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26 September 2024

Scott Hennessy
Secretary
Joint Standing Committee on Electoral Matters
House of Assembly
Parliament House
HOBART 7000
scott.hennessy@parliament.tas.gov.au

Dear Mr Hennessy

**Inquiry into the Conduct of the 2024 House of Assembly General Election
and 2024 Legislative Council elections**

Thank you for the opportunity to make a submission to this inquiry. This submission deals with:

1. Tasmanian Constitution Society Overview
2. Advertising in election campaigns
3. Education
4. Election Timing
5. Electoral Act review
6. Political donations and public funding of election campaigns

1. Tasmanian Constitution Society Overview

The TCS is a community not-for-profit organization dedicated to promoting good governance through accountability, democracy and transparency. It was founded in 2010 to campaign for the restoration of the House of Assembly to 35 seats. With House restored, the TCS has broadened its remit to advocate for improved accountability, democracy and transparency in Tasmania.

Confidence in politicians, the political system and institutions, throughout democratic countries is low. Almost six out of 10 Australians don't agree politicians "can generally be trusted to act in the interests of the people they represent"ⁱ. Loss of faith in political actors and institutions leads to disillusionment and dissatisfaction which is detrimental to democracy's survival.

Disillusionment with the major parties could be one interpretation of the 23 March election result. There was a 12 percent swing against the governing Liberal party that won 37 percent of the vote.

Although there was a swing of 0.8 percent to Labor it won only 29 percent of the vote. The Jacqui Lambie Network won 7 percentⁱⁱ despite its candidates and their policies being unknown.

Tasmania's Hare Clark system of voting is the fairest and most representative electoral system in the world because it produces political representation that most accurately reflects the number of votes cast. The electoral system is one of the pillars of a democracy but it's not only the only pillar.

Tasmanians should not be complacent about their democracy just because the State has an exemplary electoral system. In recent years, Tasmania has been branded the "most secretive state", based on its Right to Information performanceⁱⁱⁱ. The Integrity Commission has been called "unusually useless"^{iv} and there were concerns about the financial contribution of the poker machine lobby in the 2018 State election.^v

Inquiring into elections soon after they are held provides the opportunity to learn from the experience and make improvements. The TCS welcomes the establishment of the Joint Standing Committee on Electoral Matters for the 51st parliament and that it will become permanent as it is in all other Australian parliaments.

Recommendations

2. Truth in political advertising

The Tasmanian Constitution Society supports truth in political advertising laws in principle because it would:

1. Reduce instances of false or misleading statements in political advertising. Libel laws protect individuals and organisations' reputations. False or misleading statements cannot be made without threat of penalty, yet it is acceptable in political advertising which is illogical.
2. Strengthen the nexus between truth and trust that underpins the contract between voters and their elected representatives. It would improve people's flagging confidence in the political process and elections.
3. Provide a deterrent to potential bad actors and improve the quality of public information.

In the past decade or so in Australia and abroad there has been the deliberate and systematic propagation of misleading and untrue information; in some cases, outright lies. An example of it was in our general election on 23 March when the Liberal party replicated the Jacqui Lambie Network website. The intention was not to inform but to mislead. Another local example was from the 2018 election campaign when a Liberal staffer was dismissed for using a fake social media account.^{vi}

Tasmanians support truth in political advertising laws. An Australia Institute opinion poll in April 2021 found 87 percent of those Tasmanians polled wanted laws that made it illegal for political parties and candidates to publish advertising that was inaccurate and misleading. South Australia has had truth in advertising laws for nearly four decades and similar laws were recently proclaimed in the Australian Capital Territory.

The Electoral Act (2004) should be amended to include truth in political advertising laws and could be administered by the Electoral Commission. This would require extra staff but, going by the South Australia example, it need not be a large number. The Electoral Commission of South Australia has five positions to deal with election complaints and less than half were about misleading advertising^{vii}.

3. Education

A voter's role in a democracy is more than casting a vote in an election. The motto of the esteemed US newspaper, *The Washington Post* is "Democracy dies in darkness". The more informed a citizenry, the less likely a democracy will descend into darkness. Throughout the world, many countries are making that descent and many are democracies in name only.

Tasmanians have the privilege of being able to participate in our democracy and influence political outcomes. Although "Civics" is taught in primary and high schools, more needs to be done and not just about how elections work, but the structure and process of government and how people can participate in it. Citizens' knowledge and participation can be improved by:

3.1 Reducing the age of franchise

One way of improving young people's knowledge of our electoral system is to reduce the franchise age to 16 which would not only give young people a say in how we are governed, but it would also provide an opportunity for self-education. We believe voting for 16-year-olds should be optional. Those who choose to vote are likely to be interested in politics and so will inform themselves about the system. A Tasmanian 16-year old can:

- Be held criminal responsibility (the Government has committee to increase the age from 10 to 14)
- Enlist in the defence forces
- Drive a motor vehicle
- Leave school
- Have a job and pay taxes.

Giving 16-year-olds the vote is not a big stretch, which it wasn't for Austria, Germany, Brazil and Argentina.

3.2 The Parliamentary Education Unit

While the Tasmanian Electoral Commission's website is an excellent educational resource and its promotion of essential information – when, where and how to cast a valid vote – is well executed. However, education is not the commission's core task.

The Parliamentary Education Unit does an exemplary job. School and community group visits – in which the TCS has been part – give participants a valuable insight into how parliament works. With more resources, the Unit could extend its work by travelling to schools that are unable to visit Hobart.

4. Parliamentary terms

Tasmania is the only parliament, besides the Federal Parliament, that does not have a fixed-four-year term. Fixed terms provide certainty and stability and should be introduced in Tasmania. Exceptions to a government completing its term:

1. Losing a no-confidence vote.
2. Loss of support. If the government ceases to have a majority.
3. If a government has acted unlawfully, outside its constitutional powers, or has broken the law, which cannot be resolved.

5. Electoral Act review

A review of the Electoral Act 2004 is needed to ensure it is fit for purpose and reflects electoral practices, technologies, and societal needs. For example, the review could include access to vote. All voters – including those living with disabilities, the elderly, the infirm, and residents in remote areas –

should have equal access to voting. To ensure this, the Electoral Commission should consider using mobile voting booths that would visit remote areas or consider voting online. The latter would have to be carefully considered and safeguards, such as those against hacking, would have to be considered.

6. Political donations and public funding of election campaigns

Tasmanians have the right to know how political parties and individual candidates are funded which fosters confidence in the political system. Everyone's voice should be heard and no one individual or entity should be able to buy a louder voice.

6.1 Donations. The TCS supports the recommendations of the House of Assembly Inquiry into the Electoral Disclosure and Funding Amendment Bill 2024 (No. 9) that

- The threshold for a reportable political donation be reduced from \$5,000 or more to \$1,000 or more
- A reportable political donation is to be disclosed within seven days of the donation being received during an election campaign
- A reportable donation is to be disclosed within 28 days of the donation being received outside of an election campaign.

The TCS agrees with the committee's recommendation that more work needs to be done to reduce the possibility of unintended consequences. Political donation and election funding reform is much-needed and long overdue. But these issues are complex and so it is vital that any changes don't have unintended consequences.

The TCS supports the committee's recommendation that the Electoral Matters committee inquire and report on a range of issues including:

- Expenditure limits and expenditure period
- Donation caps
- Fixed terms for house of assembly elections
- Truth in political advertising
- Legislative Council electoral and administrative funding.

6.2 Public Funding of Legislative Council Elections

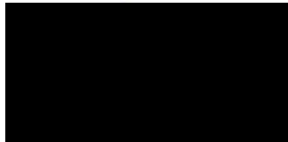
The Tasmanian Constitution Society supports recommendations of the Inquiry into the Electoral Disclosure and Funding Amendment Bill 2024 (No. 9), including the recommendations that this committee inquire into and report on:

- (a) expenditure limits and expenditure period;
- (b) donation caps;
- (c) fixed terms for House of Assembly elections;
- (d) truth in political advertising;
- (e) limitations on eligibility to make political donations;
- (f) vote savings; and
- (g) Legislative Council electoral and administrative funding.

There is an anomaly in the way the Principal Act (Electoral Disclosure and Funding Act 2023) treats Legislative Council and House of Assembly candidates. The Act provides for \$6 for each formal first preference vote received by an Assembly candidate. There is no similar provision for

Legislative Council candidates but there is an indexed campaign spending limit, currently \$19,500. But a House of Assembly candidate's limit, under the Act, is \$83,000 and a party \$830,000^{viii}. The same public funding, spending and donations regime should apply to all candidates, regardless of the chamber to which they are seeking election.

Yours faithfully



Neil Spark
President

Endnotes

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- ⁱ ABC, *Australia Talks Reveals We Have Very Little Faith Our Politicians Will Do The Right Thing*. 16 June 2021. <https://www.abc.net.au/news/2021-06-16/annabel-crabb-analysis-australia-talks-politicians-accountability/100214236> (Accessed 13 September 2024)
- ⁱⁱ <https://antonygreen.com.au/2024-tasmanian-election-result-state-summary/>
- ⁱⁱⁱ Environmental Defenders Office Report: *Transparent Failure — Tasmanian Government Is The Most Secretive In Australia*, 5 July 2023. <https://www.edo.org.au/2023/07/05/transparent-failure-tasmanian-government-is-the-most-secretive-in-australia/> (Accessed 13 September 2024)
- ^{iv} <https://www.abc.net.au/news/2024-05-03/tas-integrity-commission-tells-mps-to-stop-speculating/103784732> (Accessed 13 September 2024)
- ^v Tasmanian Times Economy 'Shining a Light on State Election mischief ...' <https://tasmaniantimes.com/2018/08/shining-a-light-on-state-election-mischief/> (Accessed 13 September 2024)
- ^{vi} ABC News report *Senior Liberal Staffer Martine Haley Resigns After Election Trolling* <https://www.abc.net.au/news/2018-03-06/liberal-staffer-martine-haley-resigns-over-trolling/9518156> (Accessed 14 September 2024)
- ^{vii} Australia Institute *The Case For Truth In Political Advertising Reform In Tasmania* https://australiainstitute.org.au/wp-content/uploads/2022/11/P1339-The-case-for-truth-in-political-advertising-laws-in-Tasmania-Web.pdf?utm_source=pocket_saves (Accessed 14 September 2024)
- ^{viii} Inquiry into the Electoral Disclosure and Funding Amendment Bill 2024 (No. 9) https://www.parliament.tas.gov.au/_data/assets/pdf_file/0023/85055/FInal-Version-for-Website-Report-Inquiry-into-the-Electoral-Disclosure-and-Funding-Amendment-Bill-2024.pdf (Accessed 14 September 2024)