Submission on the Need to Right size the Tasmanian Parliament

by
Richard Herr OAM PhD
Academic Director, Parliamentary Law, Practice and Procedure Course,
Faculty of Law, University of Tasmania

It is a bittersweet circumstance that leads me to write this submission. The sweetness is in the fact your committee is meeting to consider a bill to restore parliamentary balance to Tasmanian democracy. The bitterness is in the fact that a submission is even needed to support something that has been agreed as necessary by all parties for some time. This includes a formal agreement by the then leaders of all three parliamentary parties in September 2010. The empty seats in the renovated House of Assembly is a daily reminder of, and a testimony to, the recognition that the 1998 reduction in numbers was imprudent and should be reversed.

I am happy, nonetheless, to have another opportunity to help make the case for restoration of the House of Assembly (and hopefully the entire Parliament) to its pre-1998 numbers. This submission basically makes the same case I made in 1998 against the reduction in the size of the Tasmanian Parliament and again in the 2011 review to restore numbers. However, my pleasure today remains hostage to the same fear I expressed during the 2011 review. While expressing optimism at the three Leaders agreement in 2010, I was apprehensive that their agreement would "not be supported politically with the courage it deserves". I write to this committee with a hope that your report will provoke an outbreak of political sense and public courage worthy to be called "leadership".

Politicians v Parliamentarians?

In 1998, the governing parties used populist wrath against a 40% pay raise by the institutionally myopic media and a public blind with righteous indignation to change electoral outcomes by altering the size of Parliament. The two governing parties offered this as an ostensibly ameliorating budget balancing maneuver by sacrificing surplus "politicians". With skillful cynicism, the party leaders managed to focus the public's gaze on the generic term "politician" rather than distinguishing between "parliamentarians" and "Ministers". While both sets are made up of "politicians", their roles are significantly different. Parliamentarians are the people's representatives and the jury to which Government is meant to be responsible. "Ministers" make up the executive arm of government and they ought to have been answerable for any of the alleged "over-government" that was at the heart of public discontent with the size of the Parliament!

Using the pejoratively loaded epithet "politician" (rather than terms like parliamentarians, the "people's representatives" or "constituency members') made it easier to obscure the fact that the political axe of smaller government was bound to fall more heavier on the institution of Parliament than on the Government. The lack of any institutional nuance ensured that there was no thoughtful debate on the relationship between Parliament and Government or the significance that parliamentarians and ministers played in each. And indeed, in the event,

once the final adjustments were made, it has only been parliamentarians who have been eliminated. Ministerial ranks are the same today as pre-1998.

Parliament and Government

Unhappily, in the years since 1998, there is still a tendency to ignore the nuanced difference between Parliament and Government in the limited and rather desultory public debate on the consequences of the reduction. Generally, the criticism of the 1998 reduction suggests that it has failed because somehow (usually without explanation or justification) it weakened the State's executive arm – that is, the Government. We see this regularly when the problem of the Tasmanian Parliament's diminished dimensions is summarised derisively in the media as having created a "gene pool" too shallow to support an effective Government. That is, the problem with the smaller parliament is that it does not allow for enough talent from which to draw an effective ministry much less provide for a reserve for replacing ministers who encounter misadventure with passing buses.

Other, more consequential, deficiencies are scarcely noted much less given prominence. This even extends to the flip side of the shallow ministerial gene pool argument. Oppositions have frequently been unable to fill out a full alternative Government due to a lack of numbers. Arguably this is a significant issue for a constitutional monarchy like Tasmania where the sovereign must have a qualified advice on which to act.

Downgrading virtually all the important roles of the Parliament to that of supporting the Executive is a democratically tragic and seriously misplaced. It basically overturns more than three centuries of democratic struggle by reducing the Parliament to a "rubber stamp" for an Executive. Yet Executive paramountcy is one that both Tasmanian voters and the media claim to distrust.

What makes Westminster "Westminster"?

The Westminster model is arguably the oldest form of responsible Government system of democracy. Its partial fusion of the legislative and executive arms of government distinguishes Westminster from both forms responsible Government where the separation of powers is stronger such as Norway or presidential systems such as the United States where the separation is virtually complete.

The process leading to the modern Westminster system can be traced back to Magna Carta (1215) and Edward I's "Model Parliament" in 1295. However, the decisive transformation occurred in the half century from the Parliament's revolt against the Crown (Charles I) in 1642 – that is, basically from the start of English Civil Wars – through to the Parliament's filling a vacant throne in the Glorious Revolution of 1688 and its immediate aftermath.

By 1651, the Parliament had won the contest for legitimate control of public power against the monarch when Oliver Cromwell led the parliamentary armies to victory over the armies loyal to Charles I. Nevertheless, it was unable to make parliamentary dominance over the Crown sustainable. Cromwell's military dictatorship supported by a rump Parliament proved unsustainable when the "Lord Protector" died and an effective process for succession to the twinned roles of Head of State and Head of Government could not be found.

The, in 1660, Charles II, the son of the decapitated Charles I, was restored to the throne. However, neither he nor his brother James II, who succeeded Charles II, had learned anything from the beheading of their father by the Parliament. Consequently, the Parliament moved against James II thus recreating the problem of a vacant throne. Parliament was unwilling to repeat the Cromwell "error" of a republican Head of State.

In the Glorious Revolution of 1688, Parliament invited James II's Protestant daughter Mary and her husband, William of Orange, to take over the vacant throne jointly. However, this restoration came with "strings" - a demand for a constitutionally limited monarchy. In effect the monarch would reign but the Parliament would rule. The Crown would only able to act legitimately on the advice of Parliament. Since the monarch had twice resisted this to the point of revolt, Parliament decided to remove any room for regal discretion.

Rather than the monarchy choosing courtiers to advise and act for it, Parliament alone would supply the monarch's advisers from its own membership. In short, the King's only ministers would be MPs who enjoyed the confidence of the Parliament in order to act in this capacity. The political compromise became the constitutional convention that distinguishes the Westminster system of responsible Government from other forms of responsible Government. Ministers can only hold a ministerial commission if they hold a seat in Parliament. While now often written down in constitutions and statutes, in some Westminster parliaments this provision still relies solely on a convention brokered in 1688.

The historical evolution of the Westminster model has made it essential that the parliament and its members adhere to, and defend, the unwritten constitutional conventions that define the democratic operation of this system. Indeed, the older the Westminster parliament, the more likely it is likely to have to rely on conventions having constitutional force. This is startlingly apparent in the case of the Tasmanian Constitution Act 1934 which fails to mention even the concept of a Government responsible to the Parliament. By contrast, the 1960 constitution of Samoa, our twinned parliament, is explicit that "the executive government of Samoa . . . shall be collectively responsible therefor to Parliament" [Art 32(1)].

The Undermining of Westminster Accountability

Our concept of democracy holds that the people are "sovereign" and therefore all public power belongs to them and so must be accountable to them. The people's sovereignty can only be delegated with the people's consent to governing institutions that are limited in their powers and in a way that makes the use of public power accountable to the people on a regular basis. Thus, effective accountability mechanisms are essential for legitimacy in a democratic process to assure the people that governmental power is used in their interests.

Given the partial fusion of membership between the legislature and the executive since 1688, the question of Executive accountability has become increasingly problematic. Majority control on the floor Parliament became the basis for the formation of a Government but, over the centuries since then, the levers of parliamentary control (confidence and supply) have fallen back under the control of the Crown through parliamentarians whose principal loyalty is to the Executive rather than the Parliament.

I find it ironic that our Westminster system was created when the Parliament captured the Crown in the 17th Century and yet by the mid 20th Century (with the emergence of strong party discipline systems), the Crown had turned the tables and captured the Parliament from within by coopting the very people elected to give voters control over the Government!

It would almost impossible to find anyone who believed a Westminster minister is willing to lay aside the ministerial baton and put on a parliamentarian's badge when voting on any issue in the House and all the more so if the vote reflects on the minister's own accountability. Such a patent conflict of interest is constitutionally prohibited in other systems of responsible Government such as Norway and Germany. It is unfortunate that there is no principle of parliamentary solidarity to offset the convention of Cabinet solidarity.

Yet, it is a sobering fact that it has been very rare in the past century to find anywhere in Australia an example of where the Parliament to actually employ its key accountability mechanism against the Executive – ministerial responsibility. Sadly, it has become the norm that political parties NOT the Parliament that enforce virtually all the sanctions against ministers.

Consider the consequences of this inversion of accountability for the democratic dictum that the use of any public power must be publicly accountable. Bureaucrats exercise vast expanses of public power although they are not elected. Pol Sci 101 has taught generations of Australians that these unelected wielders of public power are responsible to the people. The overarching mechanism for this is through a Minister responsible to Parliament. Yet, it is not Parliament's disapproval that will punish maladministration by a ministry but the minister's party. Feeling embarrassed by the publicity of an undeclared Paddington Bear is far more likely to move a party to sack a minister than a departmental "stuff-up"!

Adding to the democratic deficit here is the dismal fact that political parties have become seriously depleted political associations with ageing and declining memberships. The Australian Bureau of Statistics reported in 2006 that only 1.3% of Australian adults belonged to a political party. Yet, this microscopically small number controls virtually the entire parliamentary political agenda and, therefore, the whole of national governance through the operation of tight party discipline in Parliament. [This discipline is extraordinarily comprehensive in Australia generally and contrasts with much looser control in the U.K., for example.]

The "Backbench" (Private Members) and Modern Parliamentary Accountability

I am not naively railing against the wind with these pessimistic observations about the failure of the modern Westminster parliament to exercise its powers to enforce ministerial responsibility. Within the structure of the modern Westminster system, there have been mechanisms used to ensure there is some effective parliament-based influence over the Executive's dominance in the Parliament. One of these devices is particularly relevant to this Committee's inquiry.

By the maths of the Westminster system, the Opposition does not have the votes to impose ministerial responsibility. However, the role of the Government's own backbench has been recognised in some Westminster systems as a work-around political solution. Both Samoa

and Papua New Guinea, for example, have implemented constitutionally limits on the size of the ministry to preserve a backbench large enough to provide a political rather institutional restraint on the ministerial frontbench.

Article 32 of the Samoan Constitution has limited the maximum size of its Cabinet to 12 in a Parliament with 49 seats. Similarly, Section 144 of PNG's Constitution sets the maximum number of Minsters at no "more than one quarter of the number of members of the Parliament". In both cases, there is a clear constitutional aspiration that the numbers on the backbench should be large enough to hold the Government accountable in the parliamentary party room if not openly on the floor of the chamber. Fear of the effectiveness of this measure has sadly led the Executives in both countries to use various devices to circumvent this constraint. Nevertheless, the constitution benchmark remains important and valid mechanism for setting the size of a parliament by the right balance between parliamentarians and ministers.

Those who framed the constitutional standards for governance in these two countries attempted use practical politics to establish a relationship between parliament and Government that recognised the contemporary effects of party dominance. The Government's own backbench might impose responsibility on ministers if for no other reason than the ambitions of those who would see removing weak minsters as making room for their promotion!

As an aside, I would note that in a Westminster parliamentary world dominated by party politics, the Samoan and PNG standards suggest that there is an implied calculus in deciding the appropriate way to "right size" a Westminster-based parliament. The math is so simple even novice party apparatchik should be able to do it. Decide how many Ministers a polity might need for an effective Government; multiply that number by four and then add at least one. The result is the minimal number needed to have a notional backbench larger than the frontbench.

Somewhat surprisingly, there is even some indication that other parliaments around Australia have perhaps unconsciously operated to implement this desirable ratio between the size of the ministry and the size of the parliament. An appendix to this submission provides some further data to illustrate the how the PNG/Samoa "right-size" ratio applies in contrasting Tasmania with other State parliaments.

Restoring Representation to Parliament

It is important to underscore the earlier point that the historical driver for the evolution of the Westminster parliament was representation – not to provide a Government or even to legislate. Edward I, more than seven centuries ago, recognised that the monarch had to allow the people some voice in government if they were to acquiesce to being taxed. This connection between representation and taxation actually gave parliament the lever it used to demand a role in legislation and then in Government.

For more than two centuries, genuine and responsive representation has been the *sine qua non* of modern democratic legitimacy. However, since 1998, the almost total absorption of the human resources of the Tasmanian House of Assembly in the ministry or shadow ministry

has severely undermined the representative functions of this chamber. These functions range from presenting petitions, asking questions, debating bills and policies, and pursuing committee enquiries, to presenting constituency views in the party room and taking up grievances with ministers and/or the ministry.

It must be acknowledged that the representational role of the House of Assembly would be under grave pressure today even had the numbers not been cut in 1998. Populism is on the rise challenging the validity of established institutions. Newspapers are no longer journals of record and are themselves under threat of more generally from tabloid sensationalist journalism. Growing reliance on social media for information is producing both intellectual silos and self-reinforcing partisan echo chambers. A generation of collapsing memberships in the major parties and diminished ideological relevance has led to a fractured partisan environment where the democratic virtues of compromise and tolerance are increasing rare.

Awareness of the changes that have driven public loss of confidence in democratic norms and growing resentment of the elite management of the political process, however, should not be used as an excuse to resist rebuilding confidence in basic democratic institutions such as House of Assembly. Indeed, I would argue that diminishing the effectiveness of the Tasmanian Parliament over the last 20 years has amplified public disillusionment. Parliamentary reform in New Zealand, for example, has helped to arrest the slide in that country. Similarly, this Committee can act to help stop the rot of the democratic deficit here.

Does it Matter that There is a Deficit in Parliamentarians?

It is precisely because the tide of public trust has shifted so decisively against democratic institutions in recent years that it is so important that faith in the Tasmanian Parliament be strengthened by restoring its numbers. Parliamentarians who will represent the people's interests and hold Government to account more effectively will do more to rebuild public confidence than bemoaning an Executive-centric fear of shallow gene pools! The near absence of "parliamentarians" (private members) since 1998 matters on at least two levels. It matters at the institutional level and at the level of public trust in "the system".

More than 150 years ago, Walter Bagehot identified the institutional duties of the Westminster parliament as:

Legislating (passing laws);
Serving as the incubator to create and maintain a Government;
Expressing the mind of the people;
Informing the public and
Educating the public (in civic responsibility).

Each of these obligations require parliamentarians to play roles separate from, and distinctive to, the roles that fall to those MPs who have Executive responsibilities or even, to a slightly lesser degree, those in a shadow Executive capacity.

Parliamentarians meet important representational responsibilities when they inject public interest into their scrutiny of Government legislation. Voters are increasingly sceptical (or worse) that their views actually influence legislation which is seen as an extension of self-serving managerialism between ministers and their departments. Full debate in parliament

is essential for the adequate deliberation of the public interest in legislation and it is vital for the transparency which is the foundation of public trust.

The shortage of parliamentarians in the House of Assembly is actually unhelpful to Government whatever its partisan stripes. The primary political role of backbench MPs for the ministry is to keep ministers in touch with public opinion. Even while not opposing their party's ministers' legislation, the backbencher's contributions to debate on bills helps to explain to supporters why legislation is in their interest. The current inadequate numbers in the House of Assembly spread the Opposition so thinly that their capacity to fully scrutinise legislation is limited.

Public trust in the legislative outcomes of the parliament is a vital part of a law-abiding, well-order society. Voluntary compliance with the law depends on this trust. When the people accept the decisions and acts of parliament (laws, regulations policy decisions and the like) as binding even if they disagree with them, this the very definition of democratic legitimacy.

Representation is essential to the proper functioning of Bagehot's incubator to create and maintain a Government. Governments of all persuasions have argued that their political party's electoral mandate gives control of the parliament's legislative programme for the life of the parliament. This argument is spurious at many levels and publicly exposed by former Prime Minister John Howard's admission that the enormous diversity and breadth of the party manifesto included "core and non-core promises". The undeniable fact is that parliament is where such claims are tested and adjusted between elections in terms of public support. Governing parties need to compensate for a shrinking base of "true believers" as party memberships dwindle. It is their backbenchers who do the grassroots "ground truthing" that gives ministers and their minders a sense of public attitudes and wants.

Question time, MPIs, adjournment debates, etc. help to provide opportunities for parliamentarians fulfill their representational obligations (when not captured by party apparatchiks) to meet Bagehot's roles of expressing the mind of the nation; informing and educating the public. The main arena for parliamentarians, however, is off the floor of the chamber in the committee room. Committees are the acknowledged engine room of Westminster parliaments but they should only be staffed by parliamentarians. The current numbers in the House of Assembly make effective lower house committees almost impossible (notwithstanding my pleasure that this committee exists!)

Parliamentarianism can be "Practical" in an Era of Executive Domination

New Zealand provides contemporary support for the argument that strengthening the institution of parliament can renew public trust as well as be practically implemented. Nearly three decades ago, New Zealand confronted a deepening public revolt against the party-domination of the Parliament. A perception that the public's interests were being systematically sacrificed to partisan interests fueled a revolt leading to a change in the electoral system.

The purpose of the change to the MMP electoral system in 1993 was ensure the Parliament was more representative. But its effects were far more wide-ranging. While the MMP electoral system was expected to release the decades-old stranglehold that party elites had

over access to the Parliament, it enabled institutional reform within the Parliament. Single party dominance is more difficult to secure forcing Governments to find ways of working their agenda through Parliament in more cooperative and inclusive means.

This inclusiveness has extended well beyond the chamber. Avenues have been opened for more active for public engagement and participation in and through Parliament to contribute to defining and operationalising a Government's policies.

The following are some of the measures that have been introduced following the introduction of the MMP electoral system:

1. Public participation is encouraged not only in commenting on proposed legislation but through direct involvement as well.

   After the first reading of a bill, it is referred to a subject select committee for up to six months where it is open to submissions from the bureaucracy and the public. A parliamentary draftsman sits with the committee and redrafts the bill as the committee accepts proposals for change until the committee is prepared to commit the bill back to the House for debate in the second reading. The fact that departmental representatives participate in these committee hearings has improved also the whole-of-Government effectiveness of legislation.

2. Private members' legislation is encouraged and supported.

   Time is set aside every second week of the parliamentary session for private members' business. In New Zealand's case, however, this time includes resource support for six (private) Members' Bills. The competition is so strong that these opportunities are subject to a ballot despite the unlikelihood that the bill will go beyond the first reading stage. Public airing of the subject area of the bill does create an opportunity for public debate. Moreover, a number do go forward to the subject select committee stage and some – such as the anti-smacking proposal – actually become legislation.

3. Oral questions vetted and Ministers prepared.

   Twelve questions are put to the Clerk for vetting as to compliance with Standing Orders on such matters as accuracy and then forwarded to the Minister (for about 4 hours' consideration) to prepare oral responses to increase the likelihood (but not certainty!) of factual and informative answers. Adding to the pressure on ministers is the very large number of "supplementary" questions that are allowed to follow up the Minister's oral responses.

Restoring the House of Assembly to a "Right-size" is Necessary

Unlike Tasmania, New Zealand did not need to change the size of its Parliament to begin restoring popular trust in Government and in governance. The Parliament was large enough to staff the committees and engage in public outreach. Nevertheless, the electoral change produced a much more representative House of Representatives which empowered parliamentarians to redress the imbalances between Government and Parliament. The

people of New Zealand reclaimed the Parliament as their institution and reformed its procedures to give them a continuing voice in their governance.

I cannot claim that the same will follow in the wake of a restored Parliament in Tasmania. Nonetheless, it is clear that the House of Assembly cannot be strengthened institutionally to improve public trust and confidence without having a larger House of Assembly. Mechanisms to improve trust through access to the legislative process, to build trust through backbench accountability and trust through the transparency of wider debates on the matters before Parliament all depend on having the number of Members to service all these parliamentary responsibilities.

The loss of an effective body of parliamentarians (private Members/ backbenchers) on either side of the Parliament has been a dreadful, damaging and dangerous diminution of the Tasmanian Parliament in terms of backbench restraint and accountability on Government. Moreover, the 1998 reduction reduced the capacity of the House of Assembly to service a committee system that is able to oversight the Executive or reach to the community to promote public involvement in the governance of Tasmania.

I sincerely hope that this committee inquiry will reach the only responsible and democratically honest conclusion that it can. Parliament needs to be strengthened in order to do its job to protect the people of Tasmania from maladministration and the Government from its own missteps and propensity to tunnel vision.

Appealing to Executive self-interest, I would note that the New Zealand reforms have shown that Governments have been significantly advantaged by allowing the people to own a share of the legislative process. Whole-of-Government outcomes have been seriously improved through a system where Ministries and the public as well other stakeholders can contribute through committees not already ham-strung by party policy. The Government frequently gets credit and support for taking over private Members bills that committee inquiries show the public wants.

And, even the critics should rejoice that there will be a larger “gene pool” on both sides of the aisle!

What Price Democracy - the “Cost” Excuse!

The “cost neutral” canard that was used to justify the 1998 reduction in numbers has long since been exposed for what it was. The fact that cost continues to be used as a pretext for delay is no less disingenuous today. It is a transparent attempt to present political cowardice as a populist virtue.

While I understand there has been evidence offered to Parliament at various times to demonstrate the Parliament is not as expensive as sometimes claimed, I do not have access to this information. The Peter Boyce review in 2011 did show that the budgetary cost of restoring numbers to the pre-1998 level would amount to about 6 hundredths of one percent of the Government’s budget. This figure is impressive enough in itself but it does not take into account the savings that ought to be expected by rolling back the increased numbers of

"minders" and parliamentary "support" staff employed to compensate ministers for the loss of parliamentarian colleagues after 1998.

Instead, I would draw on the private sector for some evidence that suggests the Tasmanian Parliament is seriously underfunded. OECD data shows that the loss of public confidence in corporate integrity, especially since the Global Financial Crisis has forced corporations to increased their investment in integrity compliance systems. The loss of public confidence was so serious that the OECD study found the majority of businesses have treated the increased budgetary allowances for integrity and transparency compliance as an investment for the firm rather than a cost.

The amount needed is difficult to quantify but one country requires companies over a certain size to devote at least 2 percent of their average net profit on securing integrity compliance. Parliament is the Tasmanian Government's basic integrity mechanism. If the private sector benchmark were applied, the budget papers suggest the Parliament is currently funded at less than a quarter of what would be delivered to fund the Tasmanian Parliament if the 2 percent benchmark were used.

I realise that this excursion into the funding of the Parliament may seem a bit whimsical but I would argue it has more empirical weight than the unsupported claims that any restoration would cost too much!

The undisputable fact is that the 1998 reduction made the Tasmanian Parliament unfit for purpose. In terms of value for money, being ineffectual is more costly than being effective and efficient. The current numbers are too low to meet the House of Assembly's core function in our system of responsible Government – holding the Government to account. The severe shortage of parliamentarians also short-changes the public purse and the public terms of its other key functions – particularly representation – but also legislative scrutiny which is vital to the rule of law.

I urge the Committee to find that the last 20 years has amply demonstrated that the 1998 'experiment" has failed. It was ill-conceived. Despite severely wounding democratic processes, it did not achieve its original malign objective. Moreover, it is scarcely credible to assert that shifting the balance heavily from the Legislative to the Executive arm of government has produced stronger Governments over the past two decades.

Please act as parliamentarians to fill the empty seats in the chamber and report in favour of the House of Assembly Restoration Bill 2018.

APPENDIX
The Parliamentarian/Ministry Ratio in a Small Parliament

The following table applies the PNG/Samoan constitutional benchmarks on the desirable ratio between the frontbench and the backbench to the ratios found in Australian State Parliaments. The cells are blue shaded when the ratio meets the criterion of a backbench larger than frontbench. The red shaded cells are the results where these ratios do not meet the criterion. One column assumes all ministers are drawn from the lower house and measured against a notional minimum number of seats to hold a majority in that house. The second column shows the ratio of ministers to the minimal majority discounting the ministerial positions typically held by MLCs. Only Tasmania post-1998 remains in the "red" in both columns.

Table 1

State	Ratio of Ministers to Lower House majority	%	Ratio with LC Ministers excluded	%
Queensland	18:47	38%	N/A	N/A
NSW	24:47	51%	22:47†	47%
Victoria	22:45	49%	20:45‡	44%
WA	17:30	57%	14:30*	47%
Tasmania pre-1998	10:18	56%	9:18	50%
SA	14:24	58%	11:24±	46%
Tasmania post-1998	9:13	69%	9:13	69%

† NSW's number of ministers has varied between 21-24 over the past decade but since 1974 no less than 2 ministers have come from the Legislative Council.
‡ Victoria's number of ministers has varied between 19-22 over the past decade but the current number of 2 ministers Legislative Council is the lowest number in 6 decades.
* WA Governments have had 17 ministers since 1990 but since 1974 no less than 3 ministers have come from the Legislative Council.
±For more than 40 years, SA have typically had 3 or 4 ministers from the Legislative Council. Only once has this number dropped to 2.

I do not have evidence that NSW, SA and WA have deliberately used their Legislative Council as a reservoir for ministers in order to achieve the more favourable ratio outcomes in Table 1 but the pattern has existed for many decades. As noted earlier, the figures above do suggest there is at least a subliminal recognition of a need to keep a balance between ministers and parliamentarians on the Government side in the lower house.

I would add that comparing the results in the two ratio columns in Table 1 should not be taken as a specific argument for ministers in the Legislative Council. There are very good reasons why every Tasmanian Government should have a minister in the upper house (as Canada does) but these arguments are separate from ratio issue in the House of Assembly. While on the topic of upper houses, the use of New Zealand as an example for parliamentary reform is in no way meant to support unicameralism. New Zealand demonstrates that political parties

and Governments are significantly advantaged by the legitimacy that parliamentary inclusion creates. Tasmania is fortunate that the Legislative Council and its committees were at least partially effective in in checking what otherwise would have been complete Executive dominance after 1998.

As a final point on Table 1, it is worth noting also that it would take every one of the current Tasmanian Government party membership in the House of Assembly to match the size of ministry that Western Australia and South Australia feel they need to meet their executive responsibilities.

The Hare-Clark electoral system serves as a representative influence in Tasmanian politics pretty much as Andrew Inglis Clark intended. The following table shows that the minister/parliamentarian (im)balance remains unacceptable for the Tasmanian House of Assembly even considering the probable maximum size of a majority Government under the Hare-Clark system of proportional representation. While 15 Members is not necessarily the upper limit under the present laws, it is a general practical ceiling. The ratio of 9 ministers out of 15 Members still leaves an overwhelming percentage (60%) of votes in the parliamentary party room controlled by ministers.

Table 2

Post -1998	Minimum	percentage	Maximum	Percentage
	9:13	69%	9:15	60%
Pre-1998	minimum	percentage	Maximum	percentage
	9:18	50%	9:20	45%

It might be noted that under the old parliament, a ministry of nine (the current number although the pre-1998 number was actually 10) would only just meet something like an acceptable balance. In this scenario, the backbench would constitute only half (50%) the minimum MHAs needed to form a majority Government.

Figures such as those in these tables do show how demanding the 1998 reduction has made the staffing the Ministry. They do not even begin to show, however, the toll on the representational and accountability functions of the Parliament which, by parliamentary benchmarks, are far more important functions. Logically, the less able the Ministry the more necessary effective parliamentary oversight becomes. But parliamentary oversight needs parliamentarians and these have all but been eliminated by the 1998 reduction.

Indeed, rather amusingly albeit democratically tragic, a Senate report saw the situation between the executive and the parliament in Tasmania in 1990, immediately after the reduction, as similar to that of the army in the fictional land of OZ which "had four generals, four colonels, four majors, four captains and only one private."