

MR BROOME: Yes and again that was another example of an outstanding bit of political theatre at the right time in an electoral cycle. It was enough to get them over that 5% threshold. So it shows that 5% threshold in some relief.

My point here is that as a – looking at the one seat rule it's become almost working for a farmer's organisation, you'll excuse the analogy, a subsidy to allow parties which haven't got a strong national movement to actually get representation in parliament. Worse, if a party is in decline it's almost like a step down and what you are actually seeing is that parties collapse upon themselves to where they have a strong electorate basis. Rodney Hide and subsequently the Honourable John Banks in Epsom being good examples about that and Ohariu Belmont of course for United Future. Both have proven themselves that the party has effectively imploded onto the electorate for survivability and to me that defeats the purpose about building strong, sustainable political movements.

List candidates and by-elections, I listened before with the previous submitter with some degree of interest. I don't believe that list MPs should be able stand in parliament and I say that as a former candidate myself. My reasoning for that is that political parties will always have a temptation to catapult in a named person, a sitting MP who has immediate contact and has the ability to use it as an opportunity to build the party's brand as opposed to actually focussing on what is an electorate by-election. I also say this, is that the taxpayer at that point in an electoral cycle is actually paying the MPs or remunerating the MPs to be elected – to be parliamentarians as opposed to being parliamentary candidates and I think that is a very important distinction and what they do is that inevitably during a by-election cycle, any candidate will have to devote arguably at least six weeks of effort, which is six weeks less effort, they can be in their electorate role as being a parliamentarian. I make no distinction between being, you know, to any political party in that comment.

Likewise with dual candidacy, I strongly believe that there should be a clear delineation between list candidates and electorate candidates. I have no problem with list candidates becoming Prime Minister or a cabinet minister, I have no problem, they are elected MPs but I believe the list has become almost a means to become a popularity contest and we see that in terms of the list ranking and being reasonable close to several political parties, there is a lot of jockeying for position between who is number one going through to the ranking process.

SIR HUGH: Were you a list candidate as well when you stood in Mangere?

MR BROOME: No I was just – that shows you how brave I was. I think, as I put in my submission, Cortez burnt his ships in terms of motivate his men, and I knew I was never going to win the electorate. In fact –

SIR HUGH: Not in Mangere.

MR BROOME: No but it was an opportunity and this is a point which I'm getting at in this one here, it was an opportunity to blood candidates in seats where they, you know, it's a training wheels operation and also what it means is that you get an opportunity to see if you want to be a member of parliament or you want to actually represent a certain geographical area and you learn all those things, going to meetings and I was used in that election a bit like a trouble-shooter for other candidates to keep them out of dicier situations. So I got to do students and Grey Power and all the fun stuff like that, but the point being, is that it was a great experience. My regret is that my political career seems to have grown to a halt subsequent to that. Not through want of trying, I hasten to add, but no similar, no opportunity has presented itself subsequent.

The issue here is that when you've got list MPs who are able to also stay in the constituencies and political party's mandate, I believe, that if you're on the list, you've got to find a constituent. If you're a sitting list MP, your motivation to work that electorate is next to nothing, you are effectively a name on the ballot paper and, yes, the parties do go around and they do score you on how you did on the party vote, but generally speaking you can hide behind either the tide coming in or the tide going out, your relative performance.

The point here is if by clearly delineating a list MP, you build that list as a talent. You actually get named people. The candidates can develop their own brand as list MPs. They can be either exempt as a talent or people to bring in broad experience into parliament who may only serve one term or two terms or maybe three or stay on longer, but the point being is that they actually develop that separate expertise based around the list, whilst splitting the electorate to allow people who want to generally represent an elective as well as bringing in that training opportunity for those candidates to get experience in the electoral process and it stops – the fact is you get a lot of Green MPs jumping into parliament and I can recall once in the Mt Albert electorate where if that person, if Melissa Lee had actually been a previous constituency candidate maybe years earlier, she would've gone through those

learning curves, than being into a high profile by-election, so that sort of kills two birds with one stone, being the list and also the dual candidacy.

The public having a say on list, my submission incorrectly says yes when it should actually read no and I think you've probably gathered that from my comments and I'll come down to the un-editable PDF right at the end.

My view here is that New Zealand actually has a very low percentage of political party membership, incredibly low. Any moves to give the public a say over a party list removes the function of what is a party organisation and we need to actually have more political membership, more active political membership. I think if you put all the political party members together into, say, one place, you might be able to fill the cake tin in Wellington, with all the political party members in New Zealand. So we can say that roughly, probably the population of Timaru represents all the political party members in New Zealand and from that all our elec –

SIR HUGH: The political party memberships that were advised to us when we were doing the broadcasting allocation last year, I think the cake tin would overflow.

MR BROOME: Okay, but maybe – but definitely not, say, the population of Palmerston North.

SIR HUGH: No comment.

MR BROOME: But, you know, given the size of the electorate, the political membership is very low, so by any moves to actually take those functions away from parties removes the function of why you've actually got political parties in the process and any sustained political movement inevitably is a grass roots movement, it's built by people who have formed an organisation with an objective of getting their views represented at a political level. Whether it's successful for not is a moot point. The thing being is that if you

remove their ability to have construct over their list, you remove their reason for being or their raison or being on the raison d'être.

The overhang, I had no issue with the current overhang at all. I think that it's just an inevitable by product of the MMP process.

In terms of population and proportionality, I don't see this being much an issue for the Commission till probably well into the 2020s. It's certainly not a burning issue right now. It may become one with population change in around the – by around the 2029 election, but from the stand point of 2012, it is not to me a major issue for the Commission.

In terms of other issues, to wrap up so you can get back on time and get those other submitters in, most of the things I put into it – they probably fell into other issues, so I won't go into those. The point which I'd say there to give consideration to, so your term of scope is, of course, the four year term. I know you can't consider that, but it's probably come up with other submitters, but also potentially having a look at whether we actually go away from having a unicameral Parliament or a bicameral Parliament and use the list in a legislative council-type structure, and First Past the Post for the House of Representatives. I'm sorry, my background from Britain, I love the revising Chamber of the Lords. It shouldn't work, on all theory, but it darn well does, and to me I think having that revising chamber is something that we potentially miss in New Zealand.

So I'd like to thank the Commission for this opportunity to submit.

SIR HUGH: Thank you very much, Mr Broome. You've answered the questions that I had in your oral submissions. Dr Arseneau?

DR ARSENEAU: Can I ask one quick question around by-elections. You made a point about list MPs being paid while they're candidates. Would asking or requiring them to resign first solve that issue for you, or are there other issues as well?

MR BROOME: Yes. They – if they were forced to resign from Parliament effectively to seek a mandate as a constituency MP, that would definitely solve my issues.

DR ARSENEAU: Thank you.

MR BROOME: Thank you very much.

SIR HUGH: Thank you, Mr Broome. Your experiences as a candidate are illuminating, even an unsuccessful candidate. Mr Townsend is the next person. Please come and join us, Mr Townsend. You probably know the rules. Speak to your submission. You don't need to read it. We've already read it. Just highlight particular points or additional points that you want to make.

WILBUR TOWNSEND: Cool, yeah, I'll do that. So I suppose the main thesis of my submission which you might have picked up on is slightly abstract, but it comes with a basic kind of frustration to having heard people like I heard submitting earlier who sort of, you know, ethereal debate kind of what I've termed political values, so things like I think the submitter before me said something about, you know, strong, sustainable political movements or, you know, sort of the local representativeness of Parliament or the strength of Parliament or these sort of things. My thought and sort of my main thesis is that we shouldn't be approaching the questions in this way, and instead we should be asking how these sorts of values can be androgenised into the system by when people vote, so when people vote, you know, they can reflect whether they want a Parliament that, like, has strong local representation or they want a Parliament that has strong, sustainable political movements or this sort of thing. So I'll jump on. I suppose, yeah, I'll discuss that thesis a little bit more and then apply it to a couple of areas. Mainly the threshold's the one that I think is most applicable to, but it does apply to the others to some extent.

So yeah, I suppose this thesis could be split up into two points. I think the first point is reasonably uncontroversial, and that's that sort of the legitimacy of what I've termed political values is predicated on them being accepted by the electorate. So I think this is reasonably uncontroversial, but if no one in New Zealand, except for maybe a handful of people in this room, wanted sort of local representation to be a key element of our electoral system, then I think nobody would think that it should be a key element, right? If, you know, nobody wanted a Parliament that was very strong and decisive, then it shouldn't be part of that, and this makes sense because all politics is, you know, communities solving problems that they've dealt with and sometimes you need different structures to deal with that. Sometimes you need a Parliament that's highly representative of, like, the demographics of the country. Sometimes you might need a more technocratic Parliament. Sometimes you might need one that's, you know, very sort of powerful and can act swiftly to the issues that it's dealing with. Sometimes you might need a more deliberative Parliament, and so given this, I think we accept that values are reasonably subjective. The question then is how we should weight them or incorporate them into it, and historically in New Zealand we seem to have done this by, well, going with one system and maybe reviewing it maybe every 50 years or something, right? We sort of get this kind of bundle of values and stick with it for a while. This is obviously quite unsatisfying. I think, you know, the values that differ between different communities, some communities might want to have, you know, their, say, ethnic ethnicities, like, represented in Parliament or their religious background represented. Some might not. Or obviously it also changes quite quickly over time. Some elections will be likely facing, you know, say a recession where we just want this amazing technocratic parliament of like economists who know how to deal with it, whereas some others will just want a different sort of bundle of strengths. So my point is that instead of kind of trying to dictate the values or debate the values as we sort of have been doing in this process, we should instead be just letting people represent those values when they vote and obviously this already happens all the time. An example, say in 2008 the National Party pushed, I think it was the five headed Hydra thing quite strongly. They were saying if you vote for Labour you're voting for this

government that will be quite unsustainable because it will be composed of, you know, New Zealand First, Greens, Labour, Māori Party, you know, it would be difficult to work and they pushed this idea quite strongly that you needed a strong government and I think people, anecdotally at least, it seems that they accepted that argument, that they brought into that and so they voted for, you know, a strong government.

I expect some people would've preferred a Labour government to a National government but voted for National anyway because they valued the strength of government over the fact that like their personal bundles of policies were more adequately represented by Labour. So, and this happens, it happens, you know, like I think people vote for parties that have lots of MPs in their area and don't vote for parties if they don't have MPs in their area. That's been my experience in a political party. Like people do this all the time right. Like they take into account not only policies but sort of political realities when they vote.

So applying that to a few different issues and the threshold is the most key one. My view, as I said in my submission, that it should be gotten rid of or removed to one seat or however you want to phrase that and it's just the arguments that I'm hearing from people as to why we should have the higher threshold seem like kind of legitimate but so subjective and so easily weighted against other things right. So people will say things like we should – you know, there'll be crazy parties in parliament. That seemed to be the main thesis of the submitter before me. People say that you might get parties in parliament of like two MPs that just can't adequately represent their constituents. You might get a whole bunch of things and to some extent that's definitely true right but the point is that often these will need to be traded off against different values. You know if a far right libertarian and there's no one in parliament that I feel represents me, then I might be like yeah I'm going to vote for a party that's only going to have one MP, is going to struggle sometimes to vote in parliament because of the nature of the parliament but it's worth it for me to be able to, you know, have my views adequately represented and I don't feel anyone else represents my views adequately or they might get traded off against a number of different things right. So it

seems to me that while the points people have made in favour of a threshold are valid, that they are so subjective and that voters can, you know, weight them for themselves and don't need to have us weight them for them, that there's no sense really in having a threshold. If people don't want small weak parties or crazy parties then they won't vote for them.

Just quickly, in reference to the open list idea. Like I actually quite like the idea of open lists. The party I'm - I support the party, I'm a member of adopting open lists, I just don't think it needs to be regulated. I don't think that the Electoral Commission needs to say that all parties should adopt open lists because, well to my mind the main reason for open lists is just you get candidates and MPs who people like and who they've already voted for and that's good and that makes sense. I am surprised we don't have open lists in New Zealand already. It kind of makes sense that that would happen already. I also think it's much easier for parties to do it on their own volition in terms of other considerations. Like they might want to have some sort of gender balancing or some sort of ethnicity balancing, some sort of regulation over that process, which you could – you couldn't really have if you were doing it, you know, like by the Electoral Commission or as a government imposed think.

And finally dual candidacy. So I think the status quo is fine both with by-elections being list MPs and dual candidacy in general elections just because I think we see that, like to some extent it's true that people want, you know, local representatives or whatever but then they vote for them. Damian O'Connor last election I think showed us quite decisively when, you know, took back West Coast Tasman despite a general swing towards National in that he showed that, hey I'm going to be independent from my party, I'm going to, you know, say some rude things about my party and show that I'm independent and show that I don't need their mandate, I need your mandate and people like that and I, actually given that, I think, and given the fact that a lot of candidates and MPs are quite familiar with that situation, I expect to see that more in the future, but again, it doesn't need to be mandated. It doesn't – we don't need to tell constituents that they're not allowed to vote for a candidate who isn't – so we don't need to tell them that

they're not allowed to vote for a candidate who is on a list. I think they can make that decision for themselves, make that trade-off for themselves.

So yeah, this is my point. I think in conclusion, like, I always feel like we ask a hell of a lot of voters, you know, we ask – I said this in my submission. We ask them to understand, like, the nuances of kind of macroeconomics, you know, brilliantly. We expect them to be able to understand sort of the different human rights trade-offs, say, that, you know, the rights we take off people that go to prison, very complicated ethical things. We ask a hell of a lot of them. It just seems to me like we can also ask them to think when they vote, do you want a strong Parliament? Do you want local representation? Do you want all these things? How do you want to trade them off? That's how democracy works. Thanks.

MR PEDEN: Thanks, Mr Townsend. I think I found your submission clear, although I did have to go to the dictionary a couple of times to fully understand it, and your oral submission, so thank you very much, and I admire your confidence in the abilities of voters and understand that your faith that if you had a low threshold or no threshold electoral system voters could get the Government they deserve.

MS HURIA: I guess I'm just keen to explore a little bit further, or maybe I could guess your answer, but we had Mr Conway from the New Zealand Combined Trade Unions this morning commenting about the difficulties that people have with the current system, and for example the Easy Vote card that people have, and he listed a number of things that he saw as being, creating difficulties for people, that the voting system needs to be incredibly simple, but then I think I'm hearing from you that you're saying we should have more faith in the ability, I guess, in the interests of voters to perhaps participate, is that right? You're saying we should be presenting them with some more?

MR TOWNSEND: Yeah, I do think we need to have more faith in voters, and I mean I'd agree with Mr Conway that yeah, like, democracy is very difficult and you know, people often have to, you know, like, the questions we're

asking people when we ask them to vote all the time are quite difficult, but I actually think the questions that we're asking them in this context, what I've termed political values are, like, quite simple, like, and I'm not trying to be facetious when I say that, but I think if we ask people, do you want a Parliament that, say, representative of you, or do you want a technocratic Parliament, I think most people, like, would have an answer to that quite easily, and that's probably a legitimate answer given that the answers they want dealt with, you know, would be dealt with in one of those two ways. So I mean I'd agree with Mr Conway that, like, these issues are, like, voting's hard, but I do think that it's much easier than the rest, and so I don't think that people would mind, you know, being given the faith to make these things up for themselves.

SIR HUGH: Do I understand it correctly from your submission that one of the reasons you propound no threshold is that you feel the existing system, three year Parliaments and the selection process and the like, are unlikely to reflect the wide range of MPs that we require, technocratic, gender, all the ones you've talked about, is that a fair way of putting it?

MR TOWNSEND: I think probably the most pernicious harm of the 5% threshold is that it is more just the policies that are talked about in Parliament tend to be dominated by the parties that are there, so I think if we were to get rid of the threshold, I think, you know, so it's like issues, like cannabis, for example, is the obvious one that people bring up, and it slightly annoys me when people like David Shearer say, "No, we can't let the marijuana party into Parliament," as he said in an interview recently, referring to why we needed the threshold.

I think if people are willing to vote for these parties that have beliefs that David Shearer or myself might not agree with then we should let them into parliament. I mean I don't think – like you might see a more technocratic parliament or something, I don't think it's probably the main harm at the moment of the threshold where it stands. If it were higher you might see more of those harms. At the moment I think the main harm is what people call, I

suppose, proportionality, like the link between the values and policies of the voting public, with the values and policies of the members of parliaments.

SIR HUGH: Axiomatically, if we have no threshold we would have more parties in parliament than is currently the case and the consequence, I suggest, is that the dominant party of government is unlikely or less likely to achieve 50% of the electorate but you suggest that a government that enjoys less than half the support of the public has no legitimate mandate. How would they govern in those circumstances?

MR TOWNSEND: So the question is how a government which is obviously composed of a number of parties –

SIR HUGH: How does a government which would be likely to have less than half the vote and in your view have no legitimate mandate, how does it then govern?

MR TOWNSEND: So I think a government would have half the vote, right. They wouldn't just be composed of a single party but a government in the sense of, you know, the confidence and supply arrangement that would exist would have more than half the vote.

SIR HUGH: It would be by aggregation or coalition?

MR TOWNSEND: Yeah and I think, a point that relates and I possibly should have said earlier that – so people often talk about, you know, what if you had a parliament like we – like, you know, the Israeli system or the Italian system or, you know, I'm sure people like to name lots of parliaments that they see as being dysfunctional that haven't had a threshold. Without referring to those systems in particular but more generally, I think the point I raise earlier that we saw in 2008 where the National Party said, "Don't vote for Labour because you'll get a weak government, vote for us because you'll get a strong government" does to an extent cover that situation. So I do think you would possibly see, you know probably like Labour and National in particular saying,

“Hey vote for us”. So what I think you would see is whichever party is leading in the polls, say you’ve got one on 45%, the other on 40%, the one of 45% would just say, “Vote for us so we can deliver strong government. You’re going to get us eventually but let’s make sure we can be effective and deal with things nicely and have a strong parliament”. I do expect that message to come through and people to say that because like that’s what people, it seems, want and so I think given that, either people would buy into that message and vote for that party and give it or that government sorry and give it some sort of majority or they wouldn’t, in which case it’s hard to see how that party has a mandate to govern right.

DR ARSENEAU: Can I just ask a very quick point of clarification?

MR TOWNSEND: Sure.

DR ARSENEAU: And thank you for your submission, I really enjoyed reading it and then hearing your presentation.

MR TOWNSEND: Thanks.

DR ARSENEAU: When you talked about open lists you said that you would be happy to leave it up political parties.

MR TOWNSEND: Yeah.

DR ARSENEAU: So can I take it from that you are meaning that by open lists do you mean at the formation of the list stage rather than at the voter’s on election day?

MR TOWNSEND: Yeah, yeah.

DR ARSENEAU: Yes, okay. Great thank you.

SIR HUGH: Thank you Mr Townsend. Thank you for your presentation. Mr Galbreath is next. Welcome Mr Galbreath, you know the rules, would you care to address us on the main points of your submission and anything additional you want to give us.

MR GALBREATH: Yes I'm not sure that I do know the rules because I hadn't heard them expounded but I presume I just –

SIR HUGH: Well those are the rules. After you have done that –

MR GALBREATH: And I was also concerned that you have given me a double time slot and I don't think I can fill that.

DR ARSENEAU: Somebody pulled out.

MR GALBREATH: You might be able to catch up because I don't think I am going to go for half an hour.

SIR HUGH: We might all get lunch a little earlier but leave yourself enough time for us to ask some questions.

1205

NEIL GALBREATH: Thank you. I want to present on some changes that I hope would improve the integrity and credibility of the MMP system by producing a wasted vote and the disproportionate outcomes and unfairness of the current system.

I want to make five points. I propose dropping the one electorate seat threshold. I propose making the party vote threshold a gradual threshold, whether or not that's 5% or not is not the issue, it's making it a gradual threshold. I want to propose ranking party list candidates by the voters. I suppose this is what you've just spoken about, is that what an open list is? Yeah, okay. I want to propose combining the current two votes, two ticks into

a single vote and I also want to speak about maintaining party proportionality between elections.

The one electorate seat threshold must go. It puts disproportionate power into relatively few voter's hands and causes huge distractions at election time. Both these factors are putting the electoral system into disrepute, causing voters to lose interest in exercising their democratic right.

I also propose to making the party vote threshold a gradual threshold and I've got a – and I'm sorry, are you part of the panel or not? I'm not quite sure where you stand.

DR ARSENEAU: I'm just an advisor.

SIR HUGH: Dr Arseneau is an advisory consultant.

MR GALBREATH: The current system, on a good spot of the graph here, number of seats, party vote, current systems

Okay, the current system, 5% threshold of a party vote suddenly triggers representation in parliament on entitlement of MMP seats, so you've got a six seat threshold roughly on 5% of the vote.

There's a huge disproportionality of parties which vote on either side of that threshold. Why should they end up with no representation in the party with the similar vote ending up with six seats in parliament. It's too sudden, it's unfair. I'm proposing and this is ignoring the one seat electoral seat threshold. I'm proposing change in some graduated system, progressive system where the trend that we've got here obviously going down to the zero, these are, at the moment, sort of effectively wasted votes and with this disproportion here, a very unfair system. I'm proposing putting some gradual system in so that some lower threshold will end up with one, two, three, four or five seats based on a percentage falling below what we currently call the threshold.

So we'd have a lower threshold, below which parties would be having no entitlement. We'd have an upper threshold where parties would get the current entitlement and there'd be a band between the two where that would change progressively.

So apart from the fact that we've got abrupt changes between people only come in units of one, you can only have one seat, you can't have one and a half. Apart from those changes, there's a proportional, a progressive, sorry, representation for parties falling between these two thresholds. Thank you.

SIR HUGH: Before you present the rest of your submissions, I'll just ask, what would be your trigger point?

MR GALBREATH: The lower threshold?

SIR HUGH: Yes, 1%, 2%, 3%?

MR GALBREATH: Well, that example there is based on 2.5% with an upper at 5%, but my submission is not the actual values, it's changing the sudden step change to a graduated change. If it's 2.5%, 3%, that's not my submission. I'm suggesting 2.5, but change that to something else. It's the gradual progression that I'm really –

SIR HUGH: Sorry if I'm being a bit dim, Mr Galbreath, but how does that – well, is that submission different from simply saying, I suggested, let's say, a 2.5% threshold.

MR GALBREATH: It's a lot different, I'm sorry, it is a lot different, because even if it's –

SIR HUGH: You'd still get to graduate at the rise, wouldn't you?

MR GALBREATH: Well, you'd still have a sudden step change at 2.5%, people falling on either side of that would get by the –

SIR HUGH: If you started your system at 1%, is that not – what's the difference between lowering the threshold and a graduated threshold?

MR GALBREATH: I'm trying to reduce the disproportionality of falling on either side of some arbitrary thresholds, so two parties polling very similarly will get quite different – say you get one seat different on either side of the threshold, that's reasonable, because as I say, MMPs only coming in the usual sizes, but they have several, six seats difference, that's too much, you need to reduce that.

SIR HUGH: I understand that.

MR GALBREATH: It also enhances the difficulty of some people want a higher threshold, some want a low, it is this huge tension and that was shown last time when the 4% recommendation got changed to 5%. Some people are trying to exclude these so-called crazy parties, some people want no wasted votes and representation of all views. Now, those are directly opposed. This helps answers that a wee bit by softening that hard threshold and putting in a graduating threshold.

SIR HUGH: Carry on.

MR GALBREATH: Third point, the open list. I would suggest ranking party list candidates by voters. We don't need long unworldly voting papers. The party's so-called list MPs would be the party's unsuccessful electorate candidates, ranked by number of votes received. It's very simple, people vote and they're – if a high, almost successful but unsuccessful candidate and I think the Bennett/Sepuloni election result was one of those where two candidates polled almost equally, very close, one is in, one is out and I think you mention this is the previous question, Sir Hugh, what happens to that candidate who presumably has electoral support, a valuable candidate but disappears off the face – we don't even see her in parliament. This system, in that case, Sepuloni would've been a high ranking but unsuccessful electorate

candidate and in my proposal would've been near the top of the party, if not, at the top, near the top of the party's effective list.

Parties could still present lists of candidates to fill seats in the mathematically possible but electorally improbable event that a party's entitled to more than 70 seats, so there still would be a party list for those outcomes, but in recent elections anyway, we haven't had parliaments of more than 70 members in parliament.

The advantage of this system would be that list MPs must present themselves to an electorate. They don't come in as just relative unknowns and get put there by either party. It makes list MPs accountable to their electorate instead of to their party. It reduces the perceived inferiority of list MPs. Some of whom would be likely to receive more votes than some electorate MPs and that example I mentioned before Sepuloni got more votes than some currently sitting MPs, but she's not in parliament.

It would automatically improve the geographical spread of each party's MPs, because they would have their successful electorate candidates from some electorates and other electorates. Their unsuccessful candidates would provide the list MPs required to make up their entitlement in parliament. It renders obviously the issue of whether candidates can stand in an electorate and on the list and it might even stop candidates or parties resorting to recounts and judicial reviews where races are close because the candidate who is only six or seven votes behind the other, is likely to be in parliament anyway, so it saves that tension at that stage.

My fourth point, I suggest combining the current two votes for the electorate candidate and the party into a single vote. We don't need a separate party vote, make all that angst about which of the two votes is the more important irrelevant by returning to a single vote. One man or woman, one vote, simple. The criticism of FPP which helped push MMP into our current system was that parties got into government with a minority of votes and that was on the single vote system. We could have had proportionality still with a single vote.

Voters would vote for an electorate candidate and each party vote would be the nationwide total of votes cast for the candidates of that respective party. If parties don't put up a candidate in an electorate, the party can still appear on the voting paper so that votes can be cast for that party in that electorate. And this single vote system would prevent the, I assume, is the as yet untried exploitation of an overhang by a party splitting into factions, one faction contesting only the electorate seats and one faction seeking only party votes. So it would pre-empt that exploitation.

My fifth point relates to maintaining party proportionality between elections. The proportionality of parties as determined by a general election should be maintained between general elections if an MP's party allegiance changes by resignation or party hopping. This may require a list MP of one party to leave the house and be replaced by a list MP of another party. We can either return to the proportional result determined by the previous general election or optionally, in the case of a by-election, we could superimpose the updated result of the by-election onto the previous general election for that electorate and use that result to recalculate proportionality. So that parliament was always based on a true proportional representation.

And in closing I exhort you not to be persuaded by self-serving party submissions that ask for no or minimal change to MMP and making parliamentary stability as a standard against which changes should be measured. If we go down that route a one party dictatorship would look pretty good and that's not what a democracy is about. Make MMP more fair, open and more democratic. Make every vote count and in that way we will maintain and hopefully improve voter turnout. Thank you.

MR PEDEN: Thank you Mr Galbreath. Your suggestion of a single vote, a couple of things I just want to check. First, I think in your oral submission you talked about in the event that a party wasn't contesting the electorate vote, so they didn't have a candidate standing in the constituency, the voter would still be able to vote for the party in that circumstances.

MR GALBREATH: The voting paper would show candidate and their party allegiance, like we do now and then there would be a box for the orange party but no candidate. So you could tick the orange party vote and your vote would go towards the party vote for the orange party, even though they weren't standing a candidate in that electorate. So it would be just the same as all the other candidates, you vote for a candidate or a party, but the third one on the list, the candidate is almost irrelevant, that vote only goes toward their party percentage. So it would be the same kind of thing.

MR PEDEN: I suppose that gets me to the next – at the moment I think one of the things, isn't it, that voters like about the current system is the ability to be able to make the choice in relation to the electorate, their local representative and a different choice in relation to the party. Wouldn't what you propose take that away.

MR GALBREATH: Take that away, yeah.

MR PEDEN: Wouldn't that be a backward step?

MR GALBREATH: Well why not give them 10 votes, then they can split it in all sorts of ways. I mean it's – why have we gone to that? It was an unnecessary move when, as I said before, the criticism of FPP was that a minority – a party receiving a minority of votes got into parliament, got into government and we didn't need to have this so-called splitting of votes. It seemed like an unnecessary step and yes we've given people choice and I realise now that you've given it to them it could be hard to take it off them but it's much simpler to not have it. It also removes all the strategies of manipulation of the electorate which creates these ghastly distractions. We're not talking about issues that Governments have to face once they're in Government. We're talking about this voting manipulation, and I find that very disappointing. It's a sideshow. It's not part of democracy. So I think it would clear that up as well. But yes, I acknowledge we've got to claw back something we've given the electorate.

MR PEDEN: Last question. Maintaining the proportionality achieved at the general election through, if there was a by-election, the general election is a snapshot of the electorate's view at a particular time. If, some way down the track, a by-election is required, shouldn't the electorate be able to reflect change in their view about how they should be represented in Parliament, so they may have voted one way at the general election against now caused them to what to change that, shouldn't they be able to do that?

MR GALBREATH: Certainly, and I tried to explain that, and I obviously didn't. I apologise for that, but I'm saying, well, let's maintain the proportionality that we decided on at the general election, but the one electorate that we've had a by-election for, cancel the general election results for that electorate, take the by-election results for that electorate, put it onto the general result, and that's our new basis for proportionality. We haven't got an update for the other 69 electorates. We only got an update for one, so okay, take that update, replace it for that electorate's previous results at the general election, and there you've got your new standard of proportionality. So it's sort of a –

MR PEDEN: I understand your point. Going back to do the maths to see whether it would actually make any difference ...

MR GALBREATH: Well, I'm sure there'll be cleverer brains than mine to work out the maths, but I think it's better to address that proportionality issue rather than just say, well, at a general election the country decided this, and then because Joe Bloggs wants to change his party of allegiance, all of a sudden we've lost proportionality. Well, why did we bother sorting it out in the first place if some clown has changed his mind whether any mandate from the electorate?

MR PEDEN: Or been unfortunate enough to step under a bus.

MR GALBREATH: Yes, okay. The buses in Wellington are very tough, I understand.

SIR HUGH: Under your system, how many electorates would we have?

MR GALBREATH: I haven't commented on that, have I? No. I'm happy with the current 70 electorates. There's a huge tension there about electorate size and changing populations and all the rest of it. I don't want to go into that. It's something I can't get my head around, so I've been silent on that. You've spotted the gap.

SIR HUGH: In your section on maintaining proportionality, you say if a by-election results in a change of party represented by the electoral candidate, the sitting list MP of one party may need to be replaced by that of another.

MR GALBREATH: Yes.

SIR HUGH: How do we choose that other?

MR GALBREATH: Oh, well, the lowest – if, for example, Party A – how do I explain this best. If when we recount the proportionality to work out we've got too many of Party A and we haven't got enough of Party B, well, you've got to take one off and give it to the other. You've got to re-work the allocation of list seats to update the proportionality, and it may mean the last one on for one party comes off, and the next one off from the other party goes back on again.

SIR HUGH: I think I follow that.

MR GALBREATH: We take in our, say, an electorate candidate from one party, or they've gone independent or something, so it's upset the proportionalities, so the tails of the party lists have to be juggled to recalculate, and it may not require any change at all, because of the formula that we currently use, I don't know, Sainte somebody or other. There are some calculations to be worked out there. But if that was recalculated and we had one too many of one party and one too few, well, sorry, you're out and you're

in. I mean, those people are only there to provide proportionality. They're not there for any other reason. So we maintain proportionality.

SIR HUGH: Thank you. Dr Arseneau?

MR GALBREATH: Sorry, I've had my back to you all that time. Sorry.

DR ARSENEAU: That's all right. I really enjoyed your soft threshold notion.

MR GALBREATH: Oh, good.

DR ARSENEAU: That was really interesting. But I just wanted to, just to make sure I'm clear on your – some people call it the highest losers idea –

MR GALBREATH: Yes.

DR ARSENEAU: You know, they've gone on the party list. It's interesting because other submitters have argued that it would harm the image of list MPs, but you think quite the opposite?

MR GALBREATH: Oh, yes.

DR ARSENEAU: Maybe you could just say one or two things –

MR GALBREATH: I mean, if Sepuloni had got in as the top list candidate because she had such a, you know, a huge mandate, she's got a mandate from a specific electorate who want her, you know, in Parliament. How would that detract? It's far better than these list candidates who haven't even presented to any electorate. They've got a direct mandate, and I think that is giving value. I mean, I think – sorry, I've forgotten your name. Yes, you spoke about enhancing the list MPs, their mana, somehow. I think that's what you were talking about, and I think this would do that because these people have presented to an electorate, they've got a large number of votes from the electorate. As I say, in some cases more – I mean, Sepuloni got more votes

than some sitting MPs got, have currently got, because in the three-way race you can get into Parliament on relatively few votes. In her case, it was a two-way race, but she lost slightly. I mean, she would have huge mana if she was in Parliament.

SIR HUGH: Thank you, Mr Galbreath. The final submission for the morning is from Mr Owen. Mr Owen, we've been adopting the format that you can assume that all of us have read the initial submission, the written submission you've put in. If you'd care to talk to it and then – and highlight any additional points that may have occurred to you, and then we'll ask you some questions, all within 15 or 20 minutes, we hope, but if you go a little longer that's up to you.

JIM OWEN: I won't go that long, I'm sure. I've come to the MMP thing after being a keen, very keen on the result of the electoral, the original Royal Commission.

SIR HUGH: That's a well-read copy you've got there, Mr Owen.

MR OWEN: Yeah. I've had to promote it quite a bit. In those early days I was the original chairman for Manawatu of the Coalition for Electoral Reform, so it got well-thumbed. During that – since then, I've only, I've had, I've been involved with a political party for a considerable amount of that time, and so I've, through practical experience, I've picked up a few little tips along the way in things that I've been interested in and thought about as a result. The first one is the significance of the single seat. I think the single seat should be removed. It changes what parties are trying to get, trying to do. It alters the value of the – what happens is that a small party, that is parties that were looking for representation of the minority and special interest groups, to try and win an electorate they have to alter their, they have to become more mainstream, so they have to bury some of their ideas as far as the individual. They can't promote all the minority things that they may wish to promote. The example I've used is the ACT Party. The ACT Party have a very strong belief in vouchers for the school system. Now, if you think about the effect of

vouchers, the result is that all around the country it would make some difference to zoning and all those sorts of things in education, but that wouldn't be too major, but strangely enough, there's only one electorate in New Zealand where it would have a real effect, and that's in Epsom, because Epsom has got Auckland Grammar in the middle of it and everyone wants to be in the Grammar zone. So you've – if you look at what the ACT Party have gone to the electorate on, particularly the electorate in Epsom, they've said, "Well, perhaps we're not quite so keen on this voucher idea, perhaps we'll look at a different system which won't affect your property values." Now, that may be fair enough, but it seems to me that it doesn't encourage the small minority and special interest groups that the concept of MMP is supposed to be helping, so I suggest that one seat idea should be moved. That's the one thing I think should happen there.

The 5% threshold, I think, as a result of removing that, would be too high. I don't want it removed right down to 1% or something like that and I don't envy your – the Commission here, the task of trying to pick what the figure should be, but I'm suggesting that we should look at the threshold as being able to bring a reasonable number of people into parliament and I'm suggesting three or four. Now, four would require about 3.5%, somewhere in that area. At 3.5% you've got about 75,000 votes, that's actual votes and it would be a reasonable number, I think, to base it on and it would bring it four – 75,000 votes would bring in four MPs on the list.

MR PEDEN: Perhaps even less, a 3% threshold would probably get you to four.

MR OWEN: Is my maths shaky, is it?

MR PEDEN: Yes, just slightly, not much, you're close.

MR OWEN: Yes. So, on that basis, I think that to sum up I would remove the single seat thing and I would drop that 5% down to perhaps three, somewhere

in the three to 3.5 business, I wouldn't go any lower than that because it does cause problems about the – well, effective parliament, I would suggest.

The electorate seats and under MMP I see little difference between the significance of list and electorate members, incidentally, so I don't think that's got to be an issue. I've found that working in a small party that when you get three or four MPs, they don't have Saturday mornings at their electorate office dealing with their electorate problems, but they have a much, much bigger electorate and they spend their Saturday morning chasing off to Hawke's Bay or to Southern Otago or to somewhere to service some party issues in that area, so I think it's a very important one for them.

The only other issue that comes through is the one concerning who sorts out the lists and things like that. We had a brilliant idea in the party I was in that we would make it very, very democratic and we would try and have the party members vote for who was going to be on the list. It seemed like a good idea at the time, but it doesn't work for small parties or the small party that I'm in anyway. You'd find that the people in the large population centres, for instance, in Auckland when they have a party function, they can all drive into Epsom, for instance, and stand around having the odd drink and the odd chat and they all get to know each other pretty well. Exactly the same function held in Dunedin has a lot fewer people at it and they don't get to know each other, so that when the vote comes to try and sort out your membership and the listing of it, it doesn't work, so people comment to me frequently that the issue is that the list, trying to sort out the list is going to be, is all done by the party hierarchy, and that if you're mates with one of the people on the party that gets you in automatically. In a big party, that may be the case. I don't know. But in a small party, let me assure you, it doesn't. In a small party you're that busy trying to make certain that you've got the racial group right, the gender or sex group right, the – all the other issues are sorted out so that when you put up your top 10 it's got the look that you want. It doesn't matter if you've got all the people who have done all the lobbying in Auckland, you've still got to make certain that you've got – I don't want to be specific, a woman in Otago and a Chinese person in, on the list. That's what

sets up for a small party. It would be absolutely catastrophic to have your top 10 all bald old men like me. It wouldn't work. Thank you very much.

MR PEDEN: And your experience, Mr Owen, would be that it would be difficult to come up with a process that would enable membership participation and still achieve the kind of goal that you've outlined?

MR OWEN: Well, we don't have all the answers, but certainly we never found the answer to that one, and as I say, I've been on the selection committee and I simply couldn't find one, and it is something – I've been involved in politics for a long time and I've been, I have a great interest in it. My degree is in politics. I have – I couldn't find one, shall I just simply put it that way.

MR PEDEN: How does the selection panel – how is the selection panel selected within your party?

MR OWEN: The selection panel? The selection panel was the entire board and it was selected, the board is selected from, has a regional makeup in the – there are five regions and then there is the President, Vice-President and various specialist groups, but it's a board of about 12 with a couple of hangers-on, but it is widely-spread as far as regional, on a regional basis. It doesn't have specific members as far as a Polynesian sector or an Asian sector or a female sector or a Green sector or anything like that. It has – it's simply on regions, basically.

MR PEDEN: So it itself is elected by the members?

MR OWEN: It's elected by the members, yes. In fact, we've just had the election last –

MS HURIA: By the regional members or the national members?

MR OWEN: It just depends. The regional members select the regional chairman. I stood for Vice-President the other day and came second, and the, that was done by the entire membership.

MR PEDEN: So basically you pool the requirements of section 71 of the Act in the process that you've described. Thank you, I've nothing further.

SIR HUGH: Anything to ask, Dr Arseneau?

DR ARSENEAU: One quick question, and thank you for your submission. We had heard from some submitters that perhaps the regulations around that conception, what we mean by democratic process, some people are calling for a better definition of that. Would you agree with that, or would you – are you happy to leave it up to the parties?

MR OWEN: I think I'd leave it up to the parties, because honestly, it's a ruthless little setup when you get into the party. Everyone, pretty quickly they start arguing about what democracy is and I don't think I would alter that too much, certainly not in the party that I'm involved with. I've also – showing my political life, I've also been the electorate chairman for the National Party in Palmerston North and we had difference, a different setup for that, but I'm really wanting to talk about the small party. I'm really – I was very impressed with those 10 points that the original Royal Commission made about how we should – things we should be looking for in an electoral system, and the particular one about minorities and I would have some things to say on, to do with minorities, too, because I think we do have to look after that, in particular. I've only commented on small parties today, but there are obviously racial groups and things which this Commission is not looking at.

SIR HUGH: Thank you, Mr Owen.

MR OWEN: Thank you very much.

SIR HUGH: Thank you for giving us the benefit of your experience. The next submission is scheduled for 1.30, so we'll take lunch until then.

HEARING ADJOURNS: 12.41 PM

HEARING RESUMES: 1.31 PM

SIR HUGH: Good Afternoon Mr Laurenson. Do you care to come forward and – the ordinary use of this room is take a seat in the witness box. We've been asking people to sit there of course for recording purposes.

CHRIS LAURENSEN: Thank you.

SIR HUGH: The format we've adopted Mr Laurenson is that your submissions have been read by everybody and where in the quarter of an hour or so allocated to you, we're inviting you to highlight any particular points you wanted to cover, there may be comments on anything additional you might've read in other submissions, then there'll be some questions if that's all right.

MR LAURENSEN: Okay. Well, thank you for the opportunity for me to make an oral submission. I am Chris Laurenson and I am here as an individual. I don't represent any group of any kind.

What I wanted to highlight in my brief time here was the importance of identifying the principles on which the questions that you've asked are answered rather than going straight to the answers without necessarily seeing how that fits with what we collectively, what New Zealand has collectively voted for, so I was concerned, I guess, that we didn't have a system which we voted for MMP but we devised the rules to make it look as much like FPP as possible. We sort of embrace the fact that we've got MMP now and let's devise a system which takes that sort of more logically.

So, what I think that the ultimate system should be is, as I say, a logical outcome of a set of principles related to the characteristics of MMP which, as you've highlighted, are a mixture of electorate and list MPs, but the composition of parliament mirroring the party vote and so I guess the fundamental principle that I've identified is that what we've got is a system or

what we've voted for is a system where political parties are the basic building blocks of parliament, that they're the primary way of determining the composition of parliament as the party vote, electorate MPs contribute but they do not determine the proportionality of parliament and so I believe the MMP system needs to have rules which enable political parties to be effective in promoting their views and I think that we need to create an environment that helps build strong party infrastructures and encourages participation at that level as well as the national level.

If the special role of political parties, which I'm sort of envisaging is accepted, then you can then use that to determine the answers to the questions that flow, for example, the order of the list, I believe, the party should decide this. All candidates should be on the list, including those standing in electorates. The list should be the list of people the party is saying, "These are the people we want in parliament," it shouldn't necessarily be a list on one side and electorate candidates on the other. I think that making people choose, I don't see the point in making people choose between being on the list or being an electorate candidate.

The threshold, I think, needs to be high enough to exclude single issue parties or anarchic groups and I think that sort of 1% is enough to exclude those, but it should also be low enough to ensure that genuine broad spectrum parties do have a voice in parliament.

So, my feeling is that first of all we need to work out what is the number of seats that a viable party in parliament could have and I'm suggesting sort of between three and five members. An odd number would give a majority in a caucus, I suppose, which could have some advantage, so that would, so if you worked out how many seats was the minimum, you could then work out what the threshold would be, which I think my maths in my written submission might've been wrong, but I now think that would be somewhere between 2.5% and 4.2%, something like that. I certainly wouldn't want to see the threshold go higher than the current 5%.

I don't believe, I think that no list MP should be in parliament unless their party vote is over the threshold. Electorate MPs should not bring other MPs with them if their party does not reach the threshold. I think the present system allows for a gaining in the system and we saw that in Epsom where voters were promised that by voting for Act, they would bring in several other MPs into parliament with them to support the National-led government and I think that's against the principles that we should be aspiring to.

I believe that parties such as United Future, Act and the Māori Party that have less than the threshold should only have electorate MPs.

The next point that I wanted to make was not represented by the questions, the questions that were asked in the consultation document, but in relation to what do you do with list MPs after they've got into parliament and we've had situations since MMPs was introduced where members who had got into parliament on the list, subsequently became disassociated with their party and I'm thinking of people like Alamein Kopu and Donna Awatere Huata, so I believe that where a list MP no longer represents the party that got them into parliament, that they should be obliged to leave parliament and I think that the political party should have the powers to do that without having to resort to some kind of legal challenge and they should be able to then replace them with another person from the list and there's another thing which – that I thought I'd just raise and it's speculative at this stage because it hasn't happened and it may never happen, but there's potential for gaming the systems where a range of district groups could band together as a party before an election and by banding together, get over the threshold and then after getting into parliament, breaking up into their disparate groups again and being in parliament with their – and for example, and I'm not suggesting the Māori Party would do this, but the Māori Party could, for example, form a Pacific Island wing other than the Māori Party and get party votes from broader than the Māori community but also from the Pacific Island community and that, by that means they could perhaps get over the threshold and then after they were in parliament, divide up into their two, Pacific Island and Māori again and they'd still be in parliament. I think that's something that, as I say it

hasn't happened and it may never happen, but it's something that could be future proofed for the future.

The final points that I wanted to make was about the role of list MPs and how if we had a set of principles behind what we think a list MP should be, then we'd be able to determine some of the other questions. For example, does a list MP – is a list MP going to provide the same role as an electorate MP? If that's the case, they should be assigned an electorate, in which case you'd say, well, in the balance between list MPs and electorate MPs should be 60/60, so you have 60 voted in as electorate MPs and the other 60 list MPs would be assigned to the other 60, so that would give you, give perhaps larger electorates but each electorate would have two MPs to – it would have a choice of which MP they went to, to sort out their problems.

On the other hand, you could say, well, no, a list MP should have a different role, and perhaps their role could be to provide certain expertise, special expertise that you wouldn't get from the normal electoral system, and so under that scenario, you could have a different ratio of list to electorate MPs, and I don't have a particular figure, but if a list MP was to have been someone who provided special expertise to the legislative system, you could envisage a system where list MPs were not seen as having a fixed three year term. For example, they could be called into Parliament to replace an existing list MP where there was a particular matter being considered by Parliament and this particular person had special expertise which they could give to the Parliament, and they would deliver that for the period that that was necessary. At the end of that, they would come back into their private life and somebody else would come in to replace them. I haven't thought through all the nuts and bolts of that. They're just sort of general ideas. That's my submission.

SIR HUGH: Thank you, Mr Laurensen. Mr Peden, thank you.

MR PEDEN: Your concern about the possibility of component parties getting into Parliament and then breaking up into constituent parts, have you got any thought on how you could regulate against that happening?

MR LAURENSEN: No. It would have to come back to the – no, I don't have the answer to that. I just raised it as being something that could potentially happen, and when it happened, people would think, oh, why didn't we fix that?

MR PEDEN: I suppose the other way of thinking about it is that were it to happen it would perhaps be the first and only time it would happen because the political repercussions next time round would be pretty severe, probably.

MR LAURENSEN: Okay, yes, that's fair enough.

MR PEDEN: It takes me to your suggestion about what, I think, is colloquially known as the 'waka jumping' scenario. Isn't that something that can be safely left to voters to regulate also?

MR LAURENSEN: I wouldn't have thought so. The voters only get the chance every three years, and they need to take into account a range, a whole range of factors when they choose who they're voting for.

MR PEDEN: I suppose I'm thinking of the example that you gave. There was a pretty strong reaction from the electorate, wasn't there, at the next election, and I think aren't parties and Members of Parliament now pretty mindful of that kind of response, that kind of reaction?

MR LAURENSEN: Well, I'm sure they are, but I don't know that there's a foolproof way of ensuring that the people who, before I'm an election, say I'm with you, I want to be on your list, don't after the election decide that, oh, actually, I'm not quite with you after all, and it seems to me that if you adopted the principle that there was an important role here for parties in this new MMP system, that the party should say, "Well, if you're no longer with us you're no longer in Parliament. We will ask you to leave, and we will bring in somebody else from our list who is more than willing to come in and implement the manifesto that we've put forward at the election which our voters expected us to be promoting," and that it would, that if you had to wait till the next election

for the whole party to be sort of somehow disciplined because of that, I didn't think that would be a fair outcome.

MS HURIA: Mr Laurensen, you said in your submission around the 5% threshold should be retained so that only genuine parties with reasonably large voted groups get in, but we have heard submissions, I'm just interested for you to comment further on the preservation of each vote counting through to if people want to vote in one person who does represent a very narrow or set of interests of even a single issue type person, that nevertheless they have the right to vote in somebody like that, they should have the right to vote somebody in like that because they are part of the democracy?

MR LAURENSEN: Well, I wasn't saying in my submissions that a single electorate MP couldn't be voted in representing whatever. I was talking more, I was talking about the list candidates. I hope that's how that came across.

MS HURIA: Okay, thank you.

SIR HUGH: Are you actually arguing for a ratio of 70 electorates to 50 list MPs or are you arguing for a 50% split?

MR LAURENSEN: What I'm arguing for is for the principle first to be established of what do we want these list MPs to do. If we're saying a list MP is going to be doing – is going to be the same as an electorate MP, then they should be given an electorate as well, a signed one, in which case you'll say then what then, let's have a 60/60 split, but if you were saying, actually, no, we think that there's advantages in the MMP system that we've adopted here, having list MPs having special functions, special roles, then you don't have to have an even split. You can say, well, how many of these special roles do we need? That would also need to be calculated in terms of what would be the ideal number to ensure that you have the proportionality of party's after the election, so you have to have enough list MPs to ensure that that balance can be made, but it wouldn't necessarily – it could be around the 70/50.

SIR HUGH: Would this be a matter of party arrangement or a matter of fact you've enshrined in the statute, that list MPs had to have electorate responsibilities and if it was to be in the statute, how to work with a party that has, say, has 20 MPs, electorate and list. How are they going to cover the entire country and lists the MPs' obligations?

MR LAURENSEN: I wasn't thinking that each party would need to cover all of the electorates, I was thinking that you would then, you would take your 60 list MPs from whatever party they were, they came from, and by some mechanisms which I haven't devised, that they would each be allocated one of the 60 electorates, so each electorate would have two MPs, an electorate MP and a list MP, part of whose job was to represent them in parliament, but they might –

SIR HUGH: That would have to be ordained by statute?

MR LAURENSEN: I would think so, yes.

SIR HUGH: Thank you. Turning to your suggestion about using list MPs with special resources et cetera, suppose an issue arises where a party has an expert, getting into ranks, who is not a list MP, is it your proposal that one of their list MPs would drop out and that person would become a list MP for the duration of that issue?

MR LAURENSEN: I guess it is, and I know – even my family kind of laugh at me when I suggest this, as being crazy and off the wall, but yeah, I'm thinking in terms of, well, the analogy I make is going to see sort of schoolboy soccer matches. The umpire, the coach is there, pulling, you know, "You come off, we're going to put this person on, you come off," now, whether that would actually work in the realities of the situation I don't know, but it seemed to me like something we could look at as to say, do we have to have a situation where list MPs are given a three year term, or would you say, okay, if you're a list MP we expect you to have your normal sort of business carrying on, but we'll bring you into Parliament for certain functions.

SIR HUGH: So for the duration of that issue, that new list MP would have the privileges and salary of being an MP and the one who's got dropped out would go back to whatever it was he or she was doing before?

MR LAURENSEN: Yes, that's right.

SIR HUGH: Thinking about it, it doesn't sound terribly palatable.

MR LAURENSEN: No, it probably isn't, and I'm not suggesting that, you know, I wasn't expecting you to think, wow, this is the solution to the problem, but I'm just thinking that as an option it's something that we could consider.

SIR HUGH: And one of the criticisms we have in some submissions is that when they're voting, the voters really don't know who they're voting for because they don't know the candidates or they don't know how far down the list they're going to be actually elected to Parliament. Would this proposition not increase that concern? Would voters know who they were actually putting into Parliament?

MR LAURENSEN: Well, if voters are wanting to know who they're putting into Parliament, then we probably should – then MMP's not the system for them. What MMP – the system of MMP is about selecting, deciding on different party manifestos and voting for the kind of policy initiatives that are put forward in those manifestos rather than saying I want this person or that person.

SIR HUGH: Thank you. Dr Arseneau?

DR ARSENEAU: Thank you for your submission. Can I just clarify one thing. You were talking about list MPs who leave their party. It's been known as 'waka jumping'. Do you think something similar would need to be applied to electorate MPs? So would they need to go off for a by-election if they left their

party, or would you say that they should still be allowed to sit in the House as an independent?

MR LAURENSEN: Yeah, no, I think that someone who has won an election can't, has been elected on the basis of the party but also of their own merits, and so I don't think you would force them to go to a by-election, no.

SIR HUGH: Thank you, Mr Laurenson. Thank you for your help. The next submission is from Su-Wuen Ong. Mr Ong, is that correct?

SU-WUEN ONG: Yes, that's right.

SIR HUGH: And your submission, I think, is also on behalf of Fiona Fitzgerald, is that not right?

MR ONG: Yeah, that's my partner.

SIR HUGH: The format, Mr Ong, is that we've read the submissions. You speak to them emphasising particular points and perhaps adding any additional points in. We'll ask you some questions.

MR ONG: Right. I really want to raise three points out of my submission. I really want to emphasise three points, one of which I didn't quite actually include in the submission, but it fits in quite well, anyway. The first point is about whether – and that's quite a popular one, whether an electorate MP should bring in additional list MPs with them, and in common with practically everyone else, as far as I know, apart from political parties themselves, I'm quite against the other that if you vote for – just because someone wins an electorate vote it means they can bring in additional list MPs with them. It really has to be one rule, one rule for all, you know. My third point touches on that one.

The second point which I want to make is my disquiet at the fact that that the New Zealand population seems to downgrade or downplay list MPs. They

always and our relatives would say that they're not real MPs, they're not elected by people and they seem to glorify electorate MPs a lot and I cannot understand that because really, my point of view is that really list MPs have been elected by the whole country, whereas electorate MPs have only been brought in by a little tiny electorate and in some ways it's easier to become an electorate MP. If you manage to corner the market and get in that way, you can get in as a list, electorate MP unless you try and convince the whole country that you are worth of being a list MP.

And my first point is really about how can we lift the image of list MPs and it's a bit the same as the previous speaker, but what's the role of list MPs and what I see is that list MPs serve the whole country, electorate MPs serve their little electorate. So, duties that require the national focus like being a party leader or being a prime minister or being a chairman of a committee, those are big things, you know, you shouldn't be taking away their time in having them doing little electorate MPs like, oh, you know, "I can't get a passport, I need my passport in three days, Mr Key, please advance my passport application for me," I mean Mr Key shouldn't have the time to do that sort of thing. His focus should be national, he should be looking at national issues and really, a list MP is far more capable to do those sort of duties than an electorate MP and I think I highlighted a case of the honourable Nick Smith as well. He was compromised as a minister, because of his electorate, I mean in this case, maybe not the ACC one, but the previous one with the Family Court. He was an electorate in his constituency and that solved, you know, verse the line between having a national caucus and having electoral caucus, so I have some ideas about how you could raise the image of list MPs.

And the third point I wanted to make was that really you shouldn't look at electorate – results from electorate elections as having anything to do with the general election and some people have mentioned that you should rank, rank the list according to how many votes they got in the electorate, I think that's nonsense, you know. The list that comes in should be based on what the country thinks of you, not what a tiny electorate that, you know, for whatever

reasons didn't appeal to them, you know, whether it's your hair colour or whatever.

Those are my three points and I welcome any clarification.

SIR HUGH: Mr Peden?

MR PEDEN: Well, I'm very interested by your submission in terms of the relative deceptions of electorate and the list members. I've actually annotated your submission with the word "wow" because I'm wondering whether you'd be turning the situation on its head and actually turning list MPs into the first class members of parliament and I'm wondering whether there's an approach where we can get a balance so that they're all seen as members of parliament of equal status.

On the level of the threshold, I don't – you've given a range of between 2.5 and 4%. You don't have any concern that if the threshold was much below 4% that there would be formation of government problems or problems with effective government?

MR ONG: I think the short answer is we don't know, it has not happened. The only people who get in below 5% are those who drag in electorate MPs, who drag in their party with them and typically those have got in because they've claimed the system almost. It may do, I suppose, you know, it may lead to situations like in Israel and Italy, but the short answer is I don't know and that's one of the reasons why I chose not to really play it up, because the range between 2.5 and 4 is a gap, it's just a gap really, I didn't do any calculations.

By having said that, I think to promote democracy, you want to try and get everyone's vote counted as possible and in the previous election, anyone, sorry, not the last one, but for anyone who voted New Zealand First, it just got in to lower the 5% is a wasted vote, so my gut reaction is to try and lower it so that fewer raised as wasted.

MS HURIA: I think I've got my answer really, in paragraph 4 you talk about voters ordering the list of the party they give their party vote to. I'm just wondering that you did say practically – have you had any ideas since this, since you wrote this about how tactically that could work?

MR ONG: I think the only way you could do it is to actually get the person to – get an STV voting system of the party list, so if I were to vote Labour, say I might put, I don't know, Phil Goff as number one or maybe David Shearer, let's put someone down, David Cunliffe is number one and Nat King is number two and I will rank the system down as far as I want to go and then you would have a normal STV system of transferring the votes until you reorder the party list and I think that's a reasonable method and in fact it's quite good because it really means that unless you are really keen in having a say in the party list, most people would just say, "I can't be bothered, I'm not going to trivially pick one to 50, I'm just going to pick the party that I want and it's only the real committed ones who say, I know, I know these people or at least I know my preference rather than I know these people, I know my preference and I'm going to religiously rank the party list.

MS HURIA: Because there are issues around that, aren't there, with a previous submitter talked about the disadvantage that rural or smaller communities have over say people that live near Epsom that can all gather together to meet candidates, but...

MR ONG: I mean the truth is that most of us don't know our candidates one way or the other. I mean I live in the Ohariu electorate, I know Peter by name because he's been my MP for years, but do I know any of the others, I mean I'm quite – the fact that I'm actually here means that I'm actually quite politically aware, but do I really know them? Not a chance. I mean this idea that you know your electorate MP is more mythology than real.

MS HURIA: Very interesting, thank you.

SIR HUGH: You're against list MP being able to stand in by-election.

MR ONG: For a different reason.

SIR HUGH: For a different reason. Currently, just about any New Zealand citizen can stand for parliament, why should list MPs be excluded?

MR ONG: Because they are already MPs. I don't want the idea that list MPs are always trying to become electorate MPs, which is what they currently are, actually. They always get on the list first and get on the list if they can't make an electorate unless of course they're in a corner and get shafted a bit and you refuse to be on the list, but otherwise it appears that all list MPs are the ones, sorry, electorate, are one of these and my idea is that you really want list MPs to be a category of MPs on their own and has the previous functions or perspectives of their own, they are quite different and you don't really want to mix it and I can see your point about saying, you know, that would be swapping the democratic right, yeah, I agree with that, but the suggestion was merely in the service of trying to make the two types of MPs equal.

SIR HUGH: Dr Arseneau?

DR ARSENEAU: Thank you for your submissions, very interesting. On the issue of preferring list MPs to the, say, prime minister or leaders, deputy leader, even maybe the top five on the list having that, as Mr Peden said, might actually flip things on its head. A lot of submitters have actually talked about whether changes are best come about through change in law or whether change in behaviour will get us to that point. So what your sense is it should be through a change of law?

MR ONG: I was in a seminar with you a few months ago, and I raised the same point, and you sort of said, "It's mainly the older voters who are keen on electorate MPs, and if you ask a young voter they don't see a distinction." You're very possibly right. The real problem is that I look around this room

and I don't see 20-something year olds or 30-something year olds, currently, anyway, making submissions.

DR ARSENEAU: Maybe yesterday you would have.

MR ONG: Okay. So maybe you're right, and maybe over time the standing of two to two MPs would equate and it doesn't need a change of law, it's just that when I read the media and I read – I don't read blogs, but I read comments in newspaper articles, and maybe you're right. Maybe they're all done by older people with too much time on their hands, but they're all basically against, well, they certainly don't, they certainly rate electorate MPs a lot higher than list MPs, but you could be right.

DR ARSENEAU: I don't remember what I said in that seminar, but I think it's probably that certain people who have lived with First Past the Post all their lives –

MR ONG: Yeah, exactly.

DR ARSENEAU: – so it can take a while for a voting system to embed, to change the feelings.

MR ONG: I'm just trying to hurry up the system.

SIR HUGH: Thank you, Mr Ong. Thank you very much for coming. The next submission is from Dr Antony Reed. I guess you know the format, Dr Reed, having listened to a few of them. When you're ready, if you'd just like to embark on a review of your main points.

DR ANTONY REED: Yes. I'm here just speaking as an individual. To give a little bit of background which might explain my knowledge and interest in the subject is until last September I worked at the Parliamentary library where I worked at the, in the Parliamentary information service for the public, which meant, of course, that we had to know everything there was to know about

MMP to answer, but I also worked in the – specialised in international section, in international documents, so I was also very aware of other countries' systems rather more, which I think flavours my, these references to Scotland and Wales which are present in my submission.

I certainly wanted to start by emphasising the fact that now MMP is established we really do need to do something about the image of the list MPs and although I might not go as far as the last speaker, I would certainly want to emphasise that constitutionally they are equal to electorate MPs. They are elected. I'm not quite sure – all the people who say they're not elected, perhaps they just don't use their party vote. Coming from the United Kingdom as I did, I really loved the party vote. Oh, a vote that will actually elect somebody rather than the First Past the Post system I was used to. I think even today's paper, the report in today's DomPost talked about somebody yesterday wanting to restrict the number of terms for list MPs because they are likely to be party drones, and my initial reaction was, and electorate MPs aren't party drones? Perhaps you could show me some.

So I think a lot of the points we've made here are really the choices of the political parties, of the two main political parties who still do seem to see sort of moving from list to electorate as a promotion, and it's really up to them to put – we have had a number of really honourable exceptions. Michael Cullen, of course, springs to mind, a man who was a list MP throughout the last Government and can hardly be said not to have made a fairly major contribution – major contribution to it.

Just today I had lunch in Parliament with a friend. I noticed Tim Groser here, a sort of classic list MP in many ways. He's hardly in the country, as far as I can tell, but he is certainly, you know, a Minister who is very much an expert, and a lot of his role is travelling, absolutely ideal as a list MP. I can't imagine he'd want an electorate at all if it was offered to him. So I do think, although the political parties should be, as it were, changing the image, that the Electoral Commission itself, now that we do have MMP established, should be

pointing out quite clearly that the two types of MP are constitutionally equal and perhaps emphasising this on your website and things like that.

On the specific issues, I've played a bit devil's advocate on thresholds because as I said in the seminar which was just alluded to a few months ago, why aren't we talking about regional lists? Scotland and Wales introduced MMP systems after we changed in their new Parliaments. Both of them introduced regional lists. In fact, I think in Scotland the thing is you have eight MSPs, your electorate MP and your seven regional MPs. So one, it gives the list MPs a grounding, but more important, you don't argue about thresholds. You don't argue about an electorate bringing one in, a 5% threshold, because that isn't relevant to that system. So if, for example, Greater Wellington elected the current number of electorate MPs but also seven or eight list MPs, then you wouldn't need a 5% threshold, because nobody who – because people would just not get elected, and you also – constituency law would be not represented and you would also have a list MP who is sort of grounded in a region as well as possibly having specialists, and I'm just surprised given these systems that are existing that this just isn't being debated at all. I just raise that.

By-elections. It's interesting that this issue didn't come up until Mt Albert. It's interesting, which was over 10 years into MMP. And suddenly we had loads of list MPs discovering they could stand in by-elections and get publicity. I was so amazed at this I actually wrote to the Commission saying surely this isn't true, sitting MPs surely have to resign their seats before they can stand in by-elections, and I was told no, they can, there's nothing to stop them, and I just assumed this was some sort of fluke in the law. Some people have associated it with the fact that at general elections people can stand as both, but of course in a by-election the party vote doesn't figure at all. You're only doing an electorate vote, so I was very surprised that they existed. Again, it's part of this, oh, I want to get promoted to an electorate MP. And in a sense, the answer to a previous submitter, of course a list MP can stand in a by-election, but like any other MP in the Westminster system I've ever heard of they should resign their seat first and stand as a non-MP. That is the

Westminster system, and I find it very strange. And, of course, what happens is if the list MP is elected then the next person on that party list comes on, so in fact the person coming in as somebody who somebody – who the by-election hasn't elected at all, which seems to me very undemocratic.

Candidates from both electorate and the list. I pointed out that Scotland and Wales have both, again, looked at this issue and interestingly come to opposite conclusions, but Wales, which I think is the one that has decided that of course has regional lists, so you have these names in your region anyway. So I think it's a very different situation, and as I've said, I can't think of practical ways of stopping the right – stopping the wrong people from doing it but not stopping the right people from doing it. I wouldn't want to stop all the Greens from standing in elections just because they had decided that they are basically not going to win electorates, they're going to want to win as much of the party vote. I'm not sure how it would work, how it would work for them if, if they're list – if they're higher list candidates, could not also stand in electorates and furthermore there have been a number of cases of electorate MPs who have lost their seats and stayed on the list which hasn't caused a fuss, largely because they've been in very marginal seats and of course there's been an issue against them and they've lost, but they're worth keeping in parliament. Darren Hughes in my own electorate was a case and point, I can't remember anybody criticised, I can't remember any criticism to the fact that he stayed on as a list member after he lost the Otaki electorate.

Ordering candidates on the list. My main point was I just think it's just too complex and I would draw attention to the Australian system where people are allowed to vote above or below the line and 90% vote above the line, in other words, allow the parties to transfer their votes for them and I personally did not vote for STV as an alternative in the recent referendum here, because the system on offer allowed you to vote above and below the line and like STV in local government and I thought that was even worse than – so I don't think – I think it would be very complex, I don't think many people would use it and furthermore, right, if I can rank the list, can I please choose my electorate candidates as well in the safe seat, I can think of lots of electorate candidates

in very safe seats chosen by a tiny handful of people, but why are they, why is that somehow not also an issue?

I think if you abolish the overhang, you punish the wrong party, in a sense that the parties that cause overhang and there's only one that has so far, to my knowledge, the Māori Party, causes overhang because it doesn't, its party vote doesn't reach the number of electorate MPs it has. If when that created a parliament of 122 people, you then had to lose two other MPs, whose would you lose. And in fact, other parties would be – would be hurt as a result of the party with too many electorates for their vote being in parliament.

Finally, my other issue which interestingly when I've talked to people, has created more support than anything else. I think there's a lot of the perceptions or problems and MMP are in fact problems relating to the First Past The Post remnants in the system. One example, I would quote, is that a lot of people do not like Hone Harawira and I wouldn't necessarily want to comment one way or another on that, but they somehow treat him as a sort of problem of MMP. He's possibly the worst example you can choose because he is an electorate MP elected on First Past The Post, he has really nothing to do with MMP at all, but even as an experienced commentator as Jane Clifton in *The Listener* a few weeks ago, fell into the trap of calling Hone Harawira an MMP problem.

So, I think we still have an FPP problem in the system and a lot of the issue is that the electorates are still, the electorate MPs are still voted on First Past The Post and some of them can get in with about 30% of the vote still, so I would recommend that the alternative vote system be introduced or preferential voting or whatever it's called, it's called alternative voting – that's why I used the phrase, could be introduced to the electorates, which I think would make the electorate MPs in themselves more representative and that's my...

SIR HUGH: Thank you, Mr Peden?

MR PREDEN: Dr Reed, regional lists you've, I think, identified something like one advantage being the association between a list member and the region as an advantage of a regional list. Is there any other advantage that you would see in adopting a regional list approach?

MR REED: Well as I said the main thing is that it stops all the argument about where you have – about having to create thresholds and whether you have a single electorate. So, and as it were, it cuts that Gordian knot I think. I mean you are more likely to know the names. Instead of being presented with one long national list you are presented with a number, you know, it's really a maximum of eight people per party standing in your region and hopefully they're out and about campaigning in that region.

It was notable in Scotland when it was introduced that the Greens tended to concentrate on Edinburgh and the Socialists tended to concentrate on the Glasgow because those were the regions where they could maximise their party vote and actually there is still an independent party list MP in Scotland. She is sufficiently well known in her region to get enough party votes to get into parliament which is very unusual. Normally it is electorate MPs who are independent.

SIR HUGH: You would envisage what six, seven, eight regions, you're thinking?

MR REED: Well that's what – well I think in both Scotland and Wales, I don't know Wales so much, I've looked at the Scottish parliament more, as being much closer in size to ours et cetera, that I think it's about eight, I think they have about eight list seats in each region and they would have about the same number – they've got almost exactly the same number of MPs as we have, so I presume that the balance between the list and the electorate is about the same.

MR PEDEN: During the course of your submission you commented on the complexity of the Australian process, voting process, and I'm just translating

that to your recommendation to introduce the alternative vote system, at least on the candidate side of the paper.

MR REED: It was actually in the vote in the electorates I was suggesting that. I think – I would hope that we don't need, if we were just voting in a single electorate with a preferential system that we wouldn't need this above the line, below the line business. I mean one of the reasons it exists in Australia is that voting is compulsory and so people have to turn up who don't give a toss about voting and so they would just vote quickly above the line and go home again. I was a little surprised that that was introduced as a part of the STV system recommended here. The alternative vote system is very much like exists, for example, of electing the mayor of Wellington and in a sense it worked particularly well last time because the person who at the top in vote one actually got defeated at the end, not that she liked that, but I mean it did show that people were using preferences quite carefully.

MR PEDEN: So you have in mind a preferential system for the electorate vote but not for the party vote?

MR REED: I think it's very complicated for the party vote. I mean of course how would you count if everybody got a hold of the Labour list and put it in a different order.

MR PEDEN: I suppose what's concerning me, from a voter education perspective is just the additional complexity that would introduce into the voting system. So on one side of the ballot paper voters would be voting with a tick, on the other side we'd be asking them to vote one, two, three.

MR REED: We do that in our local elections all the time.

MR PEDEN: But highly with informality.

MS HURIA: This review isn't suppose to cover the number of MPs but you do refer to the –

MR REED: No indeed. I did make that point.

MS HURIA: Yes.

MR REED: But on proportionality I felt that arguing that for me proportionality was very important and if the population grew to such an extent, oh we've got to have more electorate MPs and therefore list MPs, in a sense I was trying to cut the whole Gordian knot and say why not just say right one MP should represent 35,000 and then just leave it to sort of automatic growth or even decrease in population to decide on the total numbers, rather than there being a pressure for more electorates and therefore fewer list MPs and therefore making proportionality more difficult. That's all I was saying.

MS HURIA: Yes, and I got that, but I was curious about whether you had an optimum – you had a maximum, rather than optimum, a maximum number in your head.

DR REED: No, I don't. If we went up to – I know it's very unlikely that we'd go up to 50 million people, but if we do, we will have a Parliament the same size as the House of Commons to represent it. I think people aren't aware – working in the Parliamentary library, I saw this, that in fact if you look through how many – just the simple population divided by number of MPs throughout the history of New Zealand, MPs are now representing more people than they have ever done in the past. I mean, we had – I forget how many MPs in two Houses when we had a million people, so you know, a lot of it is just to do with people's sort of view of not liking MPs or whatever, rather than any historical perspective.

SIR HUGH: That answers the question I wanted to ask you, Dr Reed. Dr Arseneau?

DR ARSENEAU: Thank you. It was very interesting.

SIR HUGH: Thank you very much, Dr Reed. Thank you for your thoughts. The Green Party, Mr Sapsford.

ROLAND SAPSFORD: Good afternoon.

SIR HUGH: The format is that you have about 15 minutes or so. We've read the submission. Outline the particular points you want to and give us any additional material that you might want to contribute.

MR SAPSFORD: Sure. Well, thank you for the opportunity to present here. In our submission, I guess I'd just preface it by saying I'm here as the Green Party's co-convenor, which is like a co-President, and I've been involved as campaign manager in '99 and have been involved with our candidate selection and list processes through up to the last election, so I've got a fairly good idea of how it's worked internally, for us, at least, up to the last election. Just as a brief aside, I'm very amused by the suggestion that party lists mean that the party bosses have a high degree of control over our MPs. I think that's far from reality, in my experience.

We have set down three principles that we believe are important, fairness, proportionality, and diversity, and I guess in taking a principled approach to this we've looked at what areas in the review are most important for that, and in particular we've chosen to comment on dual candidacy, the thresholds, and proportionality. I think you've probably heard, just coming in and listening to the tail end of the last two submitters, a lot of discussion around the dual candidacy issue. I mean, our view is that to some extent this is a hangover from the First Past the Post position, the view that there is somehow a difference between list and electorate MPs. From our point of view, there is the practical argument that candidates need to be able to campaign on the ground and campaigning still occurs within electorates, and that is still one of the ways we organise our campaigning in New Zealand, so the ability for list MPs to be candidates and say we're here speaking out for the party vote is actually a very practical issue in terms of having access to the electoral

process at a local level. People still think in terms of having the candidates come to speak.

Looking at the more – the theory of it, we think that there is some sense, and possibly a misconception that if somebody doesn't win an electorate they've been rejected by the electorate, that's simply the electorate making a judgement about who they want as their local MP. It may well be the case that an electorate wants to see both a number of candidates in Parliament. In Wellington Central, for example, and speaking from our perspective, I think there was a high degree of support for both Grant Robertson and James Shaw and people split their votes appropriately to do the best to see if those people were elected to parliament. So I think some of the views around opposition to dual candidacy come from the legacy of FPP, whereas I think other speakers talked about there being some sense of legitimacy whereas to electorate MPs that isn't there for list MPs whereas I guess our view is that this system actually provides very strongly, as has been argued in MMP, the case for local representation and the ability to secure representation for constituency at interest and I think we're simply seeing the gradual evolution and maturing of the constituency, the voting constituency as people come to understand MMP and, you know, that I think is more about the evolution of our political culture than it is about any need for change in law.

The thresholds question is a difficult one. I mean however one looks at high theory the practical example is there is a balance between representation and the ability to organise and maintain stable government and it's a judgement call where it sits. In our view we think that the system has reached the point of understanding where it's appropriate to remove the one seat entry point to having the party vote count because in recent elections that has created inequities. I think our view was that at the outset it actually provided a bit of a safety valve while people learned about MMP but what we're seeing at the moment has been, as we noted, some inequity between, for example, parties with very similar party vote and so we would see that if you removed that, however, and create a situation where an electorate MP is genuinely an electorate MP and chosen as the best local MP then you do need to look at

reducing the threshold somewhat. The Royal Commission recommended 4%, we would encourage the commissioners to basically have a careful look at that balancing act based on the experience across the large number of proportional systems in the world.

Finally, looking at proportionality.

MR PEDEN: I was just to ask Mr Sapsford, at this point you wouldn't want to venture a view on behalf of the parties as to how low you think the –

MR SAPSFORD: I think we've encouraged – we made a conscious decision not to advocate a particular position. What we've said is we think the Royal Commission's reasoning was probably sound and we haven't seen a lot of evidence to suggest that was wrong and so we think 4% is a reasonable position to look for but we haven't – we're not formally advocating a position, what we're saying is we think that if you remove the one seat threshold then there is a case for lowering the vote threshold.

Turning to proportionality, I think this point is reasonably self-evident in the sense that if we are to maintain a generally proportional system then there needs to be some ability to limit the erosion of list seats as the number of electorate seats grows and our suggestion is to have a fixed ratio between list and electorate seats and for, I would say there to be some consideration given as to whether that means there needs to be a mechanism to increase the size of parliament or a recognition that as the population grows that will mean the number of MPs per person falls but I think the proportionality argument is probably one of the longer term and less obvious risks to MMP that we are keen, as an MMP party, to see that this review addresses that question in a way that creates a sustainable system for the next 30 or 40 years.

I think probably we've –

SIR HUGH: And again, with the proportionality you don't advocate for a particular position, ratio of some numbers?

MR SAPSFORD: No, I guess our position is that we think a ratio is a good idea but our view is to say we support that as a principle on democratic grounds and we'd leave it to the people who have the ability to look at a wide range of system to reach a view on what that should be.

MR PEDEN: I was just going to ask, if the conclusion was that it isn't likely to be a real problem until some considerable time in the future, 2051 or something like that. Is your sense as a party that even if it is a distant prospect, we should be doing something about it now?

MR SAPSFORD: I think our general approach to politics is to take the long-term view on things, and so we would advocate that. There was something built into the system so that it was understood and engaged with over time rather than being a sudden crisis that was hit up against, you know.

SIR HUGH: Given the infrequency with which our MMP system is being reviewed, and one might guess even greater than in the future, you suggest it's an improvement for us to try and put some kind of ratio, some kind of numbers on the seats to maintain proportionality so that in the future it automatically comes under re-examination?

MR SAPSFORD: I think it's prudent to address a problem systematically rather than to take the view that, I guess, it won't be an issue for 20 or 30 years so that the system shouldn't have some way of addressing it. It's very similar that I guess our point of view on a lot of things is that if you begin adapting early and gradually, the shock of change or the stress to society is much lower if you build in some adjustment mechanism early. So I guess in the situation if a fixed ratio was to be put in place it would then be clear to everybody from day 1 that that was the way the system worked, if you like, and so even though it may not lead to much change for 20 or 30 years it would not be an issue when you started to hit up against it as you would in a situation where that ratio was absent.

SIR HUGH: For myself, the point I think you've reached at the moment is that if we were intending to propose something along those lines, hard seat numbers would be a riskier proposition than a ratio.

MR SAPSFORD: Yes.

SIR HUGH: It may well be, and I'd appreciate your input, it may well be that if we were simply to say something like, when the time arises we think that 50/50, two-thirds, one-third, whatever proportion is the right proportion for a proportional system, would that be sufficient, do you think?

MR SAPSFORD: I think – I mean, that's very much in line with our thinking. I think, and obviously the process of drafting legislation has several steps to go through, I think our preference is that that is provided for within whatever systems legislated for, so that it is well understood and has a mandate before you reach that critical ratio, whatever it is, but yes.

SIR HUGH: At least if we feel able to get to that sort of position, it might avoid or lessen the debate in the future, might it not?

MR SAPSFORD: Yes.

SIR HUGH: You know, it's got to be three-quarters or one-quarter, or whatever it is. We get, as a result of this Review, come to the feeling that this is about the right proportion for a proportional system, that could provide a valuable indication for the future when the time arises, could it not?

MR SAPSFORD: Yes, I completely agree with you. I'm sorry if I didn't make that clear in my previous answer. I think that is exactly the sort of reasoning we would see being a very useful outcome of this process.

MR PEDEN: A number of submitters have suggested an increase to the tolerance that the representation the Commission can apply when it's

considering a redistribution. Have you got a – does your party have a view on that?

MR SAPSFORD: The party hasn't reached a position on that, I'll be quite frank with you. I mean I think our general view would be that it's important that those numbers don't get too far out of line but again it's a matter of a balancing act so that there's not a magic threshold, the key issue is whether beyond a certain variation do you get to a point where there's genuine questions about the equity and fairness of democratic representation but I think that's the sort of question which would need to be addressed in the broader context of why you are making a change. Obviously if you have a fixed ratio and therefore the number of people per seat may rise over time then there may be a case for allowing greater variation in that area but that would mean more extrapolating from where I think our principles stand in a party position.

MR PEDEN: There's also been a number of submissions around section 71 of the Act and the requirement for parties to adopt democratic processes and the suggestion there should be more regulation in that area. Do you have a comment on that? So in other words some sort of legislative process that parties should follow.

MR SAPSFORD: I mean our processes I think a number of people have commented on, is fairly well set out and we wouldn't have a problem with a requirement for something that was more transparent or required a higher degree of member involvement. We're not advocating that per se because I guess what we would like to think is that over time the culture of political scrutiny will lead to people asking those sort of questions about parties. I mean our perception is that our commitment to political integrity and transparency is one of our political assets and therefore we are quite happy to adopt a relatively rigorous and systematic list ranking process and to review it regularly and to do that in consultation with our membership. I think that maybe that is one of things that voters make a choice about in their choice of parties. So we don't have a position in terms of advocating that but I can

certainly see that if that was a recurring concern we wouldn't oppose it, it's just not something we're advocating.

SIR HUGH: Thank you Mr Sapsford.

MR SAPSFORD: All right well thank you and good luck.

SIR HUGH: Mr Braithwaite. Now Mr Braithwaite I think you'll probably understand the format we've adopted. We've received your submissions, we've got your initial submission, a supplementary one which is dated 23 April and then the submission you made to the MMP Review Committee in 2000.

GEORGE BRAITHWAITE: Correct.

SIR HUGH: We read the main and supplementary submissions. We haven't really had an opportunity to look at your 2000 submissions but if you care to just address us, and we have a quarter of an hour or so allocated, of the main points of your submissions and anything additional you want to put to us before we ask some questions.

MR BRAITHWAITE: Yes, the main point I wish to emphasise is we need more emphasis on the status and the standing of the list candidates and what their functions are and for their role to be publicised. But before going on to that I'd like to dispose of two matters. One is the overhang. Looking at it, I think the overhang question might not have arisen if we came back to first principles and that is on the votes, to give the parties the number of seats that their list votes qualify them for. Now that would make less than 120, probably 116 or 117 because it does not take into account the so-called wasted votes, the votes for parties which didn't meet the threshold. Now if they were given that preliminary allocation then any overhang seats were added and only then was the residue applied to make up 120, there wouldn't be an overhang and the parties would still have got a little more than their strict entitlement from the list vote. The one drawback is that the overhang candidates do get slightly more proportional representation because they didn't get the list votes.

The other question is the threshold. I strongly advocate reducing the threshold from 5% to say 4% and at the same time abolishing the one electorate seat qualifying for the full list entitlement. In fact I still have a problem with a single candidate winning a seat and so giving the leading party, the governing party in effect an extra seat because they do not sacrifice a list seat in winning that electorate. This is the Epsom situation of course.

SIR HUGH: Well potentially they get more than one extra seat don't they?

MR BRAITHWAITE: Well if they qualify for extra seats yes but even if that were abolished they still get effectively an extra seat.

Right having disposed of those two matters I come onto the main one which is the status of the list MPs. Now a lot of First Past the Post thinking still persists. There's still a strong tendency to think of the electorate candidate as being the one who represents things. That's not very clear but you get comments like, "National should not have lost this seat". I remember that being made in the 2002 election, "National should not have lost this seat". It was a shock result. Well in the previous election Labour had scored higher in the list votes and I would regard that as a Labour electorate. Why should it be a shock if you get a stage further and the electorate candidate also loses the seat. I would like to see the electorate regarded as belonging to the party which got the highest list votes and if that was done I think it would remove a lot of confusion. I still meet people who say, "I vote for Labour" or "I vote for National", not distinguishing between the list vote and the vote for the candidate best suited for the electorate.

In my submissions I've noted that although voters should elect the most suitable candidate in an electorate, irrespective of party, in practice electorates are almost entirely confined to their two main parties or leaders of minor parties who, however, haven't fared well. The two parties which register best on the list votes and which now qualify for representation by the list votes, they both had MPs who incidentally entered parliament as members

of other parties, and both of those were subsequently defeated in later elections and having made a serious attempt to regain the electorate seats. In my latest submission I've suggested reasons why the minor parties are unsuccessful in winning electorates and that this may be a long-term problem which will only moderate as we get a better appreciation of MMP and the roles of list and electorate candidates.

In my original submission, the one back in 2000, I – sorry I've lost my thread. I will leave it at that.

MR PEDEN: You talk in your submission about publicity for list votes and I'm just wondering if you could just explain a little what you mean by that.

MR BRAITHWAITE: Yes what are the roles of list candidates and these I have outlined in the 2000 paper, the one you've only just received, that list candidates could tend to take, particularly list candidates from minor parties, could tend to take more of a national role and represent national rather than local interests, particularly ethnic minorities or minorities of other sorts and nationwide issues, health and so on. I gave some examples in the 2000 paper.

MR PEDEN: Yes, the thing I was particularly looking at was where you say in your first submission that more publicity could be given to list results on election night, progress results could be given for list votes and compared with progress results and I thought that actually happened. Certainly the results that are available on the Electoral Commission's election results website provide regular updates on the party vote.

MR BRAITHWAITE: It has improved a lot. What I still somewhat miss is that when results from an electorate are given I get a fairly good picture of how the result is trending for the candidates but not so good a picture of how the result is trending for the list votes. Now whether – how that can be remedied I'm not too sure but if it happens for the candidates there should be some way of making it happen for the list votes. I try to forecast the results and on the

progress results I get a better picture of who will be the winning candidate than –

MR PEDEN: Do you go to the election results website, the Electoral Commission's website on election night?

MR BRAITHWAITE: No, I don't. I rely on radio.

MR PEDEN: Oh, right, I see, yes.

DR ARSENEAU: Can I just ask, do you mean the party vote nationally or by electorate? Which do you use for the lack of progress? Are you looking for – so when they look at each electorate, to not just tell you what's happening with the electorate vote but also what's happening to the party vote in that electorate, or just nationally?

MR BRAITHWAITE: On election night, it has to be by electorate because the electorates are the building blocks which build up to our national picture. The national results don't really mean much unless you can see the components that are making them up.

SIR HUGH: Just one point of clarification, Mr Braithwaite. You talk about the thresholds, about less than the entitlement in the 4 to 5% bands, say, three to four seats rather than four to six. You're not – well, are you espousing the kind of graduated scale that Mr Galbreath suggested, or are you saying that a number has to be fixed and chosen that results in a certain number of seats?

MR BRAITHWAITE: I'm not advocating that. I'm just saying that if a straight reduction to 4% is too much for immediate acceptance, then it's a possible compromise to give the 4 to 5% group rather less than their due proportion.

SIR HUGH: I see, all right, thank you very much for your time, Mr Braithwaite, and for the submissions, and obviously you've maintained a significant interest in this area for a long time.

MR BRAITHWAITE: Yes.

SIR HUGH: Now, the final submission before afternoon tea is Mr Whitehead. Mr Whitehead's not here, so Mr Braithwaite's is the final submission before afternoon tea, then. We'll take, perhaps, 20 minutes to keep up with the schedule unless Mr Whitehead arrives, in which case we'll start a little earlier.

HEARING ADJOURNS: 2.57 PM

HEARING RESUMES: 3.18 PM

SIR HUGH: Good afternoon, you are Mr O’Kane are you?

NICHOLAS O’KANE: Yes I am.

SIR HUGH: Thank you for coming, thank you for your submissions. In order to make sure that what you say is recorded we’ve putting people in what is usually the witness box in this courtroom. So if you care to go across there. You can take Mr O’Kane that we have all read your submissions, that includes the three of us on the Commission and Dr Therese Arseneau who is a political scientist at the University of Canterbury who is acting as our advisor and consultant. With the other people making submissions we have suggested, in the quarter hour or so they have got available, that they outline the principal points they want to make, any additional points that they want to put before us and then if we just ask you some questions about matters that we want enlightenment on. So if you care to lead off under that format.

MR O’KANE: Okay, good afternoon, thanks for having me allow to come before you. I started off my submission by making a list of key guiding principles around which the MMP review should consider when deciding alternatives or looking at things. The first and most important one, of course, is democratic legitimacy. Almost all of the issues that I mention in my submission are related to these key principles. I also got proportionality, a multi party system with allowing minor parties to have a genuine say in legislation, that includes having a lower threshold to allow more minor parties to be represented in parliament. It also allows stability, choice and geographic equality and transparency and simplicity as other principles. The key one is democratic legitimacy. You have to ask the question, how would the New Zealand public react if a government was to be elected because a number of parties are closer that government got 4.9% of the vote without any electorate seats or there is a large number of overhang MPs allowing the government to be elected with the overhang MPs even though it had much fewer votes than the opposition. Some of the elderly members might

remember the '78 and '91 elections in that regard, leading to playing a major part in what happened with MMP so I think that, looking at the threshold and overhang seats should be a key issue in this regard.

I know the threshold issue has been covered by quite a number of other submissions so I don't want to spend too much time on it but to me the main criteria of it should be used when deciding what the threshold should be, should be we want to include almost every voter having their party they vote for in parliament so ideally having the party vote reduced to say two or 3% or ideally less than that and also don't end up with a substantial block of voters unrepresented and to me 5% is considerably too high because two parties get 4.9% you end up with about 10% of the population being unrepresented in parliament. I would even say that 4% is too high in this regard, like 3% you can even get to three blocks of two point something percent would still be – or three point something percent would still add up to a sizeable amount potentially. I would say reduce it below 4%. I suggest the two and half percent figure as cutting into half.

I'm not completely convinced there needs to be no threshold but I, yeah, there is the issue like you don't want to end up with every single little party under the sun represented but certainly a lower threshold should be a key demand. Yeah, the one seat threshold, once you reduced the 5% threshold becomes much less needed because you don't need – because it allows more proportionality reducing the threshold plus make it partly redundant and also the one seat threshold is undemocratic in a way that it allows for a small block of voters represented in one electorate who have much more say over the outcome of an election than voters elsewhere in the country which leads to that one group having disproportionate power.

One issue I want to mention quite a bit which other submitters haven't done, is the issue of what happens when there's a vacancy in a list seat. I know this hasn't been touched on much but what has happened in some cases is for parties, because there's not stand down period and vacancies don't – or list seats like as with electoral seats like with by-elections to basically

retrospectively rearrange the list after the election. I have got here the example of the Labour Party list after the 2008 election, how that's after Darren Hughes resigned his list seat, Judith Tizard, Mark Burton, Mahara Okeroa, Martin Gallagher and Dave Hereora all stood down to parachute Louisa Wall up the list. What happens is that before each election every voter in the country gets mailed to them a copy of the list of all the parties and voters should be able to go into the ballot box, tick a box to vote for a party knowing that the names listed on that piece of paper are the ones that are going to be elected and not have the list retrospectively altered or changed around based on circumstances after the election and it might be to pay more attention to how they write the list in the first place or to mention the examples of Rod Donald's death leading to about three Green Party candidates stepping aside to (inaudible 15:25:15) with their colleagues into Parliament, despite his low list ranking. You've got the same thing with Dail Jones of New Zealand First. My solution suggested that if a list MP resigns or retires or dies there should be a three month period before the next guy can come in, and every subsequent person they want to get passed so that means with Darren Hughes being there it would be one, two, three, four, five, six, that would be 18 months of having no MP to distance, discourage this kind of activity.

I've also created a table showing that the number of list vacancies has been far higher than the number of electorate seat vacancies through most of our current MMP history, despite there being considerably more electorate seats than list seats, which is a clear example of parties trying to retrospectively alter the list after the election, yeah.

They all suggest the issue of overhang seats, that you should have, like, that parties should have any overhang MPs cast as non-voting MPs. They can do all the normal stuff an MP does but can't vote on bills, pass legislative and votes of confidence in Government, so that parties aren't advantaged much by having overhang seats while still allowing those electorates representation. They also, yeah, address dual candidacy, making it a case in favour of it. I'm

sure this has been addressed by other submitters so I don't feel the need to repeat what others have said.

Any questions?

SIR HUGH: I'm sure there will be.

MR PEDEN: The – your proposal relating to the filling of list seats has an assumption that there is a design on the part of the party behind the decision of the list candidates to make themselves available.

MR O'KANE: I don't think it's based – there's been lots of media speculation and stuff that is not some kind of accident that these list MPs stepped aside. I – obviously I can't read the minds of every party person or so but it's not by some kind of coincidence that all these people stepped aside. (inaudible 15:27:56) who was standing again in that election over many others who weren't standing, and also that the Green Party co-leader gets her, happens to shoot up to this just after being elected co-leader. It's not by some kind of magical coincidence. I think that there is quite a lot of pressure and you've also got the example of Mark Ward they had after the Green Party – Rod Donald's death, Nandor Tanczos came in, and then Mark Ward was reluctant to step aside. He got pushed and knocked down the Green Party list in 2008, one suspects partly because he was initially reluctant to step aside, which would be in view of the evidence in that regard. I don't have the list in front of me, but I can remember reading comments in that regard.

MR PEDEN: Because the fact is that to be passed over the list member has to tell the Electoral Commission that they're not willing to be a Member of Parliament.

MR O'KANE: Yes. Parties can still encourage or try to push their list candidates to do so.

MR PEDEN: I suppose one of the consequences of your proposal would be it would have arguably an undemocratic outcome, wouldn't it?

MR O'KANE: That would be leaving a seat vacant for three months. It's to put list MPs under the same kind of status as electorate seat MPs, so if a list MP – electorate MP were to die or retire or resign you would have some months before you would get a by-election to refill the replacement, whereas with list MPs they can be replaced almost overnight, and it's not something I've considered easily. I considered this with a fair bit of thought, but I think that when voters actually go to the ballot box to vote for a party they should vote for a specific set of candidates, not just a group of anonymous people that the party can change around at some future date. That's the key thing, that Members of Parliament should be elected by the people, not by the party or by shadowy forces outside the public's control.

1530

MS HURIA: Can I just interrupt you a minute. So do you think despite the fact that many voters don't have any information or don't really know a lot of those people in practical terms?

MR O'KANE: I think that in practical terms, yes is the issue of openness which is a far more complex issue but yeah, they are emailed each – I mean mailed a list of the party list for each party and ideally that also serves to increase the perception amongst the public that list MPs aren't real MPs. Ultimately I can say that in the times I have voted I have read the list and looked at the names, I can't blame other members of the public for not doing so but simply because one doesn't consider the merits or (inaudible 15:30:56) doesn't mean that voters should be denied the opportunity to know who the candidates are.

MR PEDEN: Your proposal relating to overhang seats.

MR O'KANE: Yes.

MR PEDEN: That really would have a undemocratic outcome wouldn't it in not allowing an electorate MP who happened to be standing in – oh the first question would be how you would decide which of party's electorate MPs was the overhang MP.

MR O'KANE: Yeah that is a complex issue.

MR PEDEN: But by what you're suggesting is that that, whoever that was wouldn't be able to vote.

MR O'KANE: Yes.

MR PEDEN: Wouldn't that really have a significant impact upon the constituents that member was representing?

MR O'KANE: Well relatively few votes of parliament are done 60 to 61 or decided on one vote, you still get – and most of the votes in parliament, a very very tiny number are related to issues that have a significant impact on one electorate. It's a primary national issue. So I decided that the national result should count more than the local vote and also to keep proportionality based on that basis. They can still base local issues, still put forward bills to parliament, they just can't vote on it. Regarding who decides who the overhang MP is, one solution could be to have the party leader or whip also inform the Electoral Commission of that. Another could be to have all electorate candidates stand on the party list and the lowest list candidate becomes the overhang MP. There would probably be a number of other solutions other people may think of but I don't see the deciding issue as being a significant one. It can be tough on voters not being represented but it will also encourage the parties to go more for the party vote and not overhang seats and there's also the danger of parties actually conspiring, this hasn't happened to date, but conspiring to have the number of overhang MPs elected to ensure proportionality. Like say the Labour Party was to encourage all people to vote with (inaudible 15:33:24) you would have a big overhang of

about five seats in parliament and distort proportionality. That would be a much more serious democratic – than just one MP not being able to vote.

SIR HUGH: But nonetheless your proposal about overhang electorate MPs means, does it not, that somebody who has been elected to parliament under the Electoral Act is effectively partially disenfranchised for the period that they're elected?

MR O'KANE: Yes not a perfect solution in this regard. There has been quite a lot of submissions about overhang. The only alternative would be to either have the status quo or ban overhang MPs from taking their seats altogether. So I think the solution I've proposed is the best compromise of the lot. That is an issue but under MMP a key principle behind MMP and also allowed by proportionality and democratic legitimacy is that the number of seats in parliament should represent the proportion of votes the parties receive in their party vote, not who represents electorates and overhangs is in some ways a First Past the Post relic of a system where parliament was decided by electorate seat vote not the party vote.

SIR HUGH: Your proposal that a list MP being successful in a by-election would lead to no further list MP coming into Parliament –

MR O'KANE: Yes.

SIR HUGH: – would mean, would it not, that our 120 seat Parliament would become 119, 118, whatever?

MR O'KANE: Yes, it would. The key principle is that when you vote for an MP in a by-election, it should be the person you vote for gets in. You don't end up having, like, a shadow MP somewhere else standing behind the by-election. I might make a further point. I didn't submit this in my individual submission, that if you want to keep the status quo perhaps you could look at the ballot paper around the by-election to actually specifically state on the ballot paper that this guy will come in if so-and-so gets elected.

SIR HUGH: All right, thank you. Dr Arseneau?

DR ARSENEAU: Can I just ask, would it make a difference to you if the sitting list MP resigned first and was replaced, and then ran in the by-election?

MR O'KANE: That would be an interesting legal issue. I would take it as it wouldn't make too much difference because giving your vote for MMP or not it would still mean that guy gets in and not someone else. Yeah, it would be an interesting – it would create complications, certainly, if that was to be the case. It would also discourage list MPs from standing in by-elections as well. These are complex issues, obviously.

DR ARSENEAU: Thank you for your submission. I really enjoyed reading the guiding principles.

MR O'KANE: Okay, yeah. I think I was pretty unique amongst the submitters to actually set out a group of guiding principles to consider.

SIR HUGH: Thank you, Mr O'Kane. Thank you for the trouble you've taken in coming along to give us the benefit of those submissions.

MR O'KANE: Thank you.

SIR HUGH: The next submission is Mr Goode. Mr Goode, you've heard me explain the formula to Mr O'Kane.

MR GOODE: I think I might have arrived later, actually.

SIR HUGH: It didn't take us long to read your submission.

MR GOODE: No. Was it the shortest one?

SIR HUGH: About three or four lines.

MR GOODE: Yes. Was it the shortest?

SIR HUGH: Would you care to embark on a –

MR GOODE: I'd like to elaborate on my full submission, yeah, thanks. I'm making this submission on behalf of an embryonic Christian libertarian political think-tank called Christian Choice. The first thing I'd like to say is, well, I'll introduce myself first. I'm Richard Goode. I'm a Christian and a libertarian. The first thing I'd like to say is thank God we live in New Zealand, where even if our votes are wasted and our representatives ignore what we have to say, at least we get to vote, and at least our representatives do put the time aside to listen to what we have to say. So the second thing I'd like to say is thank you for listening.

I'm going to talk about the wasted vote problem, and I hope you'll take heed of Christian Choice's recommendation to lower or abolish the 5% threshold. I alluded to *The Life of Brian* in my full online submission. If a vote is wasted, God gets quite irate. I'd know to allude briefly to the ministry of Jesus. He gave us two new commandments, the second of which is love thy neighbour as thyself. He could have said, love thy neighbour twice as much as thyself, or half as much as thyself, but he didn't. The second commandment, I hope you can see, embodies the principle of egalitarianism, but also a principle of proportionality.

SIR HUGH: I hesitate to interrupt you, but you mentioned a full online submission. We've not been furnished with that.

MR GOODE: That's in front of you. It's very short.

SIR HUGH: Well, you're reading from a rather more extensive submission.

MR GOODE: No, my full online submission was the one that you got.

SIR HUGH: I see.

MR GOODE: It's very short. It's only a few words.

SIR HUGH: You're elaborating on it with what you have there, but that hasn't been filed with the Commission.

MR GOODE: This hasn't, no.

SIR HUGH: Right. Sorry to interrupt.

MR GOODE: That's okay. I think an ideal Parliamentary democracy should embody the very same principles of egalitarianism and proportionality. This means one man, one vote. And it also means that each is to count for one and none for more than one, or each is to count for two under our system and none for more than two votes, but our current voting system falls short of this ideal. I was 20 years old when I voted for the first time, this was in 1984. I voted under the FPP, First Past the Post system for the local New Zealand Party candidate and despite gaining 12.2% of the vote the New Zealand Party gained no seats. Now I'm not somebody, and I never have been, someone who is a mainstream voter, I wasn't back then and I figured, quite correctly, that it was a pointless waste of my time voting again, so I didn't vote again until the first MMP election in 1996, although I did vote in the 1993 referendum to bring MMP in and I have voted since then. In '96 I voted for the Aotearoa Legalise Cannabis Party. Their vote was 1.66% which fell short of the 5% threshold. The Christian Coalition party vote was 4.33% which also fell short of the threshold. Now I believe that both parties should have been represented parliament. I have voted since, again for the ALCP but also for the Libertarians Party but I still consider it a bit of a pointless waste of time because none of those parties has come close to the 5% threshold and the reason they haven't come close to the 5% threshold is because of the 5% threshold.

I'd like to talk about Epsom as well in the last election. The so-called strategic voting that went on in Epsom is an example of a fundamental flaw in the current system. The 5% threshold meant that voters in Epsom had to vote for a candidate they did not support necessarily in order to effect the national result and I'm talking about libertarian-minded voters, they had to vote for John Banks or felt that they did in order to get Don Brash and others into parliament on John Banks' coattails as it were. So they did manage to effect the national result but what good is it for someone to effect the national result yet forfeit their soul. You see the existence of the 5% threshold provides perverse incentives to vote for parties who are not your first or second choice of party and for candidates who are not even your third or fourth choice of candidate. I know of libertarian voters and members of ACT on Campus who voted strategically for John Banks in Epsom and now those voters have to live with the fact that all they achieved, from their point of view, was to elect a single conservative MP to parliament who actually has recently come out in opposition to the "keep it 18" policy which ACT on Campus had previously championed. This is a perverse outcome.

I will quote a couple of libertarian acquaintances of mine. They're not close friends and they're not Christians but this is what they had to say on the day. One of them said, "Last week I voted Banks and party vote ACT. I hate Banks, ACT isn't good enough", but they voted for him and another person said, "I'll be voting ACT and I'll utilise my Epsom electorate to candidate vote Banks. He's an abominable piece of slime", okay, now when you've got people voting for John Banks and that's what they actually think of him, there's something wrong with our electoral system and I said to them at the time, I said, "Look with friends of freedom like you guys who needs enemies". Christian Choice would like to see the threshold lowered or abolished to remove the incentives for such electoral perversion.

Now there is some concern that we need to keep a threshold, even if it lowered. I think this concern is misplaced. There's a worry that eliminating the 5% threshold will mean that there are more parties in parliament and that it will be more difficult to establish a stable government. This isn't necessarily

a bad thing. Totalitarian regimes are often more stable than democratic ones but that doesn't mean that they are a good thing. The purpose of having a democratic election system is not to ensure a stable government, it is to provide representation for voters and the most democratic way to do this is through proper proportional representation. So we would like to see the threshold lowered, preferably abolished. There will still be a natural threshold, in a parliament of 100 MPs it would be 1% and in a parliament of 120 MPs it would be .83%.

I'll close by once again alluding to *The Life of Brian*. If you're worried about loony parties like the People's Front of Judea getting elected to Parliament, currently polling at 1%, don't worry too much, because before the election they will surely schism into the People's Front of Judea and the Judean People's Front, and gain 0.5% each in their representation. Thanks for listening.

MR PEDEN: Thank you, Mr Goode. I found your submission very clear. I don't have any questions.

SIR HUGH: Dr Arseneau?

DR ARSENEAU: So you don't have a view of any of the other issues?

MR GOODE: I do, but I thought I'd just restrict it to the issue of the threshold. I think that's the most important one. Yeah, they have to go.

DR ARSENEAU: Yes, and that's very clear.

SIR HUGH: Thank you, Mr Goode.

MR GOODE: Cheers.

SIR HUGH: Mr Morris?

KEITH MORRIS: Good afternoon.

SIR HUGH: Mr Morris, you heard me describe the way we're approaching this, or do I need to do it again?

MR MORRIS: My understanding is I give a short presentation and then allow plenty of time for questions and answers.

SIR HUGH: We've all read the submissions. You emphasise your main points or any new points, and we'll then ask you some questions.

MR MORRIS: Fantastic. I think part of the aim of this Review is to make MMP fairer and I think a number of submissions, including my own, focus on areas that could be, could make MMP fairer. I think, like the previous submitter, the 5% threshold is something that means that there is a lot of wasted vote. There's been two elections where there have been parties with 4%. In fact, there was another two elections where there were parties that got over 2% of the party vote, but still didn't get representation in Parliament.

I think the second thing to make MMP fairer is the perceived injustice that the electorate doesn't have the final say on who gets into Parliament. Primarily if someone loses their candidate seat, electorate seat, then they potentially still get into Parliament on the list vote. But the electorate can't force that person out of Parliament, per se, unless, of course – particularly if someone gets a high list ranking. So the core of my submission is that the lists shouldn't be ordered by the parties, but should be ordered according to the results of the electorate vote, so all candidates both stand on the list and are an electorate candidate, and the percentage of votes to receive in the electorate race determines their order on the list. The lists then can be allocated – it would mean, I didn't explicitly put in the submission, but I think that aiming for two candidates per electorate means that most electorates get a range of representatives and the analysis I did showed that all bar a few electorates would get – the majority of MPs would get – the majority of voters would get an MP who they had actually voted for.

I have a couple of corrections to my own analysis. I discovered when I was re-reading it that I hadn't done the maths quite right. I'd applied that kind of scheme to the 2011 election and I'd accidentally missed one of the electorates in my analysis, so if that – if ranking candidates by, list candidates by the percentage of votes they received in an electorate on the 2011 election, it would result in three electorates – two electorates with three candidates, 47 electorates with two candidates, and 21 electorates with one candidate, and there would be three, only three electorates where less than 50% of the voters have a representative that they would vote for.

So in summary, lower the threshold, preferably remove it and rank list candidates by how well they have done in an electorate. Clearly if you had that scheme, if someone becomes vastly unpopular the electorate cannot vote for them and therefore rank them very low on the party list.

MR PEDEN: And applying the maths, your process to those results you're able to maintain the proportionality?

MR MORRIS: That's correct.

MR PEDEN: Is achieved through the party vote.

MR MORRIS: So what I did in my analysis is I took the list of quotients that already exist which are already an ordered list and went through and at each quotient selected the next MP on the party's list based on that electorate result ordering. If there were already two MPs for that electorate that person got skipped over. I did – initially I was going to put in my submission that it be restricted to a maximum of two candidates per electorate but then having got through most of my analysis I discovered National, in the last election, had not stood candidates in seven electorates, therefore there would have been an underhang if there was an absolute limit on two MPs per electorate. National had, "gained" might be too strong a word, the system by not standing candidates in the Māori seats and therefore they didn't have to spend the

money travelling the larger geographic areas. If you restricted the number of MPs per electorate to two then that would encourage all parties or particularly the large parties to contest all seats.

MR PEDEN: How many, using that process, how many members of parliament wouldn't, that are currently in parliament, wouldn't have been in parliament applying your method?

MR MORRIS: There would still be 120 MPs or more if there was a slight overhang. It would be a very different mix because the party hasn't decided the list order, the electorate has decided the list.

MR PEDEN: But I wonder how real the electorate decision because the national picture of representation, of thinking about what a party might be wanting to present to the electorate as an effective party.

MR MORRIS: Yes.

MR PEDEN: An effective parliamentary party. Wouldn't it make it rather difficult for a party to allocate its candidates across electorates to achieve what it thinks might be the best outcome?

MR MORRIS: I think there's already probably an element of that, that would've occurred under First Past the Post anyway because –

MR PEDEN: Thinking about MMP though and what it seeks to achieve.

MR MORRIS: Yeah, the parties can have a say, well parties do decide who their electorate MPs are and there's nothing to stop parties having a wider view than just the local electorate when they confirm the candidate for each electorate and there's nothing to stop parties putting more or less resources into a particular electorate to encourage voters. Clearly electorates where a party puts more resources in, has more volunteers, is likely to do well in that electorate.

MR PEDEN: What do you think the impact of your method would be on the representativeness of parliament?

MR MORRIS: I think that it will shift it. At the moment my understanding is the representativeness of parliament comes and goes anyway. My understanding it's actually less representative in terms of male/female than what it was in the past despite the fact that parties are meant to perhaps give good proportionality. The reality is that as the previous speaker alluded to a list is not well analysed by a voter or there would be very few voters that would be able to go through and look at several hundred candidates and decide which party happens to have the best list for proportionality. They are more likely to vote on a party's policies and obviously at an electorate level, a mixture of a party's policies and who they think presents the best picture when the person presents in front of them in things like public meetings. I would think that MPs would need a certain level of persona anyway even if the party ranked the list because they need to be able to convince their colleagues that they are going to be a good candidate.

SIR HUGH: Just to understand your proposal fully Mr Morris, you recommend compulsory dual candidacy.

MR MORRIS: That's correct, so a person cannot be on the party list unless they stand in an electorate and their place on the – their ranking on the list depends on how well they do in that local electorate.

SIR HUGH: Right, so that, I'll just see if I've got this right. So is the result a percentage result of the votes they get in that electorate or an absolute number of votes?

MR MORRIS: I don't have a strong preference but I think a percentage vote would be better because electorates vary in size. If electorates were an absolute same size or the margin was very, very tiny then you could do it on absolute – rank candidates on absolute votes.

SIR HUGH: It would have to be on percentages wouldn't it, otherwise there'd be varying turnout in the various electorates with peoplised candidates?

MR MORRIS: That's correct. Yes so candidates with a low – who aren't able to encourage their local voters to turn out would be penalised if it wasn't –

SIR HUGH: Right well let's suppose it's a two candidate – well first of all would you propose this system applies to the Māori electorates as well?

MR MORRIS: Absolutely.

SIR HUGH: Let's suppose for my – to take into account my arithmetical liabilities, that it's a two candidate race.

MR MORRIS: In which case if one candidate got overwhelming support, say 80%, obviously my proposal is that the person who wins the candidate race becomes an MP, so it's only those who come second or later become a list MP or allocated as an MP and then if the person, if it was a two-horse race and the winner won by 80%, the other person would get 20% and that would determine their place on their party's list. If it was a 50/50 race the chances are that both will be MPs because at a 50/50 race the loser is likely to be fairly near the top of the list candidates because the maximum that a list candidate can get, in terms of percentage of votes, is 49.9% or 50%.

SIR HUGH: Irrespective of the particular candidate's personal merits, experience, whatever, a candidate who gets 49.9% of the vote is likely to do better than the candidate who gets only 20%?

MR MORRIS: That's correct. Obviously, I believe the current situation, if there was only one MP standing, would they automatically get into parliament, it would be highly unlikely for only one MP to stand.

SIR HUGH: How would that contribute the inclusiveness of parliament, the greater representation of women et cetera?

MR MORRIS: I don't think it would – it depends entirely on how the party select their candidates. So if a party decides to select their candidates such that they've got a well spread of inclusive candidates and parties will know roughly how well they are going to do in any given electorate, based on past results and how much resource they're putting into an electorate. So I don't see that as being, while there will be more weight given to the voters deciding who is going to be in parliament there is still the – I believe parties still have a good choice of who they select as their electorate candidates.

SIR HUGH: I think I understand your proposal.

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DR ARSENEAU: I'm curious, would you control it all for the, you said originally you thought that you'd only have two candidates that you can't do that.

MR MORRIS: Well if there were only two candidates per electorate, under the 2011 election there would be an underhang by two MPs for National because National did not stand enough MPs. They only stood 63 MPs.

DR ARSENEAU: It would make a big difference, wouldn't it, if you were running in an electorate with say five people running versus four people running but you would control for that, would you, you would keep a consistent number of candidates in each electorate?

MR MORRIS: No that's up to parties to decide. So certainly MPs that are running in electorates that have got a large number of candidates are perhaps going to have a tougher job than MPs that are running in electorates with only a few candidates.

SIR HUGH: Thank you Mr Morris, that's an intriguing proposal you've put before us. We'll certainly consider it. Thank you very much indeed for what you've done and coming along. Now Mr Synnott thank you very much for the trouble you have taken. We understand that you have driven all the way from Napier in order to address us.

RUSSELL SYNNOTT: Yes.

SIR HUGH: That's very good of you. We received your submissions this morning, I think it was. We've all read them and you've heard me say to others, you've got 15 minutes or thereabouts to make the major points that you want to make from your submissions and any additional points you might dare to put before us. We'll then ask you some questions.

MR SYNNOTT: In consideration of my principal motions I noticed on TV3 last night there was a little bit there, there were over 3000 submissions to this exercise and second favourite was the number of members in the house which was originally on the no-no list. So it would appear that more than myself have an interest in the number of people in the house.

SIR HUGH: Well there are certainly submissions we have received which at first sight, at least, go beyond the questions we're required to consider. That's our decision, we will however regretfully have to put those submissions to one side.

MR SYNNOTT: Well if I might put it on record that I think in my submission I mentioned how we managed to get 120 MPs at the moment. There was a referendum, First Past the Post got ousted quite seriously. The Prime Minister at the time refused to comment and as he walked away from the microphone he said, "There will be 120 MPs" and that's what we got. We went from 99 to 120.

Then we got this thing called list members. To me that was a blatant attempt to assure continuity of employment for the old diehards, those who wouldn't

be able to elect – gain an electorate seat of their own and that’s why I move that as part of this reform of MMP that list members be deleted. Therefore we get an honest representation of what the people want.

A further note I’ve made here is a democracy is ruled by the people. To dictate how many shall do so and how much they will be paid and who will pay their expenses is a dictatorship, it’s not a democracy and that appears to be what this parliament is doing. It’s denying any comment on the number of members in parliament and some years ago, I think through the speaker of the house, I asked for a –

SIR HUGH: I might interrupt you Mr Synnott, the reason why the question of Māori representation and the number of members in the house is not for us to review is because it is being considered by the constitutional review which is underway at the present time.

MR SYNNOTT: All right, yeah, can you give me details of how I can get in touch with that?

SIR HUGH: I can’t but I’m sure somebody can. But you’re about to be given those.

MR SYNNOTT: But it was only once MMP came on the scene that we got the concept of list members. Before that you only had electorate members. So I felt that to ignore any review of the number of members in the house would point towards a dictatorship and as I was going to say, through the speaker of the house, I got some figures of comparison with other governments in the world. Here in New Zealand per 100,000 we have 2.86 members of parliament. In Australia they have 1.6, England 1.8 and the United States 0.14. In other words American citizens pay 14 cents for their members of parliament and we pay \$2.86. Now I think there needs to be a radical improvement of that so that we can have a level playing field or compete more evenly with our international members. Now would anyone like to comment on that?

SIR HUGH: Well you continue with your presentation Mr Synnott and we'll quiz on various aspects if we wish at the end.

MR SYNNOTT: Well I've misplaced the copy I sent you.

SIR HUGH: Mr Henderson do you have an extra copy of Mr Synnott's –

MR SYNNOTT: Sorry I'm going by ear at the moment.

SIR HUGH: Well we'll furnish you with a fresh copy of your submission.

MR SYNNOTT: I thought I sent a covering letter, about foolscap, outlining the point that I mentioned before, how we got 120 MPs.

SIR HUGH: I'm advised that no such letter has been received.

MR SYNNOTT: Oh it must have got lost in transit, which is just as well I came down to raise that issue isn't it?

SIR HUGH: Mhm. Now you've reached, I think, the figures that are on the page there, there were thresholds and hurdles. Your figures there about the number of MPs per 100,000 in various countries are set out there.

MR SYNNOTT: Yeah. Oh yes. Well the thresholds, oh I think if you managed to abolish list MPs you won't have that problem and you'll have a – that should bring it down to around 70 seats I think, which would be more comparable with Australia and England and we still haven't – and you'd still be a long way in front of United States. That means you'll also carve a big hole in the amount of tax required from the population to service parliament and I think perhaps the Minister of Finance should be presented with these ideas.

SIR HUGH: That's a matter for you Mr Synnott.

MR SYNNOTT: But that's primarily what I wanted to say and I would urge you to give some serious consideration to the number of members in parliament.

SIR HUGH: Well as I've explained that's a matter which is beyond our capacity to review. We'll take the other aspects of your submissions into account. Mr Peden?

MR PEDEN: No, your submission was very clear, thank you. I have no questions.

SIR HUGH: I have no questions. Mr Synnott, you've had a long drive. We thank you for the submission you made and taking the trouble to come to talk to us. It's a little unfortunate that maybe the main thrust of your submissions is beyond our capacity, but we've given you the information that will enable you to involve yourself in that process.

MR SYNNOTT: And if I might close by stating TV3 last night, on the news, the number of Members of Parliament favour the submissions for this review.

SIR HUGH: I'm not sure how that piece of news was broadcast, but anyway. Once again, I'd like to thank everybody for the time and trouble they've taken in coming along and giving us our submissions. That concludes the Wellington hearings. We move on next week to Auckland and to Christchurch and finally to Hamilton, so thank you all for your attendance and your interest.

HEARING ADJOURNS: 4.12 PM