

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

JOAN RUSSOW and THE GREEN PARTY OF CANADA

Applicants

- and -

**THE ATTORNEY GENERAL OF CANADA,
THE CHIEF ELECTORAL OFFICER OF CANADA and
HER MAJESTY THE QUEEN IN RIGHT OF CANADA**

Respondents

AFFIDAVIT OF DOUGLAS J. AMY

I, DOUGLAS J. AMY, of South Hadley, Massachusetts, MAKE OATH AND

SAY:

1. I am a professor in the Department of Politics at Mount Holyoke College in South Hadley, Massachusetts. I obtained my B.A. and M.A. from the University of Washington at Seattle and completed my Ph.D in political science at the University of Massachusetts, Amherst in 1981. I teach courses in American politics and policy-making, including a seminar on electoral systems, my area of expertise. I have been teaching college courses in political science for 20 years. I have written two books and have published numerous articles on the subject of electoral systems. In addition, I have participated in many conferences where I

have given talks on voting and electoral reform. A copy of my C.V. is attached hereto as Exhibit A.

Electoral Systems and Principles of Representation

2. There are two major forms of electoral systems used in developed democracies today. One operates on a plurality-majority rule of representation, the other functions according to the principle of proportional representation (PR). Plurality-majority systems are widely understood to be both highly discriminatory and highly ineffective in providing representation to large segments of the population. Two of the major problems of plurality-majority systems are its relative inability to elect women, ethnic and racial minorities to its legislatures, and its unequal treatment of voters. In my books *Real Choices/New Voices: The Case for Proportional Representation Election in the United States* (1993) and *Behind the Ballot Box: A Citizen's Guide to Voting Systems* (2000), I explain how and why plurality-majority systems produce unfair and unrepresentative election results. I also discuss the ways in which the adoption of PR could help to solve various political problems created by plurality-majority elections.

3. Plurality-majority systems, which now exist in only a small number of developed countries, are winner-take-all systems. Parties win seats in a legislature when their candidates obtain either the plurality or majority of votes in a given district or constituency. PR, on the other hand, is the predominant voting system among

- developed democracies. It operates according to the principle that the number of seats a political party wins in a legislature should be in proportion to its support among voters.
4. The most common form of plurality-majority voting is the single-member plurality (SMP) system. The SMP system of election, also known as the first-past-the-post system, had its origin in Great Britain. In Britain, this geographically-based form of representation had its beginnings at a time when only those with property, primarily the land-based aristocracy, had the right to vote and to be represented in Parliament. Today, this system survives in only a few other developed countries that inherited it from Great Britain, including Canada and the United States. SMP voting elects candidates in single-member districts. Political parties are allowed to field one candidate in each district. A voter in a given district may select only one among the different party representatives. In an election, the winning candidate in each district is the one who received the plurality, the largest number of votes that were cast.
 5. As European states evolved into parliamentary democracies in the 19th century, almost all of them originally adopted plurality or majority voting systems. Agitation for change began in the late 19th century, around the time of the emergence of universal suffrage and mass-based political parties. Reformers became concerned that plurality-majority systems were not accurately representing these parties in the legislatures, and proportional representation was

considered to be much fairer to all parties. In some countries, such as Belgium and Switzerland, it was the deep ethnic and religious divisions among their populations that spurred interest in PR. In these countries, plurality-majority elections were failing to ensure fair representation for those various communities. PR was first used on the local level in Switzerland in the 1860s, where its adoption was hastened by the extreme swings of power created by using plurality voting in a society almost evenly divided by language and religion. Countries did not begin using PR for national elections until the turn of the century, with Belgium leading the way in 1899. Next were Finland in 1906 and Sweden in 1907. By 1920 most countries in continental Europe had switched to proportional representation. Today, the vast majority of developed democracies make use of some form of proportional representation elections.

6. There are several different types of PR systems, however they all share certain characteristics. First, all of them use larger electoral districts in which several members are elected simultaneously. Second, under PR all of the seats are not taken by candidates who win the most votes. Multi-member PR districts enable candidates from different parties to win seats in the same district. Most importantly, in all PR systems, legislative seats are allocated in proportion to the percentage of votes won by each party. For example, in a 10-member district, a party whose candidates won 50 percent of the vote would receive five of those 10 seats, and a party that wins 10% of the vote would win one seat. In PR systems all parties that receive a minimum percentage of the vote (called a “threshold”) are

entitled to a share of the seats in the legislature that is proportional to their voting strength. The threshold level can vary, but usually is between 3%-5%.

7. The most common type of PR in Western democracies is the party list system. Among the countries using party list PR today are Austria, Belgium, Denmark, Finland, Israel, the Netherlands, Norway, Spain and Sweden. In party list PR systems, political parties publish lists of candidates equal to the number of seats to be filled in any given district. Voters typically cast their ballots for one entire party list and parties receive seats in proportion to their share of the vote. Seats won can be distributed by the parties according to the order in which candidates appear on the list (closed list systems), or according to a preferred order expressed by voters (open list systems).

8. The election laws in some countries make use of both the plurality-majority rule and the principle of proportional representation. Germany, for example, uses the mixed member PR system to elect members of its Bundestag. This is a dual ballot system in which half the members of parliament are elected in single-member districts—as in any SMP system—and the other half are elected from a party-list PR ballot. Candidates from the party lists are added to the district winners until each party receives its proportional share of seats in parliament. New Zealand, which previously used the SMP system, switched to mixed member PR after a 1993 referendum approved this change. Australia uses different voting systems for each house in the legislature. Members of the Australian House of

Representatives are elected using a plurality-majority system known as alternative vote, whereas members of the Senate are elected using a form of PR called the single transferable vote (STV).

9. Political scientists have understood the advantages of PR for a long time. In Canada, Professor William Irvine of Queen's University argued, in his internationally acclaimed book, *Does Canada Need a New Electoral System?*, that Canada should adopt a form of PR based on the German model more than twenty years ago. Since then other Canadian scholars have published essays advocating the reform of Canada's election laws to embrace some model of proportional representation. More recently, a group of prominent Canadian electoral scholars contributed essays to a book, *Making Every Vote Count" Reassessing Canada's Electoral System*, (H. Milner (ed)) making the case for adopting the principle of proportional representation.

10. Even Great Britain, the ancestral home of the SMP system, is integrating the principle of proportional representation into its electoral laws. In 1999 the U.K. used a closed list PR system to elect the English, Scottish, and Welsh members of the European Parliament. As well, the newly formed parliaments of Scotland and Wales used mixed-member proportional representation rather than SMP for their first elections.

Principles of Representation and the Election of Women

11. Election laws based on the SMP rule of winner-take-all discriminate against women who are candidates for public office. Studies repeatedly show that women are far better represented in legislatures that elect their members pursuant to laws that use the principle of proportional representation. The Inter-Parliamentary Union undertook a recent study on the status of women elected to lower houses of legislatures in democracies around the world. The Inter-Parliamentary Union found that all the countries with the highest percentage of women in their national legislatures use proportional representation systems. As of 8 March 2001, Sweden had 42.7 percent of its legislative seats occupied by women, Denmark had 37.4 percent, Finland 36.5 percent, the Netherlands 36.0 percent, Iceland 34.9 percent, Germany 30.9 percent, New Zealand 30.8 percent, and Spain 28.3 percent. A copy of this study is attached hereto as Exhibit B.

12. In contrast, countries that continue to use the SMP system, such as Canada, the U.K., and the United States, rank considerably further down the list and do not elect nearly as many women. Currently, only 20.6 percent of the Canadian House of Commons are women. The comparative percentages in the U.K. House of Commons and the U.S. House of Representatives are 18.4 percent and 14.0 percent. In 1994 Professor Lisa Young authored an important study, “Electoral Systems and Representatives Legislatures: Consideration of Alternative Electoral Systems”, showing how Canada’s electoral laws have systematically

discriminated against women and have made it more difficult for them to be elected to Parliament and provincial legislatures. A copy of Professor Young's study is attached hereto as Exhibit C.

13. These recent figures are merely the latest examples of the long-term tendency of SMP systems to discriminate against female candidates. The Inter-Parliamentary Union has also collected data on the distribution of seats between men and women in national parliaments between 1945 and 1991. Again the countries with the highest average percentages of female legislators during those five decades were PR democracies. For example, Denmark averaged 17.99 percent female MPs, Finland 21.95 percent, the Netherlands 11.00 percent, and Germany 8.45 percent. During that same time period, SMP countries had much lower averages of female legislators. The United Kingdom and the United States averaged 3.87 percent and 3.62 percent respectively, while Canada managed on average of only 3.12 percent. Thus the propensity for SMP to serve as a handicap for female candidates has been consistent over the years. A copy of this data is attached hereto as Exhibit D.

14. The strongest evidence that SMP elections discriminate against female candidates can be found in systematic studies that directly compare large groups of PR and SMP countries. A recent example of this approach is a study conducted by Richard Matland. He looked at the percentage of women MPs elected in 24 national legislatures between 1945 and 1998, comparing sets of countries using

single-member district elections to those using proportional representation elections. He found a consistent and substantial tendency for women to do more poorly in SMP countries – a disadvantage that has grown larger over the years. For example, in 1970, single-member district systems elected only 2.23 percent female MPs, while PR systems elected 5.86 percent. In 1980, those figures were 3.37 percent versus 11.89 percent; and in 1990, 8.16 percent versus 18.3 percent. Most recently, in 1998, this trend continued with single-member district systems averaging 11.64 percent female MPs, while PR systems averaged a substantially higher 23.03 percent. Matland concluded that “the impact of electoral systems is quite dramatic.” A copy of this study is attached hereto as Exhibit E.

15. Another large comparative study conducted by Dr. Wilma Rule of the University of Nevada Reno, has also shown that while no one factor can completely explain the systematic under-representation of women in some national legislatures, it can be demonstrated that the choice of electoral system does play a critical factor. In her study, Rule performed a regression analysis of 23 countries in which she tested the correlation between the levels of women’s representation in those countries, and a number of political and socio-economic factors. She found a strong correlation between the percentage of women college graduates and women active economically and the percentage of women elected to legislatures. The strongest correlation, however, was with the type of voting system, which was the best predictor of how successful women were in winning election to public office. In assessing the poor level of representation of women in SMP

countries, Rule concluded that “the primary reason for this is the electoral system, rather than inhibiting social, economic, and cultural factors.” A copy of this study is attached hereto as Exhibit F.

16. The most persuasive evidence that demonstrates the crucial role that electoral systems play in whether women are elected comes from countries that use mixed-member electoral systems – those employing both SMP and party-list PR voting. In the mixed-member system used in Germany, for example, female candidates have consistently been much more successful in the party-list proportional representation portion of the election than in the single-member district contests. The elections of 1983 and 1994 provide two typical examples of this phenomenon. In the 1983 German elections, only 4 percent of the winning candidates in single-member district elections were women. In contrast, 16 percent of the winning candidates were women on the PR ballots. Again in 1994, 13 percent of winning candidates in single-member districts were women, whereas women won 39 percent of the PR-determined seats in the Bundestag. These startlingly different results, obtained in one country during the same election, strongly suggest that plurality-majority systems play a leading role in the underrepresentation of women in legislatures.

17. New Zealand has experienced the same kind of diverging results found in Germany. For example, in the first mixed-member PR elections that were conducted in 1996, women won 15 percent of the seats on the single-member

- district ballots. By comparison, women won 45 percent of the seats from the party list portion of the ballot. Similar striking results were occurred in the 1999 elections in which women won 23.8 percent of the seats in the single-member district contests compared to 39.8 percent of the seats elected from the party lists.
18. The experience of women seeking public office in Australia fits the same pattern. Women are elected in significantly greater numbers to the Senate which uses the STV model of PR, than to the House of Representatives which elects its members by a SMP system called the alternate vote. For example in the 1983 elections, while women won only 5 percent of the seats in the winner-take-all elected House, they made up 20 percent of the members in the PR-elected Senate. A more recent example is in 1998, when women won 22.4 percent of the seats in the House, compared to 30.3 percent of the Senate seats. This evidence confirms that electoral regimes that use the rule of winner-take-all make it more difficult for large numbers of women to get elected.
 19. Supporters of plurality-majority systems sometimes argue that factors other than electoral systems are responsible for the high percentage of women in PR-elected legislatures and the low percentage of women in SMP-elected legislatures. They point to other social, economic and cultural considerations as contributing to the difficulties that women face in seeking election to public office. Although such factors undoubtedly play some role in explaining the level of representation of women in various democratic countries, they are not nearly as significant as the

model of electoral system used. Social, economic, and cultural factors cannot account for the results in countries like Germany, New Zealand, and Australia, where the two systems operate side by side. In the same social, economic and cultural environments women are elected in much smaller numbers in single member constituencies than they are from the PR lists.

20. In the United States it is sometimes said that women's poor showing is due to the fact that women run less aggressive and less competent campaigns, have less financial support, and are disproportionately slated in "hopeless" races against incumbents. However, Robert Darcy, Susan Welch, and Janet Clark in their book *Women, Elections, and Representation*, have concluded that there is no evidence of American women being poor campaigners. In fact they discovered that voters reported significantly more contacts from campaigning women than men and that women candidates were often better known. Studies have also found that women congressional candidates have no more trouble raising money than male candidates, once the study controls for the type of electoral contest. While there may be some truth to the charge that women are most often recruited to run against incumbents in difficult races, the fact is that most new candidates must run against incumbents. It does not appear, at least on the federal level, that women are being systematically and selectively recruited for hopeless races.
21. Of the various reasons that have been offered to explain why plurality-majority systems lead to the under-representation of women in legislatures, one of the most

widely repeated is that women are nominated for office less frequently than men. Party leaders, trying to capture a plurality or majority in each district, tend to recruit candidates they believe will be the safest and least uncontroversial. A candidate deemed safe is often a young or middle-aged, married, professional, male of European ancestry. Although there is evidence that sexist attitudes among voters are in decline, party leaders appear to have adopted a “better safe than sorry” attitude towards important political nominations and continue to perceive men as the least risky option.

22. The evidence that has been collected by political scientists suggests that the principle of proportional representation results in the election of significantly more women because it makes it easier for them to be nominated. The more women are nominated, the more they win office. In contrast with the incentives of plurality-majority systems to recruit “safe” or “uncontroversial” candidates in each electoral district, in PR systems, the political pressures run in exactly the opposite direction. The public pressure is for parties to run more women candidates not fewer. This is because in PR systems parties are under pressure to construct lists of candidates that represent the broad electorate—including women—so that their slates will have wide appeal. Parties that run slates composed predominantly of men risk being accused of sexism and thus jeopardize their chances in the election.

23. Proportional representation also encourages parity of representation of women because it allows for the effective use of voluntary quotas. Some European parties have responded to public pressure for more women candidates by establishing quotas for the percentage of women on their lists. In Norway, for example, the Liberals and the Social Left party require equal numbers of women and men on their slates and the Labour party requires that neither sex shall have less than 40% of the party nominations. Norway has the highest level of women's representation among Western democracies. Such quota systems are easier to use and more effective in election systems that use slates of candidates than in SMP systems where candidates are nominated one at a time in individual districts.

Principles of Representation and the Election of Ethnic and Racial Minorities

24. Plurality-majority systems create similar obstacles to the election of racial and ethnic minorities. Statistics from the United States dramatically illustrate this point. Ever since they have won the right to vote, African Americans and Hispanic voters have never been able to achieve fair representation in state and federal legislatures. For example, in 1998, if African Americans had had representation in the U.S. House of Representatives equal to their 12.9 percent of the population, they would have held 56 seats, instead of only 37. And, instead of 13 seats in the Senate, they held only one. This situation is no better on the state level, where only 1.7 percent of all elected officials are black. Hispanic voters are similarly under-represented. For example, despite making up 12.5 percent of the

- U.S. population, today they occupy only 4.6 percent of the seats in the House of Representatives.
25. A similar situation prevails in Canada. The Royal Commission on Electoral Reform that reported in 1991 acknowledged that representation of Aboriginal peoples and ethnic minorities that are geographically dispersed is made more difficult by election laws that are based on single member districts and the rule of winner-take-all. Four years later in his 1993 essay, “Group Representation in Canadian Politics”, Professor Will Kymlicka pointed out that whereas visible minorities constituted six percent of the Canadian population, they made up only two percent of the Parliament. While Aboriginals represented 3.5 percent of the population, less than one percent of these elected to the House of Commons were first nation people. A copy of Kymlicka’s essay is attached hereto as Exhibit G.
 26. Single-member plurality systems create several obstacles to the election of minorities. Minorities by definition usually do not have sufficient voting strength in SMP systems to elect one of their own. Minorities that are geographically dispersed will always be outvoted in the ridings in which they live. In the United States, for example, most African-American voters find themselves submerged in districts that are predominantly white, and they are, therefore, usually not able to elect representatives of their own race. As well, like women, minority candidates may find it more difficult to secure nominations in districts where there is a belief

that only the safest, main stream candidates will appeal to a broad enough spectrum of people to win a plurality of the votes.

27. Election laws that are based on the proportional representation can lead to better representation of racial groups in several ways, depending on the type of PR system used. First, in party list systems, racial and ethnic minorities, like women, can exert pressure on parties to include more candidates from their groups on the parties' candidates lists. Second, most party list systems are "open list" systems in which voters can cast votes for their preferred candidates on the lists. Minorities can cast votes for their own candidates, moving them up the list and increasing their chances of being elected. Finally, in forms of PR where voters elect candidates individually, minorities can directly elect their own representatives. For example, when the single transferable vote (STV) model of PR was used in Cincinnati, Ohio, candidates needed to garner only about 10% of the vote to win a seat on the city council. As a result, African Americans were able to elect representatives from within their own community in a way that had been impossible in elections that were based on the rule of winner-take-all.

Principles of Representation and Parity of Voting Power

28. In addition to its systemic discrimination against women and minorities who aspire to elected office, SMP laws tolerate gross inequalities between voters. In SMP countries, large numbers of voters have no effective representation and

therefore no meaningful voice in government. On the winner-take-all principle, only people who vote for the winning candidate in each district are represented by people who share their political views. Citizens who vote for losing candidates have no more political influence than if they were officially denied the right to vote. Their circumstances would be no different if they wasted or spoiled their ballots.

29. The inequalities that are tolerated in the effectiveness of votes operate at both the level of each individual constituency and the legislative chamber to which representatives are being chosen. In a single-member district contest, a party might receive 45% of the vote, but lose the seat and receive no (0%) representation. In contrast, supporters of the party that wins 55% of the vote receive 100% of the representation. The disparities that occur in each single member constituency accumulate to produce distortions at the legislative level as well. Examples of serious distortions in the representation of voters can be found in virtually all national legislatures that elect their members on the principle of winner-take-all. The past several federal elections in Canada provide very dramatic examples of the severity of the problem.

30. In the election that was held on November 27, 2000 citizens who voted for Progressive Conservative or New Democratic Party candidates got much less representation in the House of Commons than they would have received if the seats had been distributed on the basis of their share of the popular vote. The

Conservatives were limited to 4% of the seats in the Commons, even though they won 12% of the vote. They elected no representations from Ontario and Québec even though they got 15% and 6% of the vote, respectively, in each province. Canadians who voted for New Democratic Party candidates did slightly better but their share of Commons' seats was only half of their percentage of the popular vote. In terms of the contribution of each ballot toward the election of an MP who shared the voter's political point of view, there were huge disparities between the parties. As a matter of equality of voting power (calculated by dividing the number of seats a party occupies in the House of Commons by the number of votes it received), the votes of those who supported Liberal candidates counted the most. In effect Canadians who voted for the Liberal Party were able to claim a seat in the House of Commons for every 30,184 votes they cast. Bloc seats were worth 36,258 votes. By contrast, each Progressive Conservative and New Democratic Party MP represents 130,582 and 84,134 voters respectively. Rather than parity of voting power, Liberal votes were almost three times more valuable than those that were cast for the NDP and more than four times those that were marked for a Conservative. A copy of the Official Election Results is attached hereto as Exhibit H.

31. In the 1997 elections, similar biases occurred. Typical of parties that win an election, the Liberals managed to capture 51.5 percent of the seats even though they only won 38.5 percent of the vote. The Bloc Québécois campaigning in only one province won 14.6 percent of seats with 10.7 percent of the popular vote. The

Progressive Conservative Party won 18.8 percent of the votes, but only 6.6 percent of seats. In terms of difference in voting power, these results are astonishing. In effect, the Conservatives held less than half the number of seats occupied by the Bloc Québécois even though they received almost twice as many votes. In terms of parity or voting power the Liberals won a seat for every 31 817 votes, the Bloc Québécois won a seat for every 31 233 votes, whereas the Progressive Conservatives needed 121 287 votes to win a seat. In the same election, the Reform Party won a seat for every 41 501 votes and the New Democratic Party won a seat for every 67 723 votes. A copy of the Official Election Results is attached hereto as Exhibit I.

32. In the 1993 federal elections, the results were even worse. The Progressive Conservatives won 16 percent of the vote, but managed to obtain only 0.67 percent of seats. The Bloc Québécois, on the other hand, won 13.5 percent of the vote and yet obtained 18.3 percent of seats. In terms of voting power, the Bloc Québécois was able to win a seat for every 34,186 votes whereas the Progressive Conservatives needed 1 093 211 votes in order to obtain a seat. Even though the Conservatives won more votes than the Bloc Québécois and almost as many as Reform, they only won two seats compared to the other two parties who won 54 and 52 seats respectively. A copy of the Official Election Results is attached hereto as Exhibit J.

33. The representational biases of SMP laws can be so extreme that, on occasion, it can result in the party that wins the most votes losing the election and being denied the powers of Government. In the 1957 and 1979 Canadian federal elections, for example, the Progressive Conservatives were able to take over the executive branch even though they received fewer votes than the Liberals. In the more recent provincial elections in 1996 in British Columbia and in 1998 in Québec, Liberals again lost elections to the N.D.P. in the first case and the Bloc Québécois in the second even though they got more votes than both of these parties who formed the governments.
34. We can look beyond these examples of specific elections to get a more systematic idea of how Canadian elections consistently violate the principle of equal representation. Political scientists have found that one of the best ways to measure the inequality of representation produced by various electoral systems is to create an index of disproportionality. A disproportionality score is computed by comparing the percentage totals of votes and seats won by the various parties in an election. The more disproportional the results – the more that parties receive either more or fewer seats than they deserve according to their proportion of the vote – the higher the disproportionality score. Thus in countries with high scores, many voters are getting more representation than they should, while others are getting less. In virtually every disproportionality index devised, SMP countries tend to get much higher scores than PR countries – and Canada often has one of the highest scores. For example, Arend Lijphart constructed a disproportionality

index for elections in 36 countries between 1945 and 1996. He found a “strikingly clear line dividing PR parliamentary systems from the plurality and majority systems,” with most of the PR countries having a score between 1 and 5 percent, and most plurality and majority countries having a scores between 10 and 20 percent. Among advanced Western democracies, Canada had the third highest score, with only the United States and France having higher ones. A copy of Lijphart’s index is attached hereto as Exhibit K.

35. In SMP countries it is possible that some voters may never cast a ballot that counts towards the election of a representative of their choice in their entire lives. Voters who live in “safe districts”—where incumbents have comfortable district majorities and minority parties have little hope of winning—are especially prejudiced by the SMP system. For example, the ridings of Mont-Royal and Algoma- Manitoulin have been controlled by the Liberals since 1940 and 1935 respectively and Fundy Royal has been held by the Conservatives in every federal election since 1917 except for the election in 1993. In the United States the same problem is faced, for example, by Republican voters living in Massachusetts’ eighth congressional district, where only Democrats have been elected for well over a century. In all of these cases voters who do not support the dominate party have been effectively disenfranchised.
36. SMP laws also discriminate more severely against voters who support small issue-based parties like the Greens. Most parties that attract a small percentage of

votes consistently end up with very few seats or none at all. This discriminatory effect has been quite clear in British elections. For example, in the 1989 British elections to the European Parliament, 15 percent of the voters cast ballots for the Green party. However, because of the SMP electoral system, the Greens did not win a single seat. In contrast, since Great Britain switched to using proportional representation to elect their members to the European Parliament, Green party candidates have fared better. In the 1999 elections, even though Green attracted only 6.2 percent of the vote, they were still able to win 2 of Britain's 87 seats. The experience of the Green Party in Canada and New Zealand when it still used SMP laws is very similar. In Canada, the Green Party has never been able to elect a single candidate in any federal or provincial election. In New Zealand the Greens were unable to win representation in Parliament even when, as in 1984, they were supported by more than 10% of the electorate.

37. Small parties like the Greens suffer more serious discrimination under SMP laws because, while they may have significant support across a country, they rarely are sufficiently concentrated geographically to be able to win a plurality of votes in any one election district. Geographically concentrated supporters of small parties, by contrast, tend to have greater success in achieving representation. This has been the case with supporters of the small Welsh and Scottish parties in Great Britain. In contrast with the Greens, regional concentration has allowed these parties to send several members to Parliament. In Canada, as Alan Cairns has shown, the bias in favour of regionally based parties is especially severe.

38. Supporters of small parties like the Greens that would receive little or no representation in SMP systems routinely elect their fair share of candidates in PR systems. The difference in the two systems can be seen very clearly in the election that was held in New Zealand 1999. This was the second national election that was conducted using the German, mixed-member PR system in which half the members of parliament are elected in single-member districts and half by PR. Overall, four small parties (ACT New Zealand, Alliance, Green Party, and New Zealand First Party) won the support of 24.2 percent of voters and ended up with 25.8% of the seats. In the single-member district contests however, they were only able to claim 4.5 percent of seats. In the same year, Scottish voters took advantage of the switch to PR to elect the first Green Party candidate to the Scottish Parliament.
39. If one stands back and surveys the election results in the established democracies over the last hundred years, the differences between those that are conducted under SMP and PR election laws are huge. Under the rule of winner-take-all all kinds of voters have been arbitrarily denied effective representation. When elections are based on the principle of proportional representation by contrast voters are treated more equally and most of them are represented by people who share their political views. PR systems minimize wasted votes and maximize effective votes. In global terms, whereas over 80% of voters typically cast ballots for candidates who are elected when the principle of proportional representation is used, in SMP elections the number varies between 55-65%.

Proportional Representation and the Formation of Governments

40. Critics of electoral systems that are based on the principle of proportional representation usually do not question the fact that they guarantee more equal and effective treatment of voters than SMP laws that are based on the principle of winner-take-all. Rather they claim PR produces a number of costly side effects and argue that these disadvantages make PR much less attractive than its proponents would suggest. Many critics claim, for example, that PR systems frequently result in coalition governments that are inherently unstable. They maintain that the presence in legislatures of many parties with special ideologies and constituencies increases political conflicts, discourages consensus-building, and renders policy-making less efficient. It is also argued that in PR systems, small parties hold the balance of power in coalition governments and thus exert a disproportionate amount of power for their size. PR is also said to encourage and legitimize small extremist political groups that can ultimately pose a threat to democratic institutions. Finally, it is argued that because of its large multimember districts, PR undermines the direct relationship between an individual legislator and constituents.
41. It is true that PR tends to encourage coalition governments rather than single-party legislative majorities and some studies have found that multiparty majorities tend to be of slightly shorter duration than single party majorities. However, there is no systematic evidence that multiparty coalition governments create political

instability. If persistent instability were an inherent problem with proportional representation, we would expect to see it in many countries that use this system. But the record of PR in dozens of European countries over many decades shows only a few instances where the instability of coalitions has posed any problem. The vast majority of PR countries have enjoyed stable and efficient governments, with ruling coalitions lasting for many years, and in some cases, decades.

42. Several recent studies of the stability and effectiveness of Governments elected under laws using the principle of proportional representation have challenged the thesis that PR Governments are inherently ineffective and unstable. In his book, *Comparing Electoral Systems*, British scholar David Farrell found that several PR countries, including Iceland, Ireland, Austria, the Netherlands, and Luxembourg, have had governments that are actually as stable as, or more stable than, that of Great Britain, which has been ruled primarily by single-party majorities. Another British elections scholar, Vernon Bogdanor, argued in his book, *What is Proportional Representation?*, that the charge that PR promotes rampant instability is one of the myths surrounding this system. His conclusion is that “There is no evidence whatsoever that proportional representation is likely to lead to instability.”
43. Arend Lijphart, one of the leading electoral scholars in the United States, has also studied the contention that single-party majority governments are more effective policy-makers than coalition governments and found it wanting in several

respects. He examined how well governments managed their economies (as measured by such things as economic growth, unemployment levels, budget deficits, etc.) and their ability to control political violence. He found that majoritarian systems were no better than multiparty PR systems in managing the economy or maintaining civil peace. Based on these findings, he concluded: “What is proven beyond any doubt is that . . . the conventional wisdom is clearly wrong in claiming that majoritarian democracies are the better governors.” A copy of this study is attached hereto as Exhibit L.

44. One study comparing the effectiveness of PR and majoritarian governments actually found that PR coalition governments are superior in some important respects. Professor G. Bingham Powell found that multiparty PR governments are more responsive to the public and tend to produce public policies that are more in tune with general public opinion than those produced by single-party majoritarian governments. He discovered that coalition governments tend to give weight to a wider diversity of views and so produce policies closer to the preferences of the median voter. The distortions in representation that occur in SMP elections can tend to produce single-party governments that do not represent the majority of voters and whose uncompromising policies may be quite different from the preferences of the typical voter. Based on these findings, Powell concluded: “The generally good congruence between the citizen median and the governments and policymakers in the proportional design systems should be reassuring to those worried about dependence on elite coalition formation or the

instability of post-election governments. With surprisingly consistency, each proved compatible with good citizen policymaker congruence. In these countries at this time, the proportional vision and its designs enjoyed a clear advantage over their majoritarian counterparts in using elections as instruments of democracy.”

A copy of this study is attached hereto as Exhibit M.

45. There is also no solid evidence to support the claim that multiparty systems compound political divisiveness. In fact, multiparty systems can actually work to encourage more cooperative politics. For example, the necessity of creating and maintaining ruling coalitions in multiparty PR systems prompts parties to be more cooperative and less adversarial in their relationships. From its introduction in Europe at the turn of the century, it has always been understood that proportional representation is the best system for societies with deep and potentially violent political divisions. More recently, Northern Ireland and South Africa have both embraced models of PR, in part because the fair representation of all segments and groups in the legislatures was seen as an essential element in promoting political stability and integration.

46. There is also little support for the claim that small parties will wield too much power in multiparty legislative coalitions. Small parties usually do have some limited influence over a coalition’s policy agenda, but that is hardly undesirable. Indeed, that is part of the point of power sharing coalitions – they pursue a mixture of policies that represent the various interests of the voters who support

those parties. The record of PR use in European democracies provides very few examples of small parties acting as “a tail that wags the dog”.

47. A few critics of proportional representation have argued that it encourages political extremism. Because PR makes it easier for small parties to win representation, it also makes it easier for extremist parties to run candidates and elect some of them to office. However, the evidence again suggests that this fear is greatly exaggerated. The overall record of PR in Western democracies shows that extremism has not been a problem. Most western European countries have been using PR for the last 50 years and none have been plagued by extremist parties. This is largely because the threshold levels in most of these countries have been set high enough – as in the 5% level in Germany – to make it difficult for parties on the fringe to win any seats.

48. Moreover, even when extremist groups succeed in electing members to a legislature, this has not resulted in any political crises. In fact extending political representation to such groups can have a moderating and co-opting effect. If these groups feel that they have some voice in the political system, it can decrease their sense of political alienation and make them less likely to employ violence or other undesirable means to attract attention to their views. One recent study of voting systems abroad found that the use of proportional representation has discouraged discontented ethnic groups from “engaging in extreme forms of resistance to the status quo.” A copy of this study is attached hereto as Exhibit N.

49. Because the multiparty districts that are common in PR systems are invariably much larger than the ridings that are typical in SMP laws, it has been suggested that switching to PR can undermine the intimate relationship that now exists between legislators and their constituents. In fact, however, this “intimate” relationship is often more mythical than real. Although all voters can look to their local representatives as intermediaries in their dealings with government, few will feel their views on policy issues are being effectively represented by someone who is promoting a political agenda with which they disagree. Moreover, it can be argued that the use of multimember districts actually improves the quality and frequency of constituent-representative interaction. Where a significant number of voters in single-member districts may be reluctant to approach an elected official of a different party who they feel will not be sympathetic to their concerns, in multimember districts, voters typically have access to representatives from several parties which makes it easier to find a sympathetic ear. Voters are more likely to be inclined to seek help from those with common political agendas and to be more active in lobbying them on matters of policy concern. As well, the presence of multiple representatives in PR districts often leads them to compete in addressing constituency concerns. In Ireland, for instance, some political commentators have even complained that representatives in their PR system spend too much of their time on constituency service.

50. Finally, it should be noted that despite the criticisms that have been leveled at PR by its critics, this electoral system enjoys continued and widespread support in virtually all of the Western democracies in which it is used. There has been no substantial support in these countries for replacing PR with a single-member district plurality system. (The only western country that has experienced any significant dissatisfaction with PR is Italy, which eventually changed from a pure party list form of PR to a mixed-member form of PR in the 1990s.) In contrast, many countries with single-member plurality systems have seen growing pressure to adopt PR. As noted earlier, voters in a 1993 national referendum in New Zealand chose to switch from their traditional first-past-the-post system to mixed-member proportional representation. In 1994, Japan switched to a somewhat different form of mixed-member system, but one that also utilizes a combination of SMP districts and PR. More recently, the newly formed parliaments of Scotland and Wales used mixed-member PR for their first elections. And even in Great Britain, the traditional home of first-past-the-post elections, polls reveal substantial public support for adopting a more proportional voting system. It is also revealing that in the case of recently emerging democracies, where governments are unhampered by electoral traditions and can carefully choose among all the available systems, the vast majority of these countries have rejected SMP elections in favor of various forms of PR. In fact only one country among all of the new democracies of Eastern Europe and the former Soviet Union has chosen the single member plurality system. Thus the global trend

throughout the twentieth century, away from plurality elections and toward proportional representation, continues this day.

AFFIRMED BEFORE ME at the City)
of South Hadley in the State of)
Massachusetts)
this)
day of April, 2001)

Douglas J. Amy

Notary Public