

FIXED FOUR-YEAR TERMS FOR THE TASMANIAN HOUSE OF ASSEMBLY

A submission to the Joint Select Committee on Electoral Matters

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Premise

Tasmania has had four general elections for the House of Assembly in seven years, viz, 2018, 2021, 2024 and 2025. This has led to assertions that the state is experiencing chronic political instability. The author's thesis is that the dissolutions of 2021 and 2024 were granted by the Governor based on advice from the then Premier that assumed certain future circumstances which, while possible, were by no means inevitable. Further, that the dissolution of 2025, while granted consequent upon a successful want of confidence motion in the Premier, need not necessarily have occurred because an alternative ministry may have been formed from the House of Assembly as then constituted.

The proposed solution is to impose an objective test – to the extent possible – as to whether an early election is the sole means by which certain political situations can be resolved. This would be achieved by an amendment to the Constitution of the State of Tasmania providing for fixed four-year terms for the House of Assembly, and early dissolutions permissible only in circumstances where the government of the day fails to secure supply to the Crown, and/or is unable to maintain the confidence of the House of Assembly, with there being no prospect of a new ministry being formed from said House within thirty days.

Background¹

At the 2018 and 2021 elections, the incumbent government was returned with a majority of one in a chamber of twenty-five members. In the course of both parliaments, those majorities were lost. Westminster constitutional orthodoxy does not, however, dictate that a governing party's lack of majority is, in and of itself, proof positive that the parliament is unworkable², although the Premier's advice to the Governor recommending dissolution in 2021 and 2024 suggested such was the case.³ The 2025 election is somewhat more problematic, coming as it did after a successful motion of no-confidence in the Premier personally (but not in the government as a whole). Nonetheless, questions remain as to whether an alternative ministry capable of achieving the confidence of the Assembly, and guaranteeing supply to the Crown, could have been formed without dissolution nearly three years in advance of time.⁴

This submission examines the circumstances leading to the 2021, 2024, and 2025 elections, with a view to determining whether partial codification of the Crown's prerogative in respect of

¹ The 2018 election was held at the expiry of the House of Assembly's four-year term and will be referred to no further.

² See E. A. Forsey, *The Royal Power of Dissolution of Parliament in the British Commonwealth*, (Oxford University Press) 1943, and H. V. Evatt, *The King and His Dominion Governors*, (Oxford University Press), 2nd edn revised, 1967.

³ <https://tasmaniantimes.com/2021/03/game-on-gutwein-calls-state-election/>;

<https://www.premier.tas.gov.au/latest-news/2024/february/statement-from-the-premier5>

⁴ Certainly, the Greens Leader, Dr Rosalie Woodruff, was prepared to offer the Labor Leader of the Opposition, Dean Winter, guarantees on confidence and supply. See <https://tasgreensmps.org/media-releases/greens-ready-to-offer-labor-confidence-and-supply/>

dissolution of the lower chamber would have allowed those parliaments to complete their full four-year term.

The election of 2021

On Monday 22 March 2021 the Premier, Peter Gutwein, advised the Speaker, Sue Hickey, that she would not be endorsed as a Liberal Party candidate at the next general election for the House of Assembly which would then, in the normal course of events, have taken place around May 2022.⁵ Ms Hickey then resigned from the Liberals, but subsequently undertook **not** to vote against the government on matters of confidence or supply.⁶ That put the government into minority, but Ms Hickey's guarantees were sufficient to assure it was in no immediate danger of being brought down by means of an adverse vote on the floor of the House.

Additionally, there was cause for optimism that the Gutwein Government could have had its majority restored without recourse to an early election. Madeleine Ogilvie, a former Labor Member for the electorate of Clark (previously Denison)⁷ had returned to the House of Assembly in September 2019 on a countback after the resignation of Labor's Scott Bacon. But Ms Ogilvie chose to sit as an independent, and there followed widespread speculation that she would join the Liberals.⁸ Such proved to be accurate, and Ms Ogilvie was indeed endorsed as a Liberal candidate.⁹ That, however, took place **after** the Premier had advised the Governor to dissolve the House of Assembly because, in essence, it was likely to become unworkable with Ms Hickey's resignation from the Liberal Party.¹⁰

The Premier stated publicly that:

... now more than ever Tasmania need[s] a strong, stable, majority government. This morning, I called on the Governor and requested that an election be held for the House of Assembly on the first of May. I did this because Tasmania can't afford the uncertainty of the minority government.¹¹

The relative merits of Mr Gutwein's advice notwithstanding, the Governor had, effectively, no choice but to accede to his Premier's request because there was no alternative ministry capable of being formed from the House of Assembly as then constituted. Mr Gutwein was supported by the remaining twelve Liberals (including himself) plus Ms Hickey making for a majority of one. Were Ms Ogilvie to have been added to the government's numbers before the election was called, the Premier could have been certain of at least thirteen votes out of twenty-five on legislation, and a likely fourteen votes on confidence and supply, a majority of three. All of this points - strongly, in the author's view - to the House of Assembly continuing to be capable

⁵ <https://www.abc.net.au/news/2021-03-22/tas-speaker-sue-hickey-to-be-disendorsed-by-liberals/100020314>

⁶ <https://www.examiner.com.au/story/7181287/political-pundits-say-a-state-election-in-may-is-on-the-card/>

⁷ <https://www.abc.net.au/news/2017-07-21/tasmanian-electorate-name-change-from-denison-to-clark/8728840>

⁸ <https://www.theadvocate.com.au/story/7185275/positive-talks-premier-hints-at-liberal-courtship-of-ogilvie/>

⁹ <https://www.examiner.com.au/story/7186188/party-affiliation-doesnt-change-me-ogilvie-joins-the-libs/>

¹⁰ <https://www.abc.net.au/news/2021-03-26/tasmania-state-election-announcement/100022084>

¹¹ *Ibid*

of carrying out its necessary functions for the remainder of the term. Regardless, the election result was similar to 2018: Mr Gutwein was returned with a majority of one.

The election of 2024

On 12 May 2023, Premier Jeremy Rockliff's government was reduced to minority with the defection to the crossbenches of John Tucker and Lara Alexander citing, *inter alia*, concerns over transparency surrounding the proposed Macquarie Point redevelopment.¹² Both MPs, while critical of the government, had made no overt move to bring it down, and indeed held a joint press conference with the Premier on 20 May to reassure the public that it was essentially business as usual, with no early election in the offing.¹³

This arrangement endured until February 2024, when the Premier sought to renegotiate his agreement with Mr Tucker and Ms Alexander. Both had publicly aired their dissatisfaction with the government on a range of issues, and openly mulled the possibility of supporting a motion of no-confidence. In response, Mr Rockliff issued an ultimatum that both:

- commit to providing confidence and supply except in cases of corruption or malfeasance; and
- commit to not support Labor, Green, or other independent bills, amendments to bills, or motions, unless agreed to by the government.¹⁴

In return, the Premier would allow them to retain the right to bring forward their own motions and amendments to government bills, and "other practical matters that might be agreed to."¹⁵ Failure to agree would result in Mr Rockliff concluding that the parliament was "becoming unworkable."¹⁶

Your support for political motions by Labor and the Greens, coupled with an openness to consider no-confidence motions in the government, is bad for business and investor confidence and is damaging Tasmania.¹⁷

A deadline for agreement was set by Mr Rockliff for 5 March 2024 when the House of Assembly was due to resume.¹⁸ It was apparent, however, that by Thursday, 8 February, neither member was inclined to consent to Mr Rockliff's conditions, considering them to be more onerous than those of a Liberal Party backbencher.¹⁹ That being said, there was no indication that either Ms Alexander or Mr Tucker were immediately intent upon supporting an adverse vote on the floor of the parliament which was, in any case, not due to sit again for another twenty-four days. It is one thing to ponder aloud about bringing down a government. It is quite another to actually do it. Nonetheless, the Premier appears to have taken their disinclination to agree to his terms as

¹² <https://www.abc.net.au/news/2023-05-20/tasmania-tucker-alexander-rockliff-show-of-unity/102372468>

¹³ *Ibid.*

¹⁴ <https://www.abc.net.au/news/2024-02-02/tas-premier-rockliff-issues-early-election-threat-to-mps/103413562>

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ <https://www.abc.net.au/news/2024-02-09/no-election-called-tucker-alexander-rockliff-meeting/103447436>

amounting, *ipso facto*, to a withdrawal of guarantees on confidence and supply. He advised the Governor to dissolve the House of Assembly on 14 February, with writs to be issued for a general election on 23 March.²⁰

The election for a House of Assembly enlarged from twenty-five to thirty-five members was: Liberal fourteen; Labor ten; Greens five; the nascent Jacqui Lambie Network (JLN) three; and independents three. The Premier claimed victory on election night despite failing to secure an overall majority.²¹ The Leader of the Opposition, Rebecca White, by contrast appeared to leave open the prospect of attempting to cobble together a majority, presumably with support from the Greens and other crossbenchers.²²

However, on the following day, Sunday 24 March, the Tasmanian Labor Party's Special Administrative Committee declared the election lost,²³ upon which Ms White conceded defeat and resigned as leader.²⁴ Mr Rockliff was then able to continue his government in minority based upon guarantees of confidence and supply - but not policy or legislation - from the three JLN members, and one independent member of the crossbench, former Labor Leader and Minister, David O'Byrne.²⁵ Neither Ms Alexander nor Mr Tucker were re-elected.²⁶

The election of 2025

The House of Assembly elected in 2024 underwent some changes in members' party affiliations, but not such as to immediately undermine the Rockliff Government's occupation of the Treasury Benches until June 2025.²⁷ On 28 August 2024, Rebekha Pentland and Miriam Beswick were expelled from the JLN, but subsequently renewed their agreement to support the government on confidence and supply.²⁸ However, their erstwhile party colleague, Andrew Jenner, refused to follow their example, citing differences with the government relating to public funding of state elections.²⁹ There was apparently no change to David O'Byrne's contingent support for the ministry. Mr Rockliff's lack of a guaranteed majority on matters of first importance to the government notwithstanding, there was little to suggest it was in difficulties *vis a vis* its standing in the House of Assembly until the Budget Session that commenced on 29 May 2025 with the introduction of Appropriation Bill No. 1 by the Treasurer.³⁰ Then, on 3 June, the Opposition Leader, Dean Winter, tabled a motion of no-confidence in the Premier personally, but not in the government as a whole. This distinction proved to be of significance in the parliamentary process that unfolded. The House debated the motion over two sitting days

²⁰ <https://www.premier.tas.gov.au/latest-news/2024/february/statement-from-the-premier5>

²¹ <https://www.abc.net.au/news/2024-03-24/tas-election-results-analysis-what-happened/103624630>

²² *Ibid.*

²³ <https://www.abc.net.au/news/2024-03-27/rebecca-white-resigns-labor-declines-to-form-minority-analysis/103632406>

²⁴ <https://www.abc.net.au/news/2024-03-24/labor-concede-tasmanian-election-rebecca-white-leader/103625422>

²⁵ <https://www.abc.net.au/news/2024-04-10/jln-agreement-with-tasmanian-liberals-winter-labor-leader/103689036>

²⁶ <https://www.abc.net.au/news/2024-03-24/tasmanian-election-results-and-what-happens-next/103624248>

²⁷ <https://www.abc.net.au/news/2024-08-24/jacqui-lambie-network-party-fractures-tasmania/104265578>; <https://pulsetasmania.com.au/news/last-lambie-mp-andrew-jenner-will-not-sign-new-agreement-with-tasmanian-government/>

²⁸ <https://www.abc.net.au/news/2024-08-27/jeremy-rockliff-new-deals-rebekah-pentland-miriam-beswick/104274302>

²⁹ <https://tasmaniantimes.com/2024/09/jenner-bails-on-confidence-and-supply/>

³⁰ https://search.parliament.tas.gov.au/search/search/#bm_Toc201138363

on 4 and 5 June 2025. It was ultimately passed by eighteen to seventeen on the Speaker's casting vote.^{31 32}

Although Mr Rockliff had demonstrably lost the confidence of the Assembly, he declined to resign as Premier, arguing the personal nature of the want of confidence motion was intended to force the parliamentary Liberal Party to choose an alternative leader, one that the Opposition believed would be easier to defeat at a general election. In that, he was supported by his party colleagues.³³ Then, and despite being offered supply and confidence by the Greens leader, Dr Rosalie Woodruff,³⁴ and given the generally progressive inclinations of three other cross-benchers – David O'Byrne, Kristie Johnston, and Craig Garland giving him a likely eighteen votes on confidence and supply – Mr Winter refused to attempt to form a government, citing irreconcilable policy differences with Dr Woodruff and her party. In the circumstances the Governor of Tasmania, Barbara Baker AC, chose to accede to Mr Rockliff's advice to dissolve the House of Assembly with writs to be issued for an election on 19 July 2025.³⁵

In terms of party representation, the 2025 election was similar to that of the previous year, excepting the three former JLN members were defeated, replaced by independent/minor party candidates: Peter George in the electorate of Franklin, Carlo Di Falco for the Shooters, Farmers and Fishers Party in Lyons, and Professor George Razay in Bass.³⁶

When the House of Assembly resumed on 19 August, Mr Winter moved a further want of confidence motion, this time in the government as a whole, and including confidence in himself as putative Premier in a minority Labor Government.³⁷ It was defeated by twenty-four votes to ten, with none of the crossbench in support.³⁸ Assurances were subsequently given by Mr Winter's successor as Opposition Leader, Josh Willie, not to move another no-confidence motion for the life of the parliament.³⁹ With these, and certain concessions on policy made by Mr Rockliff to assuage crossbench concerns, there appear to be some prospect of this House of Assembly being the first elected since 2014 to last four years.

Retrospect and analysis: 2021 to 2025

It is generally conceded that the electorate favours parliaments going full-term, other than in extraordinary circumstances. However, the evolution of the Westminster system of parliamentary government such as we have in the Australian states, and Tasmania particularly, have not overtaken certain residual prerogatives exercised by the Crown's representative on the advice of the political head of the government, that are open to questionable usage. In the context of this submission such refers, of course, to the prerogative of dissolution.

³¹ https://www.parliament.tas.gov.au/_data/assets/pdf_file/0027/94194/HA-Thursday-5-June-2025.pdf

³² *Ibid*, see p.71, particularly.

³³ <https://www.abc.net.au/news/2025-06-11/rockliff-defiant-refusing-to-step-down-says-crossbench-deceived/105403730>

³⁴ <https://tasgreensmps.org/media-releases/greens-ready-to-offer-labor-confidence-and-supply/>

³⁵ <https://www.theguardian.com/australia-news/2025/jun/11/tasmania-election-state-to-head-to-polls-again-after-governor-grants-embattled-premiers-request>

³⁶ See <https://www.tec.tas.gov.au/house-of-assembly/index.html>

³⁷ <https://www.abc.net.au/news/2025-08-20/tasmanian-labor-leader-dean-winter-no-confidence-defeated/10567307>

³⁸ *Ibid*.

³⁹ <https://www.abc.net.au/news/2025-08-23/josh-willie-tasmanian-labor-policy-position-analysis/105686092>

In 2021 and 2024, both Mr Gutwein and Mr Rockliff justified their advice to the Governor because, *in their opinion*, minority government must inevitably produce political uncertainty that would surely result in a loss of confidence by business and, by extension, damage to the Tasmanian economy.⁴⁰ But neither adduced evidence to buttress their advice.

In Mr Gutwein's case it was a mere four days between Ms Hickey's resignation from the Liberal Party on 22 March 2021, and his advice to dissolve the parliament which was made to the Governor on 26 March 2021. It hardly seems likely that, over such a brief effluxion of time, economic indicators which had reported strong post-COVID 19 growth in the government's own budget papers⁴¹ would have been turned on their head. Equally, when Mr Rockliff was granted an early election in February 2024, the state's economic indicators were still relatively bullish for the ensuing financial year, with projected growth at the national average.⁴²

Moreover, Mr Rockliff's lack of majority was nothing new, he having been in that situation since May of 2023. But in letters to Ms Alexander and Mr Tucker in February 2024, it is obvious that their support – potential and actual – of motions and/or legislation sponsored by non-government parties was rankling,⁴³ and was arguably the most significant motivating factor in the Premier's ultimatums, and in his advice to the Governor to issue writs for a general election a year ahead of time.

The 2025 election that took place on 19 July is the only one of the three that resulted from an adverse vote on the floor of the House of Assembly, making it unique in the context of this submission. Such notwithstanding, and unlike 2021 and 2024, the question of whether a viable, alternative ministry to that of Mr Rockliff's could have been formed remains, in the author's opinion, an open question. In this instance, however, it is the behaviour of the then Leader of the Opposition that bears scrutiny, and there are certain similarities with the post-election parliamentary situation of 2010 that bear consideration.⁴⁴

At bottom, it is necessary to ask if a leader who has *the potential* to command a majority of the lower house, should be compelled to try to form government, even if their inclination is not to. The author's opinion is that Mr Winter could have done so, supported by the ten members of his caucus in the House of Assembly, plus the five Greens MPs as well as independents David O'Byrne,⁴⁵ Craig Garland, and Kristie Johnston, making for a majority of one – including the Speaker's casting vote – in a chamber of thirty-five. There remained also the three former JLN members, one of whom – Andrew Jenner – had declined to renew his agreement to guarantee confidence and supply to the Rockliff Government when the parliamentary JLN disintegrated,

⁴⁰ See above pp. 2, 3.

⁴¹ <https://www.treasury.tas.gov.au/BudgetPapersHTML/Budget2021/BP1/2021-22-BP1-2-Tasmanian-Economy-2021-22-Budget.htm>

⁴² <https://www.treasury.tas.gov.au/BudgetPapersHTML/Budget2023/BP1/2023-24-BP1-2-Tasmanian-Economy-2022-23-Budget.htm>

⁴³ See above p.3.

⁴⁴ For a full and considered exploration of the constitutional issues that arose in the aftermath of the 2010 Tasmanian Election by Professor Anne Twomey, see: <https://www.aspg.org.au/wp-content/uploads/2017/09/06-TwomeyTas-Gov-2010-election-APR.pdf>

⁴⁵ David O'Byrne was open to supporting a minority government led by Rebecca White after the 2024 election. It is conceivable, then, that he might have offered similar support to Mr Winter had the Opposition Leader been willing to attempt to form government in the aftermath of the 5 June 2025 no-confidence motion. See: <https://pulsetasmania.com.au/news/david-obyrne-rejects-dean-winters-claims-he-was-liberal-yes-man/>

and who had supported the no-confidence motion in the Premier. That would have given Mr Winter a potential majority of two on supply and confidence.⁴⁶ How the other two ex-JLN members – Rebekah Pentland and Miriam Beswick – might have decided is unknown. But there is little to suggest either had a strong predilection for either Labor or Liberal in terms of policy. Having given Mr Rockliff’s government guarantees of support after the 2024 election, essentially sight unseen, it is far from impossible they would automatically have refused Mr Winter their backing in the circumstances prevailing some fifteen months later. It is possible, then, that a Labor Government with Mr Winter as its Premier could have commanded up to twenty votes out of thirty-four (excluding the Speaker) on confidence and supply, so averting the need for a third consecutive early election. There remains, however, the question as to whether a political leader can or should be forced, against their inclination, to try to form a government.

Professor Anne Twomey⁴⁷ offers insight in her analysis of Governor Peter Underwood’s actions subsequent to the 2010 election. She suggests Mr Underwood AC overreached by making a value judgement in declining to commission Will Hodgman, the Liberal Leader of the Opposition, because any ministry formed by him must necessarily lack stability. This, Mr Underwood reasoned, was because the relative congruity of the Labor Party and the Greens on matters of policy made a government formed by those two parties likely to endure for a longer period. Professor Twomey, however, argues – cogently in the author’s opinion – that any action by a Governor based on their opinion relating to possible future political circumstances were best left to the political process. Put another way, it would have been more in accord with constitutional practice and precedent for Mr Underwood to have allowed the House of Assembly to decide if Mr Hodgman, who was willing to attempt to form a government, could have done so by obtaining the confidence of the House, and that consideration by the Governor of any other matter was not in accord with the accepted need for political neutrality in the Vice Regal representative.⁴⁸ This may go some way to explaining why the current Governor, Barbara Baker AC, was unwilling to press Mr Winter to attempt to form a government when the no-confidence motion in Mr Rockliff was agreed to on 5 June 2025. The logical and inevitable conclusion is that Ms Baker was justified in acceding to Mr Rockliff’s advice to dissolve the House of Assembly.

A way forward

The primary conclusion to be drawn from the analyses of the 2021, 2024, and 2025 elections is that the Governor lacks the constitutional authority, if not the *de jure* power, to prevent questionable use of the prerogative of dissolution. In order to establish the objective test for premature dissolution of the Assembly foreshadowed at the beginning of the submission, recourse may be had to other jurisdictions within the Commonwealth that have already made good this reform. It is the author’s contention that the New South Wales *Constitution (Fixed Term Parliaments) Special Provisions Act 1991 No 70*⁴⁹ provides an appropriate model which the state of Tasmania might reasonably follow.

New South Wales is chosen specifically because it demonstrates that minority governments resulting from hung parliaments are not inherently unstable. Rather, the assurance provided to the electorate by the foreknowledge of exactly when the next election will take place is, in and of itself, something that necessarily tends the body politic more towards stability than

⁴⁶ Excluding the Speaker who may vote only in the event of a tie.

⁴⁷ Twomey, *op cit*.

⁴⁸ *Ibid*.

⁴⁹ <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1991-070#sec.6>

uncertainty.⁵⁰ And, as the adage goes, “the proof of the pudding is in the eating.” In the nearly thirty-five years since New South Wales adopted fixed terms, there have been no early dissolutions of the Legislative Assembly, notwithstanding minority governments from 1991 to 1995, and since February 2022 encompassing both the Perrottet Liberal and Minns Labor Governments (from 25 March 2023), as well as some with very small majorities of between one and three seats, where the Premier may have been tempted by favourable opinion polls to chance their arm early.⁵¹ Indeed, the current Premier, Chris Minns, when Leader of the Opposition, specifically ruled out moving want of confidence and refusing supply to Premier Dominic Perrottet in circumstances when there was a distinct probability of success on both counts.⁵² Would Mr Minns have been more adventurous had there not been an established culture over three decades of state elections taking place on the third Saturday in March every four years?

Conclusion

Constitutions derived or inherited from Westminster are “bare bones” documents.⁵³ Practice, precedent, policy, legislation, and regulation create the brain, flesh, blood, and sinew that make for a living and evolving document that holds the body politic together and permits it to grow. In proposing fixed-term parliaments for Tasmania, it is by no means intended that an early election for the House of Assembly should never take place. Other than the exceptions suggested above, there will be – inevitably, if rarely – times of political upheaval when the Governor believes they are duty-bound to act against the advice of their Premier, and there is no other alternative to dissolution of the lower house and fresh elections. In such elections, the position of the Crown’s representative would be as much at stake as that of any politician. That is why both the New South Wales and Queensland state constitutional amendments providing for fixed four-year terms also preserve what are commonly referred to as the “Reserve Powers of the Crown”⁵⁴ for which there is no codified definition, no should there be, with such endeavour requiring the

⁵⁰ See also Explanatory Note to the Queensland *Constitution (Fixed Term Parliament) Amendment Bill 2015* : <https://cabinet.qld.gov.au/documents/2015/Nov/Intro4yrterms/Attachments/CFExNotes.pdf> Especially p. 2, viz:

“There are a number of significant advantages in having fixed, four-year terms of government, namely: 1) it provides for better government and better public policy making because decisions can be made in the interest of outcomes and better services for Queenslanders, rather than short term political gain or what may be the news of the day; 2) it removes the constant speculation from the political process and provides fairness to all political parties rather than what is in the interest of the government of the day; and 3) it provides confidence in government and certainty in government, from the public and also from the business community, which drives investment, economic confidence and job creation.”

This directly refutes the economic arguments of Premiers Gutwein and Rockliff in 2021 and 2024.

⁵¹ For example, the Carr Labor Government 1995-1999, and the Berejiklian Liberal Government 2019-2021.

⁵² <https://www.theguardian.com/australia-news/2022/apr/22/nsw-mp-alex-greenwich-threatens-to-withdraw-supply-from-perrottet-government-over-attacks-on-trans-kids>

⁵³ Not to be confused with the “Barebones Parliament”: <https://www.historyofparliamentonline.org/volume/1640-1660/parliament/1653>

⁵⁴ See explanatory notes:

<https://cabinet.qld.gov.au/documents/2015/Nov/Intro4yrterms/Attachments/CFExNotes.pdf> and <https://www.parliament.nsw.gov.au/historicbills/files/17358/Various%20Versions%201.pdf>

See also: *Evatt and Forsey on the Reserve Powers*, (Legal Books, Sydney) 1990, pp. xi to xcvi, and *Evatt, op cit*, pp. xv to xxxviii.

accumulated wisdom of soothsayer and sybil.⁵⁵ Suffice it to say, the eminent constitutional authorities cited herein would afford any Viceroy ample precedent to guide their deliberations.

In concluding, there is one final matter to attend to. Our constitutional structure is not inherently democratic. It dates to a time before universal adult suffrage, and predates by centuries the notion of homo sapiens as a single race. But since the conclusion of the Second World War, and the establishment of the United Nations, there are now globally recognised standards of human behaviour. These are contained within the Universal Declaration of Human Rights,⁵⁶ to which the Commonwealth of Australia is an original signatory.⁵⁷ In particular, Article 21 thereof provides that:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.⁵⁸

It is the author's contention that Article 21 reflects humanity's progress far and away from the ancient system of monarchical government that coalesced all executive and legislative power within the remit of one individual. Yet there remains to this day in Tasmania a single, residual prerogative of the monarchy that has hitherto allowed the temporary holder of the state's highest political office mostly untrammelled power to determine when the electorate is allowed to choose those who will govern. Free and fair elections are a fundamental human right. They should not be held at the whim of a single individual who may be acting without principal regard to the greater public interest.

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⁵⁵ For a full discussion of the Reserve Powers, see Twomey: [Microsoft Word - Twomey lecture.doc](#)

⁵⁶ <https://humanrights.gov.au/our-work/legal/universal-declaration-human-rights-human-rights-your-fingertips#:~:text=The%20will%20of%20the%20people,by%20equivalent%20free%20voting%20procedures.>

⁵⁷ <https://humanrights.gov.au/our-work/publications/australia-and-universal-declaration-human-rights>

⁵⁸ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>