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THE PARLIAMENTARY SELECT COMMITTEE ON THE HOUSE OF ASSEMBLY RESTORATION BILL MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON MONDAY 22 JULY 2019.

Dr RICHARD HERR OAM WAS CALLED, MADE THE STATUTORY DECLARATION
AND WAS EXAMINED.

CHAIR (Ms O'Connor) - Before you begin giving your evidence, have you received and read the guide sent to you by the committee secretary?

Dr HERR - I have.

CHAIR - A committee hearing is a proceeding of parliament. This means it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place out of parliament. It applies to ensure that parliament receives the very best information when conducting its inquiries. It is important to be aware, Dr Herr, that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the confines of the parliamentary proceedings. This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private, you make this request and give an explanation prior to giving relevant evidence.

Does all that sit comfortably with you?

Dr HERR - It does indeed.

CHAIR - Perhaps, Richard, you could start by summarising the points you made in your submission about the need to rightly size the Tasmanian Parliament.

Dr HERR - I think I have laid it out in the committee. To save your time, because it is important that you grill me on the things that you think I ought to have dealt with more fully, I think my argument has been reinforced many times. I am grateful to you, by the way, and thank you to the committee for waiting 20 years for this.

CHAIR - Twenty-one.

Dr HERR - I know. It was never going to happen in the first year. Come on, be fair. Twenty years is long enough.

Really, my argument has been made every year, multiple times, both by logic and by experience over this time. What I want to do is make a few provocative but what I regard as true talking points just to get your blood up.

The first point is that over the last 20 years at Australasian Study of Parliament Group meetings, the conference I am going to in a couple of days in Oxford on parliamentary practice, and in public discussions, it astonishes the audience - 1998 was an assault on parliament and on parliamentary democracy. It was astonishing for people who believe in parliamentary democracy to know that it

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was easier in the state of Tasmania to mug the parliament, to gut the parliament, than it was to change the electoral law. Your opponents, Cassy, wanted to get rid of the Greens; they have made it clear multiple times. There was a pretext based on money, all sorts of things, but the pretext was simply a pretext. What they wanted to do was change the electoral outcomes and it was easier to change the parliament than it was to change the electoral law. That tells you something about the disrespect the community has for the institution of parliament. If you ask people do they disrespect the parliament, 'No, of course not. We love the parliament', but they don't know what the parliament is, they don't know what it is that they love. All they know is that there were too many politicians, or they believed there were too many politicians, and this was a way of getting rid of politicians. As I say in my submission, there is no distinction between a politician and a parliamentarian. That, to me, is the core of it.

The first point I need to make is simply that parliament needs to make sure that the public understands how important it is, not just in a symbolic way - people will always get up and say they defend democracy - but understands it at its fundamentals. As a researcher in this area, I encounter it all the time, but I will come to some of these things in a moment.

Second - and this goes, Madam Chair, to what you were saying - at its core, the Westminster system fundamentally involves a denial of natural justice. That ought to shock you, but it's true. One of the principles of natural justice is you cannot sit as a judge on your own case, yet ministers sit in parliament and vote on whether they are good ministers, and they vote on whether the legislation they themselves have proposed is good legislation. That, at its core, is a denial of natural justice. It is a challenge to the principle of natural justice, so why is it that someone like me, who I think has a brain - or at least I hope I have; I used to have one - actually supports and believes in the Westminster system?

As I said, 40 years ago next month I set up an organisation that is still going, which is an internationally refereed journal, to support the Westminster model of government. I teach it in Samoa as well as in Australia, New Zealand et cetera, through the law school. I also teach it in the Solomon Islands, Bougainville et cetera, because I believe in the system, but how can I believe in a system that fundamentally rests on a denial of natural justice? The answer is, if you have a parliament that is large enough to keep the government to account, you can cope with that contradiction. You can't cope with it when the parliament is not large enough to address it when, in fact, the ministry can outvote the backbench and can virtually carry everything it wants without proper scrutiny and proper challenge, and that is something again. You have to embrace the notion of this conflict of interest to understand why it is important that you address it and that it not be allowed to continue as it is.

My third point is that parliament needs parliamentarians, and that is the point I tried to make in my submission for you. My students laugh when I put the rhetorical question: which hat do ministers wear when they vote in parliament? They might wear a parliamentarian's hat, keeping the Crown, the government and themselves honest, or do they wear a ministerial hat? Of course we know the answer. We don't expect them to do otherwise, and if we can't expect them to do otherwise, we have to make sure that they are offset by enough people who will do otherwise, who will protect the parliament against the Crown. The original purpose of parliament was not legislation. I will not ask you directly but I will just tell you that if I ask my students at the start of the course at the law school what is the legal definition of parliament, almost none of them knows.

Mrs RYLAH - A group of owls.

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Dr HERR - It could be, but I mean the definition of the Westminster parliament. If you look at the Constitution Act of Tasmania it says it is the members of the two Houses plus the Crown.

For me, in Fiji this is a problem, for example, because under the new constitution they do not have a definition of 'parliament' in the usual way that people mean it, a legislature. We have it but it is cumbersome; it is the House of Assembly and the Legislative Council. That is the legislature, but the parliament includes the Governor-General or the Governor acting on behalf of the Crown. That is why in the Parliament of Westminster in London the Queen has her own blue carpet because she is fundamentally part of the Parliament of Westminster.

This creates again a problem for you that the public doesn't recognise, and I am sure most of your members don't recognise - we have both the Queen-in-Parliament and we have the Queen-in-Council. The Queen-in-Council is the Queen acting in her executive authority and that is the legal basis on which laws are passed and enacted, but it is the Queen-in-Parliament who, acting in her parliamentary role, dissolves parliament and all of the reserve powers we talk about.

The fact is that there is a distinction between parliament and the legislature; ironically for the legislature, the only purpose of parliament is to pass laws. That is the only purpose of parliament because in the formal definition of parliament, we have to include the Crown. It is in what people think of parliament that you have all the other interesting bits such as question time and all the things that involve challenging the government of the day to explain itself, because you have the Queen-in-Parliament, as it were, challenging the Queen-in-Council. You have to be aware of this distinction because you, in this committee, are the parliament and the Queen-in-Council trying to look at how the parliament reserves its powers, its majesty and prestige against the challenge.

It all started with the model parliament of 1295 when the king was asking for money and had to explain why he needed it. He didn't ask them to pass legislation. He was the law; that wasn't a problem. It was how he got his subjects and the free citizens of that country to give him money to do what he needed to do, and that is why parliament's power over the executive still remains fundamentally two things: one, to give supply, because if you don't give supply the government executive branch can't do its job; and, two, to have the confidence of the parliament because if the government doesn't have the confidence of parliament, it can't be certain it will get supply and meet its obligation to the Crown to provide the Crown with the support that it needs.

That leads me to my fundamental point: parliamentarians need to understand what parliament is. Again, you can ask any of your colleagues where the Parliament of Tasmania gets its legislative authority from. What allows you to pass a law? It isn't in the Constitution Act. It isn't in any document you can access. If someone were to challenge in court your right to make a law, what would you hold up to show that you had that right?

Mrs RYLAH - I presume it comes from Westminster protocol and convention.

Dr HERR - It comes back through the colonial administration but it's not protected by constitutional right, it's protected by convention. To make the other point, we describe ourselves as a responsible government system. In all of the recent constitutions almost everywhere that I have looked in our region, there will be a part of the Constitution that says the executive, whether it's described as the cabinet or the ministry or whatever, is responsible to the parliament. It says that declaratively. The executive is subordinate to the parliament. The executive is unable to deny parliament access to knowledge about what it does, yet it routinely does this. You know this.

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CHAIR - Yes, welcome to our world.

Dr HERR - The point is that constitutionally responsible government means that the government is responsible to the parliament. It is also responsible, of course, to the people, but in terms of responsible government model, what we mean is that the unelected wielders of power - that is, the bureaucracy, government-owned enterprises et cetera - are all responsible to the people through the mechanism of parliament and that the parliament will exercise its authority over the use of these powers. In the case of Tasmania, the responsible government model is not in the Constitution Act. It never says that ministers have to answer your questions. It does not say that ministers are obliged to hold their offices on the basis of your confidence. None of these things exist. Those exist in conventions. This is why I get so outraged when I talk about you putting the treasurer in the upper House.

If there were any convention of the Westminster model that was so constitutionally fundamental to the model, it is that the treasurer has to be in the lower House. Yet in 1998 you did it. You allowed it to happen. You even contrived to make it workable so that a stranger from another place could come in to your Chamber and answer questions on behalf of the government.

Mrs RYLAH - And demand supply.

Dr HERR - Indeed.

CHAIR - Of course, it happened again with Michael Aird as the treasurer.

Dr HERR - It has happened. The only one at a state level in Australia that has clean hands today is Queensland.

Ms HICKEY - It is a lovely empty Chamber.

Dr HERR - It is a beautiful Chamber for holding conferences.

My point is that if you do not understand the conventions, and at the moment my students are having a debate as to what is a constitutional convention in parliament and what is a parliamentary practice - that is widely misunderstood - those things for which the Chamber has control over, such as pairings or the way in which first speeches are dealt with, are practices of parliament. Our course is called Parliamentary Law Practice and Procedure. Practice is the culture of the House, if you like.

Ms HICKEY - Like standing order 45? It does my head in.

Dr HERR - These practices are often conflated. They say, 'That is just a convention', as if it is something like good ethics - you do not spit on the footpath. The fundamental ones, the ones that count, the ones we rely on, are the constitutional conventions, yet we do not distinguish those from all the other bits of culture that go into making up the way parliament works.

One of the things I hope your committee report will do is reinforce the fact that we need people who, when they go in to the Chamber, are wearing a parliamentary hat not an executive hat and that there are enough of those people to help make the parliament's role in the whole process of parliamentary democracy in Tasmania workable, for the people to have confidence in it.

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The conventions of parliament, such as ministerial responsibility, are not exercised by the parliament. They are exercised by parties.

You get sacked as a minister not because your ministry has failed. Peter Garrett and the pink batts. He did not get sacked because his ministry has done a bad job.

Mrs RYLAH - It did not do him much good though.

Dr HERR - It did not do him much good, but the point is you get sacked for smuggling a Paddington bear through customs; you get sacked for bringing your party into disrepute not because the parliament has exercised its control over the way you have run your ministry or the way your ministry has behaved.

I think the 2006 census showed that only 1.3 per cent of adult Australians belong to a political party. In Samoa 20 per cent of the population at least have chiefly titles and have political obligations to be politically active. In other words, 0.7 of 1 per cent notionally of Australians control 99 per cent of what happens in parliament.

CHAIR - I might challenge you on that because while a person may be a member of a political party, the way that the system is set up now, certainly for the major parties, it wouldn't be reasonable to suggest that party members drive policy outcomes or legislative outcomes.

Dr HERR - I would agree, but my point is that is the maximum.

When you think about how small the group is that actually has control of the political process, you can see how important it is that it not be the political parties that dominate the agenda in the parliament. The parliament has to have a separate role.

The fact we are meeting here and that we have all the privileges we would have if we were sitting in the Chamber upstairs, other than the fact that I could speak. I could not speak upstairs but I can speak here. You can take this to Burnie or to Queenstown or wherever you like and the Floor of the parliament goes with you. This is a marvellously democratic, engaging situation, but it has to have the numbers to make it work.

Ms HICKEY - Is your argument about majority government just because of the current mechanism?

Dr HERR - No.

Ms HICKEY - Because of the current way the party systems work?

Dr HERR - No. The point is that majority government in the sense of the governing party having [inaudible] as I point out, part of the control. We have helped other countries see that we haven't respected ourselves by having a backbench that is larger than the front bench. So even through the party system we can mobilise the party system to be more democratic, to be more open in terms of controlling the executive.

Ms HICKEY - Speaking from personal experience, there is still a demand on the backbench to follow party solidarity.

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Dr HERR - Of course there is.

Ms HICKEY - Cabinet solidarity was put to me, which didn't sit well. I really like the idea you have in this paper, which I saw in Canada. What you are talking about is that every law went out to a committee of the whole parliament - members of different parties.

Dr HERR - Yes.

Ms HICKEY - I think members of the public could go on the one in Scotland. Every piece of legislation was not just rushed through parliament. I find it a terrible worry that it is rushed through. A majority government can just push it through and then our only hope is that it is scrutinised upstairs.

Dr HERR - No, it is not that majority government pushes it through, it is that the parliament doesn't have in place the procedures for the parliament to do its job.

Mrs RYLAH - I agree with that.

Ms HICKEY - How does it work -

CHAIR - One person at a time, and maybe seeking the call too.

Dr HERR - At the moment, looking at the UK isn't a particularly helpful thing, but historically there is the committee of 1922. There are backbench committees on all sides of parliament that actually have a significant role in telling their executive members what the public think and try to sell it.

In the case of New Zealand, I watched that at work. The government is the initiator, and it has always been the case, that is the role of the executive. It is the role of parliament to help keep the executive honest and ensure that the public has a way of expressing to the government concerns about legislation in a way that is meaningful. In the case of New Zealand, it goes to the committee after the first reading before it gets a second reading, so that the parties have not stuck their reputations on the line for the exact wording of that bill. The public comes in and gives their testimony, and departments do. That was the amazing thing to me: departments would come in and say, 'This bill is actually going to have an adverse effect on our legislation, our activities, and we need to build in these considerations'. So you get a more effective whole-of-government outcome in the way things work simply because the bureaucracy is able to engage with the legislation as well. The parliamentary draftsman sits with the committee and redrafts the bill as it is going along but it is annotated with the reasons for the change. When it goes back to the Chamber, generally speaking the government says, 'Yes, you've have made our intentions clearer'. They never say, 'We made a mistake', but say, 'You've have helped to make our intentions clearer'. Why wouldn't you want the public to own the legislation? That is the part I don't understand and I agree with you entirely here, Chair. Why don't you want the public to own the legislation? Why doesn't the Government not want the public to own the legislation? It makes it easier for compliance. People believe they should obey laws they have helped to create. There is not a problem with it. Again, you need a committee system that is looking at your Estimates committees. The Government needs to make poor Mr Tucker work double duty just to try to get a committee that looks vaguely like a committee should do.

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CHAIR - But Mr Tucker spent the entire Estimates racing backwards and forwards between committees, which was great for opposition parties but not for the committee.

Dr HERR - My point simply is you need parliamentarians, not just politicians.

CHAIR - Dr Herr, if you had to encapsulate what impact the reduction in the size of numbers has had on the quality of governance, policy and legislation over the past 20 years - you have described it in your submission as a dreadful, damaging and dangerous diminution of the Tasmanian Parliament. As an observer and a keen observer of Tasmanian politics looking back at the last 20 years, what are your thoughts?

Dr HERR - I think that we have become more and more focused on the Executive. I don't know that the public could distinguish parliament from government. Governments on the whole like it. When I did my review for the United Nations of the strengthening of the Samoan Parliament I think there were two. One was very minor, but the one recommendation I made that the government refused to accept - they accepted everything; I was pleased that the parliament accepted my report and embraced it - was that the parliament should have a separate logo to the government logo. They wanted the public to believe that everything that came out of parliament was the government, not the parliament. Governments like that because that means that, by and large, parliamentarians are irrelevant; lobbyists, by and large, don't lobby parliamentarians, they lobby the bureaucracy or ministers or the Speaker, but they don't lobby backbenchers - why would you waste your time? I don't want to be deprecating but I am just saying people will go to backbenchers usually when they don't have any other option, and that is the problem.

In the history and development of parliament we have the lobby. When you talk about lobby or lobbyists, the lobby was for people to lobby parliamentarians. They didn't go there to talk to the ministers. They went to the ministerial officers and so forth to do that. Historically, if people wanted to get things done in parliament, they would go to the lobby of parliament and lobby a parliamentarian. They don't do it now.

Ms DOW - Just a couple of questions. The first is, in an opinion piece you wrote on 6 June 2008 in *The Examiner* you talk about democratic statesmanship and how that's been lost and perhaps you attribute that to the decreasing numbers and the ability of our leaders to understand about knowing when to follow public opinion and when to lead it. My question is: do you think that ability could be regained through an increase in the size of the House? Also, some of these other levels of scrutiny you have outlined in your submission to this committee around what happens in other jurisdictions involving democracy, but also getting that collaborative approach back into the community and having community buy in to legislation.

Dr HERR - Indeed. That's my whole point. I think that the lower House, as well as the upper House - I know it is not your committee's remit, but the upper House needs to be restored as well. Committees are parliament at work. Committees are where the public engages with parliament. It is where the public has an opportunity, as I am having now, to speak to the parliament with the majesty of the parliament here, including me. That is an important part of that.

One of the real tragedies, I think, of current politics globally is the rise of populism. People disrespect institutions, they disrespect process and they want the cult of a leader who will solve all of their problems. When I watch Trump at a rally with people chanting, I see Nuremberg all over again. I see people who only want a leader to lead them to what they think they want without having to think about it and without even to engage in it. Parliament forces you to think about what you

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are saying, what you are doing and it gives a chance also for the other side to be heard. Parliament needs to have the numbers to do that.

If your only job is to provide a talent pool for the ministry, there are other ways of doing it and probably more effective ways of doing it. To make the point again about the conflict of interest, if you look at Norway - I'm going to Norway as part of this work I'm doing next week - in the Norwegian Parliament, if you become a minister you actually leave the parliament and you go sit in your executive office, and the next person on the party's list comes into the parliament. That person is looking at you and thinking, 'If you don't do a good job, there might be a vacancy in the ministry for me'. You actually recreate that sense of the parliament not just being the rubber stamp for the ministry; it is there to make the ministry effective, and of course the party should want the ministry to be effective.

Ms DOW - My last question is around the number of days we sit in the parliament. You mention that in a number of your public commentaries, but also your submission. What is your view about that?

Dr HERR - I think the public misunderstand it. I think the public think that if you're not in the classroom, as it were -

CHAIR - Yes, we're on the beach.

Dr HERR - I think that in a lot of ways, if you have the numbers to have more committee hearings and, again, Madam Speaker's support, legislation doesn't have to be passed yesterday. One of the studies done of the amendment of legislation showed that at one point - I can't remember when it was, it was certainly 10 to 15 years ago that the study was done - almost 80 per cent of the amendments in the upper House were government-proposed amendments. Why would you have to amend your legislation in another place?

CHAIR - It has happened many times in the upper House with government-proposed amendments. Now, why would you have to amend your legislation in another place -

CHAIR - It has happened many times in the past five years, and particularly in the first term of the new Liberal Government, where legislation was rubber-stamped through the House of Assembly and had to be fixed upstairs, often by the Leader for Government Business.

Dr HERR - Yes, that's my point. If you had better committee scrutiny of legislation in the lower House, without a gun being held to the parliament - this has to be done - how can a person who is your subordinate hold a gun to your head and tell you what you have to do? I don't see how you can appreciate the reversal of roles. To me it's just appalling.

Mrs RYLAH - Richard, thank you very much for your insightful submission. I would like to turn to the section in your submission where you give us some indication of the Samoan parliament in terms of the ratio of ministers to members and you suggest no greater than 25 per cent; no greater than one in four. If we look at the current Tasmanian parliament, including both Houses, we have nine ministers, so 9 x 4 is 36, plus one equals 37. Currently, if you take both Houses, we have more than that. Can you explain to me what you are actually suggesting here?

Dr HERR - I'm suggesting first of all that, to me, the fundamental benchmark is that the backbench ought to be larger than the front bench in the lower House.

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Mrs RYLAH - That is the first principle, do you think?

Dr HERR - Yes, then we can cope with the significant role that political parties play in the structuring of the activities of parliament, because you get a more representative spread and a front bench that realises it has to keep the backbench at least on side because if it doesn't it can lose control of it and that's even more frightening than going to the polls almost. That is the principle. In my appendix I show you that other parliaments have tried to use the upper House as a way of regaining that balance to a certain degree, because as long as the backbench in the lower House is larger than the ministerial numbers in that chamber at least you get a nod in the direction of that. We just fail, absolutely, in that regard.

Mrs RYLAH - Okay. Could I paraphrase then? I think what I am hearing you say is that the lower House should have no more than 25 per cent of members as ministers. Is that what you're saying?

Dr HERR - That would be at least my ideal starting point, yes.

Mrs RYLAH - Okay, so with the current structure of the Tasmanian electoral system, we have seven electorates, five members, multi-member, all that sort of thing. I tried to do the maths to come up with a number around this that both divides by five and gets to where you want to get to. Any comments or thoughts? What about the electoral system and the electorates?

Dr HERR - Again, I think that the electoral system does what Andrew Inglis Clark wanted, which was to try to create a situation where parliament was more representative. That was part of the small 'I' Liberal philosophy of the era, which was that individuals ought to be responsible for themselves. Nobody knows your interests better than you do, you should be able to express it and it should not necessarily be filtered out by political elites. In that sense, that was his objective. Today I will be satisfied if you can persuade the parliament to restore its numbers - the House of Assembly and the Legislative Council, just be clear on my use of the word 'parliament' here - to the pre-1998 numbers.

If you look at that appendix, you will see that relatively small states like South Australia and Western Australia feel that they need ministries significantly larger than we have. There is an argument that we should have a larger number of ministers with a larger parliament to be more generally effective. I have dealt with small parliaments all my life in various parts of the world and I understand that there are limits to how far you can go, but I think at the minimum you have to have a lower House that has enough numbers to allow the parliament to act independently of the executive, essentially through the committee system but also in grievance debates and all the other times when backbenchers get a chance to get up and speak for the community and make the community feel they have a stake in what happens in parliament.

Ms HICKEY - Just to give you an example of the complexities of the trouble we have with such a small parliament at the moment, we talked about the difficulties of getting Mr Tucker across all those committees. Literally to get the dates to hold this committee, to get the three backbenchers from the Government, since one has been made a minister and another has resigned, it has been a nightmare just to have this committee to look at whether or not we need to increase the size.

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As to the other thing you mentioned about rubber-stamping, I could probably think of five occasions when I have queried a bit of legislation and been told, 'Don't worry, it will be fixed upstairs', which I think is appalling governance.

Dr HERR - It is.

Ms HICKEY - It should never come to the Floor without being in its best form and ideally I would like to see it go through that committee system.

Given the time I has taken to consider this, the decades, and the wavering will of the major parties to honour the commitments they have made in the past, I noticed with great interest in the ACT's last revision of the size of parliament that they made recommendations saying if the least they can do is increase the size of parliament they should review it in 2020, I think it was, to increase because the population will have expanded to 400 000 and then another size was recommended. Do you think there is a scope for us in our reporting here to say the same sort of thing, that this is the very minimum it should be, just restoring it, and with the complexity of society and the issues we are dealing with and the increasing number of people, that we should set targets for years to come?

Dr HERR - I guess my first reaction is: don't frighten the horses. I would hate to have the reactionary forces say this is a stalking horse for an even bigger parliament. The restoration should be the first and fundamental change. We've seen how hard it is to get it done, let's get it done. I would agree that a review of the effectiveness of parliament - and I mean here parliament as an institution, not governance or government - ought to be something that happens. People don't want to pull daisies up by the roots to see whether they're growing properly. People won't do that, but as you do reviews of standing orders and so forth, it wouldn't hurt to set benchmarks as to what parliament ought to be able to do, and have if not quite millennial goals something like that to say that every decade we would like to compare it with what we thought we were going to do against how we have achieved it. Certainly I would be in favour of it.

Ms HICKEY - So you would rather tie it to time than population?

Dr HERR - Yes, because the point is that there are economies of scale and those economies of scale do not always work out just on the issues of population. You make the point about technological change. We are dealing with issues today which require profound investigation that were never on the agenda. Just over a century ago, almost all the legislation that was passed was private bills - whether somebody should have a turnpike, whether a canal should be built and this sort of thing. It wasn't public legislation. Public legislation is only a feature of the twentieth century. That has been a consequence of the proliferation of issues that require regulation. I don't want to sidetrack. I was warned by one of my colleagues not to go down all the rabbit holes. Things like the role of parliament in reviewing delegated legislation are critical. Delegated legislation is what gives the parliament's authority to make laws to the executive. You should not be giving it away without making sure that you agree that the regulations are in order. That is a fundamental part.

You need an effective subordinate legislation, delegated legislation or whatever you want to call it, committee, that can do that on a very timely basis. Why should somebody who is adversely affected by bad regulations have to then retrospectively seek some sort of compensation or adjustment, or just learn to lump the consequences that the parliament didn't even endorse.

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CHAIR - Dr Herr, can I just take you back to the question of population relative to representation? In the research we've done, it is clear that Tasmania's lower House doesn't perform well on ratios. The average size of a lower House for states with a population between 400 000 and 600 000 like Tasmania is sitting at about 45 members. What is the population of Samoa?

Dr HERR - It's a little over 200 000.

CHAIR - So 200 000 people with a 49-member parliament?

Dr HERR - Fifty now, but yes.

CHAIR - Tasmania has the seventh smallest combined legislature of the 75 bicameral parliaments. Even if we restore the numbers to 35, we will still be 10 seats short of the average size of state parliaments in our population range. There is an issue here, isn't there? There is the Westminster system and respecting that and respecting the role of parliaments. Given that the foundational principle is one of representation, Tasmanians are underrepresented by their parliament, aren't they?

Dr HERR - I agree with that. I would agree that the institutional support for representation is inadequate. I wouldn't impugn any of your right to say that you're doing a good job of representing your constituents.

CHAIR - We try.

Dr HERR - The institutional support for it is far too small. The reason why those parliaments are the size they are isn't just representation - it is the balance between government and the legislative institutions that hold governments to account.

CHAIR - Dr Herr, we have the submission from the Premier to the restoration committee. Have you had a chance to have a look at it?

Dr HERR - No, I haven't.

CHAIR - It is a letter to the committee dated 28 March and it contains Department of Treasury and Finance cost estimates. The Premier says -

While the Tasmanian Government acknowledges that there is some community support for an increase in the size of the House of Assembly it must be considered in the context of other competing funding priorities.

We would argue restoration, rather than increase. There is an indicative estimate here from Treasury and Finance of restoration of the numbers. It doesn't include offsets in a reduction in the number of political advisers. What are your thoughts on the costs to the public purse of restoring the numbers?

Dr HERR - First of all the glib response, 'What price democracy?' It's not glib. I am pretty sure it was Rene Hidding who said in the first review after the 1998 change that the cost of minders and ancillary support vastly exceeded the cost that was saved on the salaries of the members. I think that says it all. You can confect figures to say if we start from now it's going to cost more. Go back historically to what the costs were, how they changed. Peter Boyce, in his submission

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eight years ago, made exactly the same point - the costs were vastly more serious than the bean counters would have you believe.

My first degree was in economics and I was smart enough to get out of that straightaway. I do not want to go back to saying that I follow the economics of it all. Anecdotally, and just in the experience of the Chamber, how much does it cost to undo a mistake that has been done because the government has backed a horse that would not have been backed had the parliament had been able to do its job?

CHAIR - We are just about out of time, Dr Herr. If anyone has a last question, put your hand up. While you are thinking about that, you have detailed in your submission the unfortunate lack of action. I would argue courage after the 2009 agreement between the three leaders, David Bartlett, Will Hodgman and Nick McKim. If you had a message now to give to the parliament and the leaders in the House, what would it be in relation to the Restoration Bill?

Dr HERR - I would have to say to the parliament - defend your historic rights, you are not the subordinate of an all-powerful king. The fact is that you exist to be the people's guardian against abusive government. That is it.

I would also say to the executive - remember your place. It is a responsible government. You are responsible to the parliament. It is not up to you to tell the parliament what the parliament should want, what the parliament should do.

I get angry then. This is it.

How can you have a responsible government where the government holds the parliament responsible for being a rubber stamp? It is ridiculous. I do not know how you can defend it. If the Premier comes to talk to you ask him on what grounds is he doing so? He is asking you for supply and then he is telling you what you can do with your supply?

Ms DOW - On page 6 of your submission you outline very well the roles of a parliamentarian but we have not talked a lot about electorate sizes and the increase to seven-member electorates as proposed under this bill. I want you to quickly cover your thoughts on that and the roles as a local member, which are equally as important and have lots of competing priorities as to your role as a parliamentarian.

Dr HERR - I think that the capacity to share the load of representation gives greater confidence to the public that somebody will be available to see them. The minister who lost his seat and blamed it on the fact that he was too busy being a minister and not being a local member. I make the same point here that I would make about the committees: governments have as much of an interest in having local members protecting the ministry by making sure they are well connected with their electorate as the representational role of the parliament. The ministry needs to have local members who are effective, who build a constituency of support for what the minister is doing. Putting it in self-interested terms, the ministry should be delighted to have more backbenchers looking after the constituents and making sure that the constituents know that what the government is doing, what the minister is doing is suiting their interest.

For those people who do not support the government, having more backbenchers or having more people who are focused on constituency work gives them confidence that they have someone they can speak to.

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When I first started watching this, before some of you were born - in the early 1970s - members used to have surgeries and they would say with a notice in the paper, 'We are holding a constituency surgery at such-and-such a pub, come and talk to us.' You hardly see that anymore.

Ms HICKEY - Coming back to the fact that we are all parliamentarians and all here to hold the government to account, I understand the political point of view here, but should nothing change with this procedure, what would you think of the idea that committees could be made up of more members of parliament, as opposed to be restricting to three members from the government, three from the opposition and one - because they are all parliamentarians, if you take your example?

Dr HERR - First of all, I would resist increasing the number of joint committees between the two Houses simply because when that was tried after 1998, it ended up being a case of the government seizing control of upper House committees by getting the numbers. That experiment wasn't a good one.

In terms of more parliamentarians regardless of the party they belong to - unfortunately we do have to accommodate the fact that the major vehicle for articulating political activity is through political parties. If you end up allowing committees to be made up of basically non-governing party members, then the committees get discredited in that kind of partisan way - we are going to stab the government in the back.

What we found in New Zealand with their committees - and committees by and large do tend to have a different dynamic anyway than the Chamber. You are sitting beside each other and talk to each other. I think that is not a solution that would work and I would hesitate even encouraging it as a possible bandaid on a haemorrhaging wound. It's not going to work.

Mrs RYLAH - What do you think parliamentary solidarity in the Tasmanian lower House would look like? Can you summarise that?

Dr HERR - Parliamentary solidarity is reasserting the historic majesty of parliament, making sure the parliament has the capacity to behave as the supreme institution in the governing system. I keep coming back to it: although it isn't written in the Constitution Act, it isn't part of any document that we can point to, all our constitutional conventions tell us that we have a responsible government model, where the government is responsible to the parliament and the parliament therefore has to have its own independent identity that it expresses. At the moment it is very difficult to see, with the parliament slimmed down to virtually a government and an alternative government, that there is any identity of parliament at all. That's what deeply concerns me.

CHAIR - Richard, thank you very much and sorry we have kept you over time. Thank you so much, and for the extra time you have given us today. As I advised you at the commencement of your evidence, what you have said to us today is protected by parliamentary privilege. Once you leave the table, you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you have said to us. Are you comfortable with that?

Dr HERR - I am, although I have to confess I resist the notion of effective repetition. I think that was bad mistake.

CHAIR - 'Effective repetition'. Do you think I effectively repeated myself?

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Dr HERR - No, effective repetition is something we will talk about later. It is the New Zealand case that said that you can't even say that you stand on your record, which is crazy.

CHAIR - We get a bit of tedious repetition downstairs but effective repetition is a bit -

Dr HERR - That's fine. Sorry, I was making a joke, Madam Chair, and I apologise for that.

CHAIR - I like it. Thank you, Dr Herr.

Dr HERR - I hope you think that the 20 years wait was worth it. Thank you.

THE WITNESS WITHDREW.

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Mr REG WATSON WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Welcome, Mr Watson. For procedural purposes I need to read a statement before you give evidence. Have you received and read the guide sent to you by the committee secretary?

Mr WATSON - I have.

CHAIR - I will reiterate some important aspects of that document. A committee hearing is a proceeding of parliament. This means it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place out of parliament. It applies to ensure that parliament receives the very best information when conducting its inquiries. It is important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred by you outside the confines of the parliamentary proceedings.

Mr Watson, this is a public hearing. Members of the public and journalists are present and this means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private, you need to make this request and given an explanation prior to giving the relevant evidence. Does that sit comfortably with you?

Mr WATSON - I understand.

CHAIR - Thank you, Mr Watson. Did you want to make some opening remarks just to speak off your submission, which we have all received and read?

Mr WATSON - No, I give my submission as just an interested member of the public. I am not representing any body or group, just myself and my personal opinion on the matter.

CHAIR - Your submission is a very interesting one because you go to some of the arguments that may be put against restoring the numbers and then you come down on the side of restoration. Why do you believe Tasmania's parliament needs to be restored?

Mr WATSON - I think that it is necessary for effective government. I think, with the small number that we have, Tasmanian people are not receiving the best type of government they could possibly have or should have. Representation with the low numbers is very, very high to the individual or the electorate. Also, I am wondering whether those ministers that have five or six portfolios have the time or even the ability to skip between them. Some of them are quite different in nature to the other portfolios that they have. Better representation to the normal people - whether it is being overworked, for the ministers who have so many portfolios, such as the Premier, who has another five, I think, besides being the Premier, which I thought would have been enough in itself. Also, with such power having five or six portfolios, is it becoming a position of authoritarianism?

CHAIR - Do you want to elaborate on that a little bit? How could a smaller parliament and therefore ministers carrying numerous portfolios lead to authoritarianism?

Mr WATSON - I think with too many portfolios, too many ministerships, there is that possibility that one becomes a little bit drunk with the amount of power that they have. I think it is

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best to break up power as much as you possibly can and I believe that is what should happen with the increased numbers: there should be more politicians, more ministers with fewer portfolios. I can't see how a person, even though they are competent - and they are competent - can handle six positions besides the position of Premier or whatever position they may have. I couldn't do it. I couldn't devote adequate time to each. That would mean I would have to be overworked perhaps, and that's not good for the individual physically or mentally. We need the best type of politicians we can possibly have and we need them fit, mentally and physically. It is necessary for them not to be overloaded in their workload. I say that not out of sympathy for politicians, although I do know some and quite like them, but for the betterment of government in Tasmania; for the electorate, if you like. That's who I am representing today, just the people. Hopefully that has adequately answered your question.

CHAIR - It has. Mrs Rylah has a question, but I will just ask one more off the back of that answer. You say in your submission you are here representing everyday Tasmanians but as an astute and long-time observer of Tasmanian politics. If you did a street poll of Tasmanians about restoring the numbers, I'm pretty sure the findings would not be encouraging. What do you say to everyday Tasmanians who say we've got enough politicians already?

Mr WATSON - What you say is totally correct. Everyone I talk to mainly says we are over-governed, we are over-represented and it is expensive, but there is another side of the story which I have presented in the submission. That may look great on the surface, but if you analyse it a lot more it's not necessarily so. I agree that people will say we are over-governed, but how are we over-governed? It is not necessarily because we have politicians representing us. I would submit the more politicians, the more ministers - not outrageous numbers, of course, but to restore what we had - is better representation to the electorate. That is a reversal of the thinking of my colleagues, if you like, but as I said, when I analyse it, I come to a different conclusion. Whether I'm right, we shall see, I guess, if it does move back to how it was or even more, but time will tell.

Mrs RYLAH - Thank you very much for coming in today. My question is exactly to the point that has just been raised about over-governing. When the constituents talk about over-governing, do you think it could possibly be that they conflate the bureaucracy with the parliament and with the bureaucracy they have no leverage or power and that is what they see as over-governing?

Mr WATSON - I think that is a part of it. As to having no power, I would say they have great influence and I think that is a concern.

Mrs RYLAH - The bureaucrats or the constituents?

Mr WATSON - No, the power of the bureaucracy. They may not have direct power but they certainly do have influence. We heard a moment ago about the minders. When I was growing up and knew the then-premier Mr Reece, neither the premier nor the ministers had minders. I think they came with the subsequent premier - the fellow from the north-west coast.

Mrs RYLAH - Ray Groom?

Mr WATSON - No, I know him as well as anything. Labor.

CHAIR - Field?

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Mr WATSON - Yes, I think the first came with Michael Field. Mr Reece, whom I knew - in fact the first journalistic article I did was on his retirement - said if he can't govern or be a premier without minders, without the help of his cabinet and his parliamentary Labor people, he shouldn't be premier. The influence of minders I think is silent but is very profound and often they are paid more than the premier or the ministers themselves.

CHAIR - Significantly more.

Mr WATSON - Significantly more, and I've seen this grow. In the olden days when I was young, one could ring the minister and get to see him or her and have an appointment, but now you can't. You have to go through the minders and if you're lucky you might get an appointment, but it's usually the minders who handle your situation. That is not adequate. What has happened here is that the perception of politicians is that they are becoming remote from the people and it's not good. The understanding and the appreciation of the work of politicians is not fully understood by the people and they see this front side, if you like.

I can remember my friend Bruce Goodluck was very critical of people who criticise politicians, because he said that most work hard, and they do, and most are competent, and they are, but we have a situation now where they are becoming remote from the people, like CEOs of big corporations - try to contact them. With extra people or representation, we can alleviate this problem to some degree at least.

Ms HICKEY - I am very much in agreement with your paper. I think I have been reported publicly supporting much of what you have said, so it is good to see it in writing from someone who knows what he is talking about.

Mr WATSON - Thank you.

Ms DOW - The Chair asked you before, Mr Watson, how you think we can go about engaging better with the community on an issue like this? You gave an answer but did not directly go to the heart of how we portray to the public that this is required. As a layperson in the community, a community-minded person who just wants to see things done differently and better so people are better represented, how do we go about doing that, not just as parliamentarians, but as community members?

Mr WATSON - I think access. Coming into the numbers of 25 representing the House of Assembly, there is one representative to 20 000 people. If we increase it to 35, it becomes one in 14 000 people. On the mainland, you get electorates of 100 000 and 200 000 people, so the idea that you could possibly strike up a relationship, which is very important for their electorate, particularly in Tasmania because that is our way of life, is important. The more representations to the lower numbers are of benefit, and I think it is a benefit to the politicians as well because they get to know their electorate as well. There is also the issue of direct access, even to ministers. How many times do you ring, say, the Premier, and someone says 'Yes, he will get back to you', but no-one rings you back and if you get a letter back, it is written by someone else.

When I write to the Premier - and I use him as an example; I'm not picking on poor old Will at all - or to a minister or a politician, I expect that minister or politician to write back to me, not someone I have never met, never known, and never addressed the letter to. I sent a letter the other day addressed to Mr Hodgman, and that was fine, one of his ministers replied, but you can see it is just a stereotype letter because it wasn't even signed, so I wrote back, 'Thank you very much for

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your unsigned letter'. It is about access and personal contact and I think that works. I don't want to sound rude, but the perception of politicians at the moment is not good PR so any way we can improve it -

CHAIR - No it's not, we are all very acutely aware of that.

Mr WATSON - We will all benefit from that.

If I can cite one example, at a citizenship ceremony at Glenorchy there was a politician there - I won't mention the name - and she got up and said, 'If I can help you in any way, come and see me'. We were having afternoon tea and this poor fellow came up and said, 'I've got a problem with the Glenorchy Shopping Centre lifts', and she said, 'Look, it's not my problem, go and see so-and-so'. You think, 'Wait a moment, one moment she said come and see me and the next minute she's brushing him off'. That's not good. I know we're not perfect, we can't be perfect, we can't satisfy everyone at every time, but I think we have to do our best and if we say something, perhaps do our best to live up with it. I know it is a simple answer, but ready access and not fobbing off or having someone else deal with your problem who you don't know, and you know that it has just been a typed response, and you think to yourself, 'I didn't even write to that person'.

Ms HICKEY - I share your frustration on that. As elected representatives, we regularly write letters requesting information on behalf of our constituency and we receive the same droll comment back three months later, which is not much help. It is just as difficult when you are in government sometimes to get past the minders to get the answer.

Mr WATSON - I heard what you said about how long it has taken to get this committee going, but I can recall when I crossed swords with you about a certain term that you used.

Ms HICKEY - Australia Day?

Mr WATSON - No, it wasn't, it was another matter. Anyway, you had the good grace to ring me up and say 'Come and have a cup of coffee', which we did. We discussed it and we came to a mutual understanding. That is good. I am no-one, but you took the time.

CHAIR - No, that's not true.

Mr WATSON - Thanks you, that's very kind.

CHAIR - You are an equal participant in our democracy. You are an active member of civil society and you shouldn't talk about yourself like this. We are all equal at this table, Mr Watson.

Mr WATSON - You are quite correct. People have said to me, 'I'm only a cleaner'. I said, 'You are not only, you're a cleaner and an important part of society'. What I was saying to Sue is, it worked. That's access. It was you coming to me. I am not suggesting with hundreds of thousands of people you can ring up everyone, I know that, but that was when you were lord mayor.

Ms HICKEY - I still try to keep an open door policy now. It is increasingly difficult because to do the work that is expected of us, get the answers for that person, or to get them through the system, I see ourselves as elected representatives connecting the people to the Government, and sometimes we can't get through it ourselves.

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Mr WATSON - That's a worry.

Ms HICKEY - It is a worry.

Mr WATSON - It reminds of *Yes Minister*.

Ms HICKEY - It is very much *Yes Minister*.

CHAIR - We get a fair bit of 'No Minister'.

Mr WATSON - That is concerning. We do need direct government and that is important. As I said, I think direct access to even ministers. What you are saying comes back to my point that competent as these politicians may be - most of them - how a person can have a portfolio of, say, Premier - and again I am just using that as an example - and have five other portfolios? I can't see how they could devote an equal amount of time to them all. I can't see how effectively that portfolio can operate under such a workload. Either you've got to increase the number of politicians to have less portfolios per minister - I think we have nine ministers and 35 portfolios - or get rid of the number of portfolios and have fewer portfolios for each minister.

CHAIR - Like Defence Industries, for example.

Mr WATSON - If you go through the list, which I have left at home, I guess there is a number that you could.

CHAIR - In answer to your question, having held four portfolios, what ministers do inevitably is triage. You would put most of your attention to the most human impactful portfolios and not enough attention to the others. It is a triaging process.

Mr WATSON - Yes, I know, but that then would mean employing extra staff.

CHAIR - We are relying on good bureaucrats as well.

Mr WATSON - That has a tendency to grow and grow and grow and grow, and then that is more expensive.

One of the questions that people have is: isn't a large number of representatives - and 35 and 19 is not large - more expensive? It would be interesting to find out what the cost was in 1998 when it went down compared to what the cost of running the government is now. I would say there is not much difference. There are ways and means you can save costs. Having extra politicians may seem a rather strange statement to many, but I think that is of benefit to the electorate and means better government to the electorate. I believe the access of the politicians to the electorate is increased as well. We say government for the benefit of the people or whatever it is, by the people for the people. We need that and we need that to operate. With a minister you can't see because he is so busy or just doesn't want to see you, it is not good PR. It's really not good PR. I have been around a long time, as Sue knows, I'm 70 this year, and I know we live in a different age. Coming through the door there, I used to be able to walk through. Getting out is a problem, they bang the door on you. I don't know whether it's even legal, but things have changed. They say it's terrorism and all of that type of behaviour - I don't know, perhaps it is. It has to be a direct, simple access to the government, otherwise people find themselves remote and they build up resentment and the government find themselves remote. They really don't know how the electorate is thinking.

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Ms HICKEY - I think your argument is sound. If you think of politicians as providing a service to the community, it is like saying if we don't employ enough ambulance people, we can't deliver the service; if you don't employ enough nurses, we can't deliver the services; and if we don't have teachers, we can't teach our kids. If we don't have parliamentarians, we can't deliver good governance.

Mr WATSON - I think you're correct and this is the challenge: to convey that message to the electorate because if you recommend, and I guess you will, to the Government to increase the number of politicians -

CHAIR - Restore.

Mr WATSON - Restore, I don't know how the public is going to think about it, 'Oh, no, here they are again.' I think it is important not only to restore the numbers but to explain fully, if you can, through different avenues - and I am not too sure what avenues you have to directly access the public - to explain why we're doing that and the benefit to the people if that is the case.

I don't think that has been explained. When it happened, I think it was Ray Groom who actually brought it in and Tony Rundle implemented it -

CHAIR - That's right, with Jim Bacon.

Mr WATSON - With Jim Bacon, it was very popular. It came on the increase of the wage by 40 per cent and that went down like a lead balloon. I can remember even popular Michael Hodgman being accosted in the local pub down here when I was in there for lunch and he had difficulty trying to explain it. It wasn't a good move. I can see that the response of the government to that was to tell the people we're going to have fewer politicians and that will be popular. I think it was and I think it probably still is, but it is to the detriment of the electorate. I think the challenge is to explain to the electorate why we need bigger government and what benefit it is to them. The electorate is only going to worry about the benefit to them, not to the politicians. It is human nature.

Mrs RYLAH - I would like to suggest to you, Reg, is it that it is bigger government or an accountable government?

Mr WATSON - That's a good point.

Mrs RYLAH - Isn't what we're trying to get across here that we want to increase those that are accountable to the people and decrease those that are not?

Mr WATSON - I think the word that you use, 'accountable', is a brilliant word and I think that should be used in explaining any increase that we will have. I think that is very good, not expansion of government and everyone will say, 'Gosh no', but a more accountable government is good.

CHAIR - I did ask Dr Herr this question, Reg, but I will put this to you as well. Have you had a look at the Premier's submission?

Mr WATSON - No, I haven't.

CHAIR - The Premier wrote to the committee and raised the concern about the costs and has put forward estimated costs associated with the proposed bill. You have made the point earlier that

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it would be interesting to compare what executive government cost to run in 1998 and what it costs now. As an indicative, we talked before about salaries. We know there are ministerial advisers and advisers to the Premier who are earning twice as much as an elected member as it is now. What is your response to the concerns that have been raised by the Premier in his submission about the costs of restoring parliament?

Mr WATSON - I take it in his submission the Premier has stated that it's best to leave it as is?

CHAIR - No, it's not that definitive, it is just raising with the committee a set of projected costs, which doesn't - as far as I can see - offset the costs of potentially fewer advisers being needed if you had greater representation, fewer portfolios and more parliamentarians to share the load.

Mr WATSON - Obviously there will be extra costs if we have 10 more politicians for the lower House and four for the upper House. However, as I explained before, there are ways and means of cutting back costs if you need to. One, as you have mentioned, is the extraordinary wage given to minders, and I've seen the number of minders expand. I think Mr Field had two, but since then it's grown to other ministers, so costs can be cut back there. I made mention of what Eric Reece once said about minders. Perhaps they are necessary, I don't know, but it seems to have ballooned out of all proportion. Perhaps it is also necessary to cut back portfolios.

I remember I interviewed old Bill Hodgman once about the workings of the Legislative Council, and he said, 'What you do with figures is just jumble them around'. It is a very *Yes, Minister* type of thing, but he is right. Just jumble them around, cut back here and add there. Cost is a concern and cost will be a concern for the electorate. I understand what Mr Hodgman is saying there, but I don't think that is a major factor in the whole thing. I think there are ways and means of overcoming that, going around it, skirting it, if you like.

CHAIR - Thank you, Mr Watson. Are there any final questions? We have just hit the 11 o'clock mark.

Ms DOW - I just have a comment in regard to your submission. I really enjoyed reading about your take on the role of government in our lives and how perhaps that is misconstrued as a perception of over-governing. I just wanted to congratulate you on that, it was very good.

Mr WATSON - Thank you. Can I have that?

CHAIR - Yes, sure. Have I written anything damning on that? No, that's fine. Thank you so much for coming in to present to us and for the clarity of your comment. It was the old journalist in you coming out; it was really good and straight to the point, so thank you very much, and for your submission. I have to make a short statement before you leave the table. As I advised you at the commencement of your evidence, what you have said to us here today is protected by parliamentary privilege. Once you leave the table you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are repeating what you just said to us. Is that all good with you?

Mr WATSON - Yes.

CHAIR - Thank you so much.

THE WITNESS WITHDREW.

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Mr SIMON BOUGHEY WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Welcome, Simon. Before you begin giving your evidence, have you received and read the guide sent to you by the committee secretary?

Mr BOUGHEY - I have.

CHAIR - I need to restate a few important aspects of that document. A committee hearing is a proceeding of parliament. This means it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place outside of parliament. It applies to ensure that parliament receives the very best information when conducting its inquiries. It is important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to you by you outside the confines of the parliamentary proceedings.

Mr Boughey, this is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private you must make this request and give an explanation prior to giving the relevant evidence. Is that clear?

Mr BOUGHEY - Yes, thank you.

CHAIR - Do you want to start by making an opening statement that reflects the substance of your submission?

Mr BOUGHEY - Thank you, Chair. I have worked in the community in regional development for 30 years, I also worked for ministers in parliament and I just believe that the decision made in 1998 to go back from 35 to 25 really cut a hole in Tasmanian democracy. I personally believe that over the last 20 years it has been detrimental to the community of Tasmania. One of the great things about Tasmania is the democratic representation and we are seeing this change all the time. It is a bit like saying let us amalgamate councils from 29 down to even three, as some people have suggested. People are losing that ability to have their communities represented.

The Australian Capital Territory and the Northern Territory have the same size Houses. I know they are very different and are perceived as being very different, but they seem to have a representation that represents all their population and the requirements of their particular areas. I still think that with 520 000 people going up to 650 000 in Tasmania into the future, we need to be able to adapt and change to suit that and that is why I think we should go back to 35.

I think the other key thing, and having worked for a minister, is that the ministerial responsibilities on some of the ministers are quite overwhelming. You can have as many advisers as you like but when push comes to shove, it is the minister who has to make the final decision. I think even with the recent Cabinet changes or Cabinet roles over a number of years, some of the ministers can adapt easily to it but others find it very difficult and they are huge portfolios. Even though there may be two or three more Cabinet ministers, at least it allows for that and it also allows more members to do backbench work, which is really again talking to the community. With no disrespect to anyone in the House of Assembly, sometimes I think you find that the Legislative Councillors tend to have much more knowledge of their own local communities and some aspects.

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I don't want to sound detrimental to yourselves but it is because you get caught up in the party political stuff and the other bits and pieces. Anyway, that is just a personal view.

That's really it. I am very pleased I wrote a one-page submission and was invited to come, so I am happy. I do have a few other points but you can ask some questions. I think it is really about Tasmania into the future. There are so many positive parameters for Tasmania at the moment. Our economy in most areas is going well, we have very stable and increasing agriculture, forestry and mining industries, as well as our IT sector and our tourism sector. Our access to the world and the global issues and global economy is much more improved as well.

I think one of the things that has not changed is looking at where we take our parliaments into the future. Having studied that at university with federal systems, a country like Switzerland that is half the size of Tasmania has one federal government, 26 state governments and 1400 communities. They have a very strong democratic role. I think that helps the community.

CHAIR - You talked earlier about the reduction in numbers cutting a hole in our democracy. Do you want to flesh that out a little bit? What does that look like?

Mr BOUGHEY - We lost 10 politicians who had access to the community. Tasmania is in a very unique situation as a state because we have the same five electorates federally as we do state. It would be like saying let's push Tasmania back to what they should really have as a state federally on a population, which would only be three-and-a-half members. You can imagine how you would break up the different electorates. I think that is the same thing. There was a lot of angst and it was very political in those days. I think it was quite a strong political push by Labor and Liberals to cut out the Greens, if we're being honest about it, but I think at the same time it wasn't just about that. It was actually about getting rid of the right of people in those communities. I think if you have seven people representing your communities instead of five, it is a lot better and gives better access to those issues that affect people in different areas.

CHAIR - Were you working in government in 1998?

Mr BOUGHEY - No. I started in 2000.

CHAIR - But you worked with a minister who had been in parliament in 1998. You came into the political system after the numbers had been reduced. What did you observe at the time about the effect that that had on staffing workloads, representation -

Mr BOUGHEY - I suppose I was very lucky I worked for a minister who was very competent and across the whole of his electorate, which was Lyons, which covered everything from the east to the west coast. Mr Llewellyn was an excellent minister.

What I found over the time was that even for someone like David, who had a very big capacity, he really struggled with what was being put in front of him. There was water reform, a lot of environmental issues, a lot of parks issues -

CHAIR - Forestry.

Mr BOUGHEY - Forestry - a whole range of things. He was very competent. I can remember going away on a couple of ministerial council meetings. We were the first state to sign the EPBC with the federal government. It was a relief to get something we could work on with the federal

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government. It wasn't all down to the states. I think it is just workload. The stuff that is happening at the moment in Tasmanian politics, you are seeing that. Ministers are really struggling under very big portfolios.

The other big change is social media, and access to ministers. In the old days you used to write a letter to the minister. Now it is just an email or Instagram. It is the expectation.

CHAIR - Send a message on Twitter.

Mr BOUGHEY - That's right. Donald Trump is the master at it.

I think for the community it is important we go back to 35. You could even say 37 now, with the Aboriginal community wanting a couple of representatives. If you are going to go to 35, you can't go to 36, you have to go to 37. Perhaps two representatives who could represent them.

Tasmania is different. If you try to do it as a federal system as part of a party process, I don't think you would get - and this is no respect to the community - Aboriginal members into parliament, unless you had some very high profile people who would like to do it.

We might go to nine members in 20 years time because of the change in how the communities want to see themselves represented. People talk about going to single seat electorates in Tasmania. That would be a nightmare.

Ms HICKEY - Easier to do it if you are campaigning.

Mr BOUGHEY - It is easier to campaign for the Legislative Council. I worked with one of the candidates in the recent Nelson electorate. The calibre of people who nominated for that seat was one of the strongest I think I have seen in 30 years of politics. It was a really interesting electorate. It was a bit like Wentworth, a mixture of everything from Sandy Bay to the Housing Commission area in Blackmans Bay. Whoever got there did a great job. It was all about preferences because you could see them all work through. I think we need to get those candidates into parliament. I think people would like to get into parliament. You have all had your own journeys to get into parliament, whether it has been through local government or through the community. We have to encourage younger people to come into parliament as well.

Ms DOW - You didn't refer specifically in your submission to the role of backbenchers and committee work. What are your thoughts on that.

Mr BOUGHEY - I think it provides a bit more opportunity for ministers to say, 'I can't be on this committee. I'll let you run a committee on setting up regional development initiatives. Anita and Jane, can you run that for us?' We haven't seen a reduction in the number of committees. In fact there has probably been an increase in the number of select committees, House of Assembly committees and joint committees. The workload has to be able to spread through the community.

Mrs RYLAH - There are no ministers on committees, just to clarify that.

Mr BOUGHEY - Again it is about them getting out to the community. You take the select committees, or the committees, out to the communities so they can come and talk to you. Not everyone can come to Hobart. It spreads that workload. As I said before, it hasn't decreased. You

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probably find with your own staff, everyone keeps sending you emails, sending texts, and you have to answer them all.

Mrs RYLAH - What I hear, Simon, not only in your submission but in other submissions we have heard today, is a very strong emphasis on ministers. From my experience as a member of the Government people overemphasise, in my view, the role of ministers as opposed to the role of backbenchers. Do you think that has diminished? That is, the significance, the importance of backbenchers with the reduction in parliament or was it like that before? I am hoping you have some knowledge of it before.

Mr BOUGHEY - Again, I think it is a question of the media these days. It is much more intrusive than it used to be. I think ministers have become easy targets. No matter how much we try to change how we want to see the role of state governments, either here or across Australia, a lot of Tasmanians - not saying all Tasmanians - look to their parliament to be the leaders. In a smaller state I think it is even more important. Ministers do become very important in how we actually move forward. We always look for strong premiers and strong ministers. We've seen over four or five years some ministers have been able to cope and some ministers haven't been able to cope.

If you have a few more people you can bring up through that process over time it assists democracy into the future. I think it depends on the personnel in the parliament as well and the backgrounds. Some people have knowledge in particular areas. When I worked for Mr Llewellyn my background was conservation and agriculture. When David went to Health, I said, 'No, I have no knowledge, why would I go to Health?' I think there is that aspect. I think ministers need to be able to employ staff who have experience in those particular portfolios. I think that is a key factor.

The roles of departments have changed quite dramatically in the past 15 years. I think there has been a strong push for departments to answer the ministers. Instead of actually giving frank and fearless advice, they have become very defensive in what advice they may or may not give the ministers. Really good ideas coming out of the public service - no disrespect to them - just doesn't seem to happen like it used to. Because I've been out of the system I may not see that.

Mrs RYLAH - You are saying a change in role between how the ministers relate to their department and the department relates to the minister, but you are not sure whether you are seeing a change in how the backbench relates to the electorate and to ministers. You think that is more media-related and not related to the size of parliament?

Mr BOUGHEY - If you go to 35 or 37, if you had an extra 10 people out there in the community, those backbenchers can provide advice up through different channels to their ministers. If decisions are being made then they can say, 'I don't think that's probably a good decision. Can we try to reallocate funds here.'? It is that feedback into the community.

There was a very good article written recently in *The Mercury*, someone from the Australia Institute actually highlighted the ministers and members in each state. It was an opinion piece in *The Mercury* recently. We really looked like we were very, very low in the figures in relation to numbers and also ministers. It takes the same amount of administration for Tasmania as it does for New South Wales. It is just a different size in the budget.

CHAIR - Simon, your submission talks about proportionality, so population relative to parliamentary representation. You talked about Tasmania's population growing. There are some

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statistics available to us that show the average size of the lower House for states with a population between 400 000 and 600 000 is 45. Of the 75 bicameral parliaments Tasmania has the third smallest lower House, beaten only by two states in the United States of America, the Northern Mariana Islands and American Samoa with populations of 54 000 and 56 000 respectively. I will just wind up with this: Tasmania also has the seventh smallest combined legislature of the 75 bicameral parliaments and of these, only Corrientes has a higher population than Tasmania. Would you agree that relative to our population, which we know is growing, Tasmanians are highly under-represented?

Mr BOUGHEY - I can't agree with you more. As I said before, I think we are very well represented at a federal level and at the local government level with 29 councils. Whether amalgamations occur or not is irrelevant. It is in the middle that I think we are really are stuffed. I can remember we used to go away to ministerial council meetings and it was the small states coalition of Tasmania, ACT, Northern Territory and South Australia, but I think Tasmanians love to be able to have input into particular projects. You can see it in projects that are happening in Hobart with the cable car and the heights - the access to democracy. People are tired of just being quiet.

I think if you had an extra 10 members in parliament, there would be an opportunity to improve the debates in parliament as well and provide more input into those communities. As Anita was saying, the regional communities tend to suffer even more with the tyranny of distance, but it is important. While those five electorates might work on party lines, they also need to work on their own boundary lines, so the current five members in Clark or in Bass can work as blocs for their own communities. It is probably slightly different from some of the political parties, but that is what happens in some of the Scandinavian countries like Norway and Sweden. It is not all about adversarial politics, it is about trying to get the best results for what we're doing in the community, and Sue is at the forefront of change in Tasmania. We have to be able to adapt to that at the time. I think the other thing is the ability of ministers and parliament to make decisions so we can move forward in particular areas.

CHAIR - What is your response to the concerns raised about the potential cost of restoring the numbers?

Mr BOUGHEY - Well, 0.25 per cent of Tasmania's budget is \$15 million a year roughly, something like that, which is what it will cost -

CHAIR - To run parliament?

Mr BOUGHEY - An extra cost per year.

CHAIR - The extra cost estimate that Treasury and Finance has put to us is about \$7 million a year.

Mr BOUGHEY - That is 0.25 of the \$6.5 billion state budget. I mean, what is the price of democracy? Do we want Tasmanians to be represented in Tasmania through their parliament? If you add an extra \$7 million a year, that is \$7 million of roads et cetera. I think it is important that we have the ability to have a democracy and the cost is not the key factor. It is about social responsibility to all Tasmanians. I think that is the key for the future.

Ms HICKEY - Was it 0.25 or 2.5?

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Mr BOUGHEY - I think it is 0.25. It was a \$6.5 billion budget so \$7 million out of that.

Ms HICKEY - Do you have any views on parliamentary secretaries because I am a bit concerned that even by restoring the parliament back to 35, we will still only end up with nine or 10 ministers, and there are 35 ministries, some of which are huge and life-and-death stuff, like Health and Housing et cetera. Currently Tasmania is the only state that doesn't pay parliamentary secretaries to share the workload. Do you have any view on that?

CHAIR - Don't they?

Ms HICKEY - No, they don't get paid.

CHAIR - Well, they have been in the past.

Mr BOUGHEY - I think it is important. You have ministers and junior ministers so parliamentary secretaries should get paid for that extra responsibility. Jane is the new parliamentary secretary for regional and community development and I have a meeting with her. It is important to have access to those areas that may not be seen as the key drivers of the Tasmanian Government and health, education and housing are probably the big three areas at the moment. Infrastructure is probably the other one. I think it is important that people like myself can say I am interested in regional community development so I can go and talk to the parliamentary secretary for regional community development and then she can feed that information back up through to - I am not sure who it is.

Ms HICKEY - She gets an extra staffer but there's no payment for being a minor minister.

Mr BOUGHEY - I think they should be paid. I think in New South Wales about everyone in the state government gets extra allowances. They've all got a role.

For people like yourselves actually in parliament itself, it is where you want to be able to see the future of Tasmania going. We're not going to have 3 million people in the next 20 years. We might get to 650 000, so we have a unique opportunity to have a government that actually reflects our community.

I remember way back when they were talking about local government. In places like Queensland, where I do a lot of my work now, they have these regional councils. Around Mackay they merged nine councils into three and they pay their local members \$100 000 each plus an office plus a car, so it is like another level of government. We had a conference last year in Mackay and I reckon they mentioned the state government twice and the federal government once because they have become such a strong regional focus for their communities that they don't really need that thing. I don't think we have that strength here. One of the suggestions made was that if we went down to three regional councils in Tasmania, you would pay the councillors a similar type of wage and each of those regions could nominate three people to come into the House of Assembly so you get that regional representation. That would cause a few problems, I think, but we have to keep looking at different ideas across the board.

CHAIR - Earlier we were talking about cost estimates from the Premier's point of view. I should just make it clear that an alternative calculation shows that a 40 per cent increase in the House of Assembly equates to roughly \$3.7 million in 2018-19 terms, so we have an estimate from

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Treasury and Finance and we have an estimate just based on the information that we have, but your argument very clearly is that any cost of restoring the numbers is offset by the gains to representation and good democratic governance.

Mr BOUGHEY - Yes. You hear about people's loss of confidence in their political systems and I think there is an opportunity for the government and the current 25 members to look to the future and where we can say we are very proud of our government. We were talking before about taking government out to Launceston and Burnie so you actually have parliament in those places. People loved it when we were up there. People said, 'Oh God, the Government's coming to see us'.

Mrs RYLAH - There is a regional cabinet meeting on tomorrow and they are all open.

Mr BOUGHEY - Having worked when Tasmania Together was running with Lee Prince and all that community planning stuff, we must have gone to 200 or 300 communities around Tasmania and they all said the same thing - we want to be represented, we want to be heard and we want to be able to be heard by our council, our state government and our federal members. One of the other things that is happening is that there is a lot of blurring of the responsibilities between the three levels of government in Australia so all of a sudden federal politicians are weighing in on things that are really state issues.

Ms HICKEY - And equally local government is getting into the housing space because there is a vacuum created and they really can't do anything much at all.

Mr BOUGHEY - That's right, and also we have our different cultures. Hobart City Council used to be involved in a lot more public housing way back in the early twentieth century but it became a state responsibility, but do we really want to go down the American system with their counties so that local government looks after police, education and housing? I don't think it would work in Tasmania. I think it is really for the people like yourselves, the 25 in the House of Assembly and the Legislative Councillors, to really look at where you want to take the future of Tasmania and democracy in Tasmania.

CHAIR - Simon, Dr Richard Herr posits in his submission that restoring the numbers would go some way towards restoring public trust in the institution of parliament; would you agree with that?

Mr BOUGHEY - I think so, but I think at the same time we have to increase the knowledge of all Tasmanians in relation to our parliament and what it actually does serve the people, with school groups, education classes. It is all right to send kids off to Canberra and have a look at Parliament House.

Mrs RYLAH - They come here now.

Mr BOUGHEY - They come here now. It's important. Again, it is getting the people who are interested in the political arena, whether you get into local government through particular issues, whether it is business or whether it is through community. It is that flow-on effect of getting a range of candidates that represent the views of Tasmania. I think our proportional representation actually provides us with a very good gauge of how the community perceives things. Say we did go to seven, so 35, and you might get people from, say, One Nation or the Nationals in it, it's irrelevant. It's a matter of Tasmanians showing their democratic right and how they perceive the community. We have a very broad community, from very strong right-wing right through to a very strong

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left-wing community, and that is Tasmania. There are always going to be issues that polarise the community over time, whether it be the new wind farm up in the north-west or restoring Lake Pedder, it doesn't really matter - it is always going to polarise communities.

When the legislation comes down, it is up to the parliament to create the legislative base for the future of how decisions can be made. Some of the stuff has been death by a thousand cuts, such as some of our planning stuff is just - it's probably too political, anyway.

CHAIR - Don't make me sad. Do we have any further questions? Mr Boughey, is there anything you want to say in winding up?

Mr BOUGHEY - I hope you get to 35.

CHAIR - Yes.

Mr BOUGHEY - Or 37, whatever the number might be.

CHAIR - That's right, restoring the numbers, restoring democracy, I would argue. Before you leave, as you were advised at the commencement of your evidence, what you have said to us here today is protected by parliamentary privilege. Once you leave the table you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you've said to us. I am sure you understand that.

Mr BOUGHEY - I do.

CHAIR - Thank you so much for your time; that was really good.

Mr BOUGHEY - All success in your report and I hope you get it up.

THE WITNESS WITHDREW.

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Dr PETER JONES WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Welcome, Dr Jones. Before we hear your evidence and before you elaborate on your submission I need to make a statement. I need to ask whether you received and read the guide sent to you by the committee secretary.

Dr JONES - I didn't actually. It said it was attached, it was sent by email and maybe I didn't open it or something.

CHAIR - We will just see if Stephanie can help.

Dr JONES - I had some trouble with my computer.

CHAIR - I can detail to you what was in that statement, so I will reiterate the important aspects of it. A committee hearing is a proceeding in parliament, which means it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without fear of being sued or questioned in any court or place outside of parliament. It applies to ensure that parliament receives the very best information when conducting its inquiries. It is important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the confines of the parliamentary proceedings. This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private, you need to make this request and give an explanation prior to giving the relevant evidence.

Does that sit comfortably with you?

Dr JONES - Yes.

CHAIR - Perhaps you would like to make an opening statement to the committee about your thoughts on the House of Assembly Restoration Bill?

Dr JONES - My own interest in this issue, because I come from outside - I am not Tasmanian and I came to live here in 1992 - comes from working in Parliament House in Canberra, where I was a research officer in the Senate for six years. I have a long interest in parliamentary procedure and the history of politics and so on. Because I had never lived in Tasmania before I came here to teach at the Friends' School, I decided to do a master's degree as part of my professional development in Tasmanian history, which I did for four years. I was particularly intrigued by the history of the parliament because I knew nothing when I came to Tasmania. I was really lucky I worked under Michael Roe with this degree. I was really intrigued with the fact that when the parliament began in 1856, the House of Assembly had 30 members although the population was obviously far smaller.

I used my knowledge particularly in teaching humanities to high school students but also because I taught a civics unit for year 9, I particularly made a point of bringing students here and we used to sit in the gallery. I also took them around to visit various members of parliament in their offices. I tried to be right across; I visited independents and I took them to meet Greens, Liberals

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and Labor members. That way I was really trying to give them some kind of political education, which I think is fairly vital and missing.

In my reflections on the size of the parliament I don't want to repeat what I'm sure other people have already said. I note that the size of the lower House has fluctuated from 1856 when it had 30, which is one of the things I learned about when I was studying. In 1893 it reached 37, which was the maximum. Of course our population has been steadily growing. In 1959 it was restored after going up and down, I don't need to bore you with the figures, to 35 and that lasted until 1998. I think it is generally recognised that the reason it was reduced then was to try to remove the presence of the Greens from the parliament,

CHAIR - Highly unsuccessfully in the long run.

Dr JONES - Parliament sort of shuttled back to the old arrangement of Liberal and Labor taking it in turns and also to give members a whacking great pay rise on the grounds that overall it would save money. I think the evidence is, from what I have read of various hearings and so on, that it has not saved any money; it has actually cost us more because of the hiring of consultants and advisers, and having been one myself I know the role they have. If you look at the list of the jobs that various ministers have, you can see why because the parliament is just far too small. Even the Premier has five different hats to wear and the others seem to vary between two, three, four and five. It's just absolutely impossible. I think it has been a complete failure.

I note that in 2010 it was agreed by the three parties to restore the size of the parliament basically because ministers were overloaded and the advisers were costing more and more. The problem as I see it is why we can't work together on this if they agreed - Labor, Liberal and the Greens. What stopped it? There have been various statements, 'We're not ready now', this, that and the other. It is generally agreed between the three parties that we do need a bigger parliament, a bigger House of Assembly. We need new faces in the parliament. It is very difficult to get in if you are newcomer. We need new faces because we need new members to gain experience, ready to take on ministerial positions. We are having people coming in at the moment who are virtually shunted straight into a ministry, which is quite ridiculous.

I would submit, and it is just an opinion, that the reason they can't agree to say to the electorate, 'We're going to increase the size of the House of Assembly' is that they are afraid of two things. First, politicians are unpopular and there would be screams of outrage that we don't want more of them with their snouts in the trough, to use a phrase often used. I think that is rubbish because I have worked with politicians and I know how hard they work. I think the average elector has no idea how hard politicians work and how people will ring them up at any hour of the day or night, seven days a week.

CHAIR - Fifty- or 60-hour weeks.

Dr JONES - Yes. In Tasmania we are quite lucky that at least the place isn't as big as some of the other states.

I think the other misapprehension is that if we employ 10 more members of the House of Assembly it will cost more.

Therefore what I would submit is that if this exercise is to work and the three parties agree - and this is a really good time to do it, there is no state election until 2022, if all goes well - it really

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needs a public education campaign to explain to the electorate. That is why I put a lot of effort into explaining how politics work to my students. It will mean greater efficiency. Everybody is moaning about ministerial overload, the fact that they can't cope, and it's quite ridiculous. It won't cost more, and probably cost less if we don't have so many consultants and advisers running around the place. I think this public education exercise by all three parties will be absolutely vital as a pre-condition for restoring the size of the parliament. This is a brilliant time to do it. I think the key to it being successful is to educate the voters.

CHAIR - Thank you for that, Peter. I'm sure we all take onboard what you have said about the importance of community engagement. In a way this committee's establishment is part of that process because the bill was tabled late last year and all parties agreed that a committee should have a look at it and allow people to submit and make representation to tell us how they feel.

Do you agree that it is a hard sell to say to the Tasmanian community, 'You know how you don't like politicians, we're going to offer more of them to you'? How do you overcome that?

Dr JONES - I made the point that the reason I suspect there is no consensus between all three parties -

CHAIR - Not yet.

Dr JONES - is because they know it would be a hard sell. That is why I said we know it's reality. The only way to do it is by a tripartite agreement to educate the public. The facts are fairly clear. It is in the interests of democracy, ministerial efficiency and saving money. But you will have to educate the public because they don't understand.

CHAIR - Some do.

Ms HICKEY - We know more than anyone the restraints that are placed on this parliament due to its size and the inefficiencies in trying to get people onto committees - trying to get this committee up. It is just ludicrous. There is an incredible workload on our ministers.

Sometimes we talk about having to bring people along, and that is important, but if it was a united stance between three parties - it is about being brave and accountable and saying, 'We really do know that we're not delivering the right service'. I have made the analogy before. It is like you don't have enough teachers to teach classes, you don't have enough ambulance drivers to drive ambulances. We do not have enough politicians to adequately service good governance. Maybe if we can make some bold statements around the dilemma that we are in. Just to get this committee up, how many dates did we try? Joan has been the only consistent backbencher from the Liberals because one resigned, one went up to a ministry, and we have not been able to replace them yet.

CHAIR - No, that is right.

Mr JONES - That is why I said that given that all three parties ostensibly agree, it is a golden opportunity to try to explain to people why the system is not working and that it will actually be more efficient and will cost less.

Ms HICKEY - And be more accountable.

Mr JONES - Yes.

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CHAIR - It restores power in many ways to the people more broadly and probably diminishes the powers of lobbyists and advisers, would you agree?

Mr JONES - Yes. The other important thing for me, which I touched on, was that we desperately need new faces in the parliament. It is really hard to get in. We have a good balance of gender, which is pretty unusual, so I am really proud of Tasmania, but we need younger faces. They cannot get in because it is very difficult when there are only five. When there are seven, they will stand a much better chance of getting in, getting some experience, and training for the time when they have other responsibilities.

Ms HICKEY - And diversity of opinion.

Mr JONES - Yes.

CHAIR - Peter, your submission says -

The advantage of seven members per electorate rather than five is it makes for more democratic representation of Parliament, reflecting the preference of the voters, although it also means it is also more likely to result in a coalition as no one party will get a clear majority, so one of the two major parties needs to negotiate with smaller parties or independents to form a government.

Do you think that under a 35-seat parliament the chances of no party securing a majority are statistically higher?

Mr JONES - I don't know. What puzzles me, because I come from a European background, is that where you have the chance for a more diverse parliament, you usually do end up with a coalition. You negotiate and you get genuine debate. That is what is really missing. If you have different opinions rather than just two parties, you will have much more chance to actually debate issues. I think it is quite unusual in a parliament that 50 per cent or more of people will vote for one party, particularly if you look at European models. There are very few countries in the world except - I do not need to go into the ones where 99 per cent of the vote - I find it very ironic that having travelled a lot, lived in countries where people do not have the right to vote and here where we do have the right to vote, people are so rude about politicians and democracy and can't be bothered to vote. I find that very sad. I have heard of people who have died for the right to vote.

CHAIR - Exactly, that's right.

I am not a good mathematician, but I would have thought with a smaller House you had a higher chance of no party having a majority than in a larger house. I was wondering if you had based that on some maths or if it's -

Mr JONES - No, it's simply the assumption that it's fairly rare that where you have a wider choice of candidates more than 50 per cent would vote for one party. That is all that is based on, and looking at other countries, particularly Europe, where you do have a wider choice. I would say the best analogy is probably with the German Länder, the states in Germany, and they have this interesting setup where there is a 5 per cent cut off, which is another model -

CHAIR - A 5 per cent?

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Mr JONES - If you get under 5 per cent of the vote you are out, which removes some of the weirder ones that come up in Australia with all of this preference shuffling. I think it is a good model.

Mrs RYLAH - They don't have Hare Clark either, do they?

Mr JONES - No. Hare Clark is the best.

Ms DOW - You refer to your work as a former high school teacher and the engagement that you did with students around informing them about the role of the parliament and parliamentarians. I just wondered if you have any suggestions for us as parliamentarians about how we can engage better with school communities and more generally. I see that as a way of creating generational change about the perception of what work is done in a parliament. I would like to understand your views on other suggestions you might have about that.

Dr JONES - I don't think it's so much you that is the problem, the problem is the teachers. It is actually quite a lot of work organising to bring students down to parliament. You have to find a sitting day because they like to come to question time - it's the only time they ever see many of you - and all the paperwork nightmare involved these days was one of the reasons I retired last December - I just got sick of it. I always found members of parliament really happy and willing to see students. They always welcomed them when they were up there in the gallery and waved to them. This being Hobart, many people knew everyone. I think it's much more the effort of actually getting teachers interested enough to bring their students down rather than you.

The other thing is that when there is an election I have been a bit disappointed. A number of schools have had panels of people and so often the politicians pull out at the last moment and it is quite embarrassing - they run off for a photo opportunity at the airport or some such nonsense. I know the bulk of the electorate tends to be over 60 these days, which is terribly depressing, but if we're going to engage young people, they want to meet people, they want to know them, and they won't. They don't read the papers, they're only engaged through social media. I think it's a wonderful opportunity to actually go out and visit the schools and colleges and talk to the new young voters, because the present batch of 14- to 18-year olds will be voting in 2022, and engage with them about issues, because they do care. You can see that with the school climate strike and Extinction Rebellion. These are the new young voters and we've got to get them interested and involved, so there has been a bit of interaction on both sides. What I really wanted to stress was that sometimes the problem is with the schools. You have to get the teachers who are prepared to bring the kids down - they love it.

CHAIR - What about making sure that civics education is embedded in the curriculum in fact from the earliest age? I know that in Queensland in primary school we had a very robust civics education in the curriculum and I've been a bit surprised and disappointed by how patchy and variable the understanding of civics in Australia is when I talk to some young people.

Dr JONES - I totally agree with you but I'm not here to talk about civics education.

CHAIR - It is part of public education that we need to engage people in why we value the right to vote and why democracy is imperfect but the best model we have.

Dr JONES - Yes; I tried my best.

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CHAIR - Just before we release you, Peter, there has been some commentary and you talked earlier about what stopped the agreement that was made between the three leaders in 2009-10 and the fact that politicians are unpopular in broad terms and there was an argument about cost, which in fact is true because Lara Giddings as premier and treasurer was not prepared to support the restoration at the time because we were in the middle of the global financial crisis. If you had the opportunity to speak to the Premier and the Leader of the Opposition, for example, what might you say to them about this opportunity to support the restoration bill?

Dr JONES - I would say basically the same thing as I have said to you - what's holding you back? Is it fear that the people just don't like politicians because: one, you know the system isn't working and you are overloaded; and, two, you know it's costing more - all the figures are there - and the economy is not, as you said, the same as it was 10 years ago? So what's holding you back? I would want to ask them.

CHAIR - If I could make an observation, my perception is that while both political leaders agree that the numbers need to be restored, there is a hesitance to jump first. One or other of the leaders is concerned that if they say yes, we need to restore, then the other will use it as an opportunity to attack. Do you think what we need here is courage?

Dr JONES - Definitely, but it goes back to what I said earlier that it has to be a tripartite agreement or it won't work otherwise.

CHAIR - That is right.

Dr JONES - That is the negotiation you can go into.

CHAIR - While we're sitting here there is a definite sense of tripartisanship in trying to examine the bill and the issues it raises. Is there anything else you would like to say to us?

Dr JONES - No.

CHAIR - Thank you very much. As I advised you at the commencement of your evidence, what you have said to us here today is protected by parliamentary privilege. Once you leave the table you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you said to us. Is that all good with you?

Dr JONES - Yes.

CHAIR - Great. Thanks for your time.

THE WITNESS WITHDREW.

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Dr KEVIN BONHAM WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Welcome, Dr Bonham. I have to say a few words before we formally open the committee. Just before you begin giving your evidence, Dr Bonham, I would like to ask whether you received and read the guide sent to you by the committee secretary?

Dr BONHAM - I did.

CHAIR - I need to reiterate some important aspects of that document. A committee hearing is a proceeding of parliament. This means it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place out of parliament. It applies to ensure that parliament receives the very best information while conducting its inquiries. It is important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the confines of the parliamentary proceedings. Finally, Dr Bonham, this is a public hearing. Members of the public and journalists are present and this means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private, you must make this request and give an explanation prior to giving the relevant evidence.

Does that all sit comfortably with you?

Dr BONHAM - Yes.

CHAIR - Would you like to start with an opening statement that riffs off your submission a little, or do you want us to go straight to questions?

Dr BONHAM - I do not know that I have anything in great detail to add. I prepared this submission to cover a number of issues that were most relevant to my expertise. I see my role more as commenting on the electoral aspects of the proposed change and answering questions like which system is more likely to provide majority government, which people often ask. I can also comment on any technical electoral details of the legislation.

CHAIR - Maybe we could start there. Are there issues that you have identified with the bill?

Dr BONHAM - The one issue I identified with the bill, particularly beyond the general nature of the 25 versus 35 seat debate, was a concern about informal voting. Voters are currently required to number from one to five without error for their vote to be counted. They can number more if they wish. The bill would change this to one to seven. I have provided statistics showing that I think that would cause a substantial increase in the rate of unintended informal voting. Those of us who are heavily involved in politics and voting think that it is very easy for voters to number one to seven without making a mistake. When you look at how people actually vote, the numeracy problems out there in the electorate are severe. I am generally of the view that we should be looking for ways to include people's votes rather than exclude them.

In my submission I gave some historical evidence on the likely risks associated with amending it from one to five to one to seven. As a solution I suggested that we should look at the ACT system. The ACT has one to five but the ACT also has a method where if someone does just mark a one, their vote still counts. They do not say that on the instructions. With the Senate they say one to six

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but they in fact accept one. The ACT has a similar savings provision. The ballot paper will say number at least five but in practice they will accept just a one. They also have provision so that when someone gets much more than a quota, the ones that are just one are chosen to exhaust in preference to the others, so that the resourcing does not flow on to other candidates.

CHAIR - I want to be clear - there is no technical issues with the bill's drafting, it is the potential unintended consequences of increasing the vote requirement on the ballot paper from five to seven?

Dr BONHAM - Yes, that is what I saw.

CHAIR - One last question before I go to Mrs Rylah. We have had evidence put to us that restoring the numbers - I am interested in your psephological take on this - to 35 may mean it is more likely to result in a coalition or no one party getting a clear majority. What is your take on the difference between a 35-seat House and a 25-seat House in terms of the capacity for any party to form government?

Dr BONHAM - I have run a lot of simulations on this over the years as I have detailed on my website and summarised in my submission. In most cases, whether it is a 35-seat system or a 25-seat system would not have affected whether there was a majority government or minority government. The 25-seat system makes majority government more likely when the Green vote is at the low end - down around 10 or 12 per cent. That it is the level when you start to see the Greens often not winning the final seat. When the Greens' vote is at the high end, mid to high teens, and often when the major parties are quite evenly balanced, it makes no difference. In 2010 it was 10-10-5 under this system and it would have been 14-14-7 under the old one, so it made absolutely no difference. It is proportionally the same thing.

The funny thing is that it was introduced partly with the intention of making majority government easier but the election after it was introduced was the only one where it has had such a stark effect. In most of the other elections since it has not affected whether there was a majority or minority.

Mrs RYLAH - Going back to informal voting, to give me more of an understanding of the saved vote, if we go to a 35-seat parliament, would the ballot paper say the vote must be one to seven?

Dr BONHAM - That is what is in the bill at the moment.

Mrs RYLAH - We could choose for it to say one to five, or is there a numerical reason why you go one to seven or one to five?

Dr BONHAM - The concern for parties is if there are seven they may well run seven candidates. If the instructions on the ballot paper tell the voter to just vote one to five, some voters may be voting for some of a party's candidates but not others and votes may be exhausting, though this is really an issue for the major parties. The major parties would not want to see their votes exhaust.

They might respond to that by only voting five candidates. That can create problems of its own because when a major party does very well, it might actually win five in a seven-seat system and then you have no-one to replace so there is a good reason for the ballot paper instruction to say vote for the number you are electing in that electorate, so if you go to five lots of seven then there is a

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good reason to say vote one to seven. The question is what you do with votes that don't obey those instructions. I think this is also an issue within the current system. Within the current system, there can be more done to save votes, as they have done in the ACT, but it will become a more pressing issue if you went up to 35.

Mrs RYLAH - If the voter only accurately gets to, say, four out of seven - and under the scenario you have outlined here you have said one - does that become a saved vote if it gets - I am thinking of somebody with an excess of quota. How would that vote be dealt with?

Dr BONHAM - It would flow on one, two, three, four, and then if it used up all of those numbers, it would then exhaust.

Mrs RYLAH - Yes, I know it exhausts, but you said in your verbal explanation that if a one saved one in the ACT, they use that first when there is a distribution of surplus over quota. How would the one that is greater than one - does that still happen?

Dr BONHAM - It would only happen further down the list if it happened to be transferred further down the list at a point that created a surplus. Otherwise it would exhaust.

Mrs RYLAH - What happens if it is being distributed from the bottom up? It's a bottom-up one, so we're not doing the top down, we're not distributing surplus, we're cutting from the bottom and going up - how does that work?

Dr BONHAM - If you're cutting from the bottom up, it exhausts.

Mrs RYLAH - It just exhausts in the normal way?

Dr BONHAM - Yes, in the normal way, just as if they had voted, one, two three, four, five and stopped and it was number five that was to be taken out. You get a small number of votes that wouldn't obey the instructions that would exhaust, but I think that is still better than not counting those votes at all, which is what happens at the moment, and the number of them would increase if you went up to seven. I get quite concerned about informal voting. I think it is very important to try to count people's votes, rather than rule people's votes out just because they're bad with numbers.

Surprisingly, I know very dedicated scientists who struggle to put the numbers one to five in order. It's surprisingly common; some people are just absent-minded. Some people start with who they want last and they run their vote back and then they make a mistake. I myself got a bit fancy with my Senate ordering process and discovered on double-checking in the ballot box that I had two sixes which would have resulted in my vote being informal but I did double-check it so I caught that, but it's easy to do.

Ms HICKEY - I am really interested in your argument for people who are innumerate or are struggling with literacy et cetera. You know how you see some people put an X instead of a one? Would that go through in the ACT model?

Dr BONHAM - I can't remember what the rules are. The rules for whether Xs and ticks are counted as ones vary between jurisdictions. Federally there is one rule for the House of Representatives and another rule for the Senate. I don't know what the rule we currently have in Tasmania is off the top of my head for ticks and crosses.

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Ms HICKEY - I remember it became a problem with the lord mayor's votes somehow. It is interesting how we encourage people and whether we have a place to be able to deal with this. I do take your point and I think it is sad if someone has genuinely gone to the trouble to vote but just can't do the rest of it.

Dr BONHAM - I think it you have a vote with a cross, a two, a three, a four and a five, it is pretty obvious that the cross is a one. Even if you just have a single cross, it is probable that vote is a one and that the voter just comes from somewhere where they vote by putting crosses in the ballot box.

Ms HICKEY - Yes, that's what I was thinking. If you had the choice of just a one or a cross, would you still accept the cross?

Ms DOW - Dr Bonham, in your submission you highlight a number of concerns you have about the proposal and issues of interest to you, but you don't draw a sound conclusion about your view as to whether there is merit in the restoration to 35. I would like to ask you that question: do you think there is merit?

Dr BONHAM - There are many good arguments in favour of restoration in terms of proportionality and avoiding problems such as running out of candidates for recounts; there are a lot of strong arguments. Those arguments are balanced against the cost of restoration and that can lead into debates about what else the money could be spent on and whether that money would actually be spent on those other things. That is the line where I prefer to be just commenting on the technical aspects of it and not sort of seeing myself as an advocate for either side of the debate.

Ms DOW - There has been some discussion through this process and some people believe there may be a reduction in cost associated purely around reductions in the size of ministerial advisers and those in bureaucracy. Is that a view that you hold? I note that in your submission that you don't want to talk about those things, you think other people have covered them, but are you able to provide a comment on that?

Dr BONHAM - There does seem to be a view that hidden costs are created by the reduction in terms of increased reliance on advisers particularly. When someone is adding up the costs on either side, something they should be factoring into their cost estimates is what effect the reduction would have on the necessity for staffing costs. If someone is drawing up a cost estimate they should be looking at that. I have no expertise relevant to saying how much those costs are.

CHAIR - We put an estimate of the costs to a number of witnesses and one of them was Dr Richard Herr. The Premier has sent a submission to the committee which estimates the cost, according to Treasury and Finance, at about \$7 million. We had some work done in the Greens, which put the cost simply at restoring and giving everyone that extra staff allocation, of under \$4 million. When we talked to Dr Richard Herr and Reg Watson, for example, about the cost, their view was it is small relative to the state budget and what price democracy. Do you have any thoughts on that?

Dr BONHAM - I think it will be interesting. This is a matter of great interest to people deeply involved in politics in Tasmania, but it would be very interesting if someone were to go to a state election with one party saying, 'We will spend this much money restoring the size of the House of Assembly to 35 members', and the other party saying, 'That's very nice, but we want to take the money and spend it on something else.' That is the debate that comes up.

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CHAIR - To be clear, the intention with this committee is to prepare a report to the parliament because the bill has been tabled. We will debate the bill, whichever way it rolls, in this term of the parliament, which means that by the time you go to the next state election, presumably, in a perfect world, or in a courageous world, all parties would be going to the election on an even footing in relation to the numbers. I take on board your point because that is something we've been encountering about one major party being able to use it potentially against another major party, which is why we're at somewhat of an impasse at the moment.

Dr BONHAM - It is often the case with controversial election reforms that they are difficult to get the sort of bipartisan support that you would take to an election. They tend to be progressed when the side supporting them just happens to have the numbers and decides to do it anyway.

CHAIR - Early in the cycle.

Dr BONHAM - In my experience quite often it happens late in the cycle that something is passed just as parliament is winding up. In South Australia there was an example of that.

CHAIR - Are you agnostic on the governance issues that are raised by a 25-seat House, nine members of which are part of the executive?

Dr BONHAM - I think there are problems caused by the current system. I don't know whether that ratio of executive to parliament is relevant to my thinking. The small number of backbenchers is a problem in terms of replacing ministers if you need to replace ministers. Often there is an issue with the talent pool. There are usually some people in any parliament who are not really suitable to be ministers. Often there are very limited options available to governments.

I think there is the issue of ministerial conflicts of interest where ministers end up holding a number of different portfolios and some of them might conflict with others or the pressure to create super departments. Sometimes the super departments end up having sectors within themselves that conflict. All these things are suboptimal.

I don't see my role as being to beat the drum for one way or the other of resolving the debate. I am more interested in just giving technical advice. Plenty of other people will argue the case.

CHAIR - Many a time when the media approaches you and you do diverge into a political commentary so it's not unreasonable to ask this question.

Dr Bonham, we have had a look at some of the relativities - parliamentary representation relative to population - and I know you are very conscious of the Australian jurisdictions and I would be really interested in your reflections on that. You know the numbers of the ACT Assembly, for example, but the average size of the lower House for states with a population around ours, between 400 000 and 600 000 globally, is 45. Of the 75 bicameral parliaments, Tasmania has the third smallest lower House, beaten only by two states in the United States of America, the Northern Mariana Islands and American Samoa, which have populations of 54 000 and 56 000 respectively.

In broad terms, do you think that a 25-seat lower House is sufficient representation just on the numbers relative to our population, which is past half a million now?

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Dr BONHAM - Looking at those comparisons between different jurisdictions, I saw a table of those in one of the submissions. I felt I wanted more detail on whether the jurisdictions in states of a similar size had upper Houses or not. I think the relevant metric there is total numbers of parliamentarians. Personally, these days I prefer bicameral systems to unicameral ones. If it is saying that a state the size of Tasmania has 40 or 45 members in a single House, I would say I prefer this system to that.

There is a question about whether the 25-seat system is making it difficult for fourth parties and independents to get elected. Every election since we have had this system has returned only Labor, Liberal and Greens. The evidence is a bit unclear on this. An example is Andrew Wilkie in 2010. Andrew Wilkie came very close to getting elected under this system but oddly enough under the old system he wouldn't have gotten anywhere near that with the same vote share. The reason is there wouldn't have been a Greens candidate for him to take preferences from because the Greens would have had two.

It's not completely clear-cut but it does seem that it's very hard for fourth parties to get a look in here, which I think is detrimental. That may be also partly a product of our Legislative Council that encourages independents. I think that if we didn't have such a Legislative Council, a lot of the people who get elected to the Legislative Council, the local mayors, particularly, would be running for the House of Assembly and be more of a threat to the existing parties in the House of Assembly.

CHAIR - On those numbers, looking at both bicameral lower Houses and unicameral parliaments, Tasmania has the eighty-fifth smallest out of 574 states, 495 if you exclude states with either no parliament or undocumented sizes. But of the 84 parliaments smaller than ours, the Economist Intelligence Unit only classifies three as full democracies and all of these have populations under 50 000. That answers the question about bicameral or unicameral - sort of.

We have a proposition being put to us by the Aboriginal leaders and communities that I am really interested in your thoughts on. Essentially it is that because there is no representation of Aboriginal concerns and issues specifically by Aboriginal people, Mr Mansell, the TAC and the Elders Council are proposing we examine the possibility of adding an extra two seats specifically for Aboriginal people to run. What are your thoughts on that?

Dr BONHAM - I noticed one proposal was that Aboriginal people would have a choice whether they chose to be enrolled on the normal roll or on a specific Indigenous roll.

CHAIR - It is the Aboriginal Land Council, from what I can gather.

Dr BONHAM - Yes. It is obvious that in a reasonably balanced parliament these seats will become very powerful. For the numbers of people involved, it sounds to me like they could be getting disproportionately represented in terms of the number of seats for the number of votes. That is one thing that would have to be looked at. I think that if the parliament were to support such an idea, they should make sure that the ratio of seats per vote is similar, unless the parliament feels it wants to create a skew as an act of historical reparation, but I think that would be very controversial. That is one comment I would have about that.

Beyond that, it is something where I see it's their role to make the run onto it and see what the parliament thinks. It is something where I am conscious of not arguing against the motives underlying their case.

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CHAIR - I guess the point of view of everyone sitting on this side of the table is that we're all acutely aware in the Chamber when we stand in front of the Aboriginal flag about the lack of representation from Aboriginal people.

Mrs RYLAH - Although we have an Aboriginal person in this parliament and had one in the previous one.

CHAIR - We do, but Mr Mansell made the point today that while Aboriginal people run for major parties and may get elected that they are not actually representing solely the concerns of the Aboriginal people.

Dr BONHAM - No.

CHAIR - Party politics is what it is. You've been through the bill, Dr Bonham. On balance, do you think it has merit? That's taking on board all of the other statements that you've made, and I understand your caution, but you've been a keen observer of Tasmanian politics for nudging at least 20 years.

Dr BONHAM - I'm cautious about being in the role of being an advocate for one side or another.

CHAIR - Just looking at the evidence.

Dr BONHAM - The evidence is that problems are created by downsizing. The evidence is that if you had no cost issues, you will go back.

CHAIR - Do you think it is cost or politics that inhibits it? When we talk about cost, as you know, some advisers are being paid two and three times as much as members of parliament.

Dr BONHAM - It can be the politics around the perception of cost. It is easy to make an argument around what will it cost. It is harder to say what the hidden costs of the current system are. I am not even in a position to assess those hidden costs at the moment. I know they are there. It may be that you can come up with some kind of calculus where you add up all the hidden costs and say it is actually costing us more to have it like this than the other way. I have not seen that sort of thing.

If you have an argument that says, 'This will cost so much money, let's take that money and spend it on affordable housing instead', that is a rather difficult choice to make.

CHAIR - It is a difficult to make at one level politically. Say the costs settled somewhere between our estimates and Treasury and Finance's and came in at \$5 million. Three houses for \$1 million, so that is 15 houses for that amount of money in a year. I know 15 homes would make people happier, but the cost of that would be reduced representation democratically, wouldn't it?

Dr BONHAM - Do houses cost that much?

CHAIR - Yes, about \$300 000 each to build.

Dr BONHAM - Really, to build one?

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CHAIR - When I was the minister, they were coming in at between \$260 000 and \$300 000 and they were relatively low-cost builds.

Dr BONHAM - That is quite amazing.

Ms DOW - Do you think the proportionality argument you put is an overwhelming argument against a 35-seat House when you talk about disproportionate power?

Ms HICKEY - That was only in relation to Aboriginal vote.

Ms DOW - You say, 'I have observed that in Tasmanian Parliament where no party holds a majority proportional representation can lead to disproportional power'.

Dr BONHAM - The point I was making there is that you can get a parliament where the major parties hold most of the seats and the Greens hold a small number and no party has a majority. Effectively in that situation each of the parties has a third of the power. In reality it can be somewhat more because whoever is in power wants to stay in power. We have seen that these situations become very turbulent because the major parties get to a situation where they get tempted to agree with matters of Green policy that they normally would not agree with in order to remain in power.

CHAIR - You mean they adopt good policy when they are in a position that they do not have complete control over the House?

Dr BONHAM - This is the way matters that would otherwise probably be matters of bipartisan policy between major parties become distorted by the power created in a hung parliament. That was just to say why I do not get too carried away by that side of the argument on moral basis. The current system in a proportionality sense is inferior to the 35-seat system but it is not appalling. It is not like a single seat system. Some people want to solve hung parliaments by replacing the 25-seat system with a single seat system so we would have a single seat system in the lower House and a single-seat system in the upper House. That would be terrible. What is the point of having the same versions of the same system in both Houses?

I think it is important that one Chamber of parliament is fairly proportional and that there is one Chamber in that state parliament where it is difficult to get a majority without strong public support. That is a good protection against bad legislation getting rushed through too easily -

CHAIR - Which happened between 2014 and 2018, when legislation went through the House of Assembly unamended every time and was corrected in the upper House, often by Government members.

There is no check in a majority of parliaments. The House of Assembly had no capacity to influence legislation, make amendments, or to make any checks on it, so the legislation went through the lower House in that four years unamended, every day, every time.

Dr BONHAM - What I was saying was, with the caveat that if there is strong, popular support for a party, there is more of a case for that happening. It is the same federally. If there is really super strong public support for a party, it will probably get control of both the lower House and the Senate, but it needs to be really lopsided before that happens.

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Mrs RYLAH - Kevin, in regard to the comment you made about the multi-member system in one House and a single electorate system in another House to get good governance in the terms of checking on legislation, I put to you the proposal that Aboriginal communities or the TAC is putting forward, which is to have statewide elected members. Would that be more appropriate that the members were elected to an upper House, a senate, in a statewide electorate, than what they are proposing, which is a lower House elected by a statewide electorate. I am trying to get an understanding of the mathematics and the thinking behind political systems. I am trying to get an understanding of how this all works.

Dr BONHAM - I think it is often controversial where you have a mix of systems in the same House - in the same House you have some people being elected from local electorates and some people being elected from a statewide electorate. That is one thing that would happen. There is no reason why the same proposal couldn't be applied to the Legislative Council. There is no reason why you couldn't create separate Aboriginal representation in the Legislative Council instead of in the lower House.

We just do not have a proportional upper House in Tasmania; we have this strange, as they often call it, upside down system. Most states have the lower House, where it is easy to gain majorities, and the upper House, where it is very difficult. We have a system where in the lower House it is quite challenging to get a majority. In the upper House we have something like a party system to a reduced extent. It is rather strange trying to apply the same arguments to our system because of the way it works.

Mrs RYLAH - Do you think it is fraught to have a hybrid system in one House where you have some members elected on a statewide basis, and some elected by an electorate?

Dr BONHAM - It is often something that draws complaints. I know that some of the proportional representation societies on the Australian mainland do not like it when people are proposing mixed councils. At one stage, the ACT had a system with two fives and a seven. There is a general belief that ideally in a proportional system each electorate should return the same number of members.

They are saying they think there are special reasons to break the rules and create something completely new. When you do that, you are bound to upset some notions of how those things usually work.

CHAIR - Do you know of any jurisdictions that have parallel systems that function?

Dr BONHAM - I haven't studied any. I know that New Zealand has Maori electorates but I haven't looked very closely at how they work. That is within the confines of their mixed multi-member proportional system. I'm not a huge fan of the New Zealand system so I haven't looked at how that works.

CHAIR - Dr Herr is a pretty big fan of it in terms of public representation and input and also the proportional representation of the population in terms of those who are elected.

Dr BONHAM - The main problem I have with it is that it is fundamentally a first-past-the-post system. There is no role for preferencing in it. If you're voting for a party that doesn't get over the threshold - and I also have a problem with thresholds - then your vote is useless. Yes, you still

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have an electorate vote but that vote may be between two people who are both getting in on the party list system anyway. That's why I'm not a big fan of that system.

CHAIR - Dr Bonham, thank you for that; it was fascinating. Is there anything else you think we need to know before we release you from our tender loving care?

Dr BONHAM - I don't think there is anything else I needed to elaborate on.

CHAIR - Well thank you very much for your time today and your submission and the insights it gave us into what the changes may mean, and also for sharing your expertise with us. It was really good and helpful. As I advised you at the commencement of your evidence, what you have said to us here today is protected by parliamentary privilege. Once you leave the table you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you said to us. Thanks for your time today.

Dr BONHAM - You are very welcome.

THE WITNESS WITHDREW.

PUBLIC

Mr PETER CHAPMAN, PRESIDENT, **Mr JOHN BIGGS**, VICE PRESIDENT, AND **Mr PHIL KAUFMAN**, COMMITTEE MEMBER, TASMANIAN CONSTITUTION SOCIETY, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Welcome, gentlemen. Have you all received and read the guide sent to you by the committee secretary?

WITNESSES - Yes.

CHAIR - There are a few important points I am required to reiterate, so just bear with us. A committee hearing is a proceeding in parliament. This means it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place outside of parliament. It applies to ensure that parliament receives the very best information when conducting its inquiries. It is important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the confines of the parliamentary proceedings. This is a public hearing. Members of the public and journalists are present and this means your evidence will be reported. It is important that should you wish all or part of your evidence to be heard in private you must make this request and give an explanation prior to giving the relevant evidence. Does that all sit comfortably with you?

Mr CHAPMAN - Yes.

CHAIR - Thank you. I know that each of you will have something to say, but maybe Peter can start with an opening statement that speaks to his submission.

Mr CHAPMAN - Thank you for receiving us. As you know, we've had a long interest in this. I take the view, and my colleagues do generally, that in a state where heritage and values are treasured, the damaging of political architecture is a problem. It is of note that fairly recently we changed the name of the seat of Denison to Clark after Andrew Inglis Clark, who constructed and believed in the Hare-Clark system because it represented all elements of the community, as I have quoted here.

Dominance in majority parties is not necessarily a good thing. Therefore, the arbitrary reduction in 1998 was a great shock. It was a reduction by 29 per cent of the capacity of parliament to cope with legislation and constituents. It caused damage, as I say, to really a piece of heritage political architecture, if you like, that over 100 years had worked perfectly well, and it needs to be restored so that the ministries can be managed without too much exhaustion and, above all, from the point of view of government parties, there will be some chance of members of parliament to attend to their constituents. If all of you are ministers, you cannot do so.

We see this as a very important matter, more so in that there was the episode in 2010 when the major parties appeared to be agreeing to restore parliament when the eminent Professor Boyce presented his report and quite suddenly it broke up. Professor Boyce's report was tabled in parliament but never debated. These sorts of things disillusion people about what's happening in politics. I think the only way to resolve it in this case is to right the wrong or the error, however you characterise what occurred back in 1998, to restore capacity to the parliament but also confidence to it.

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You will note we have quoted a couple of people saying it was a conspiracy. I am not necessarily saying it was a conspiracy but people like Professor Reynolds or David Llewellyn are in print, and that again leaves a nasty shade over Tasmanian politics. You don't want it being bootled around the world that you have a shonky or shoddy political system. Henry Reynolds' books are published all over the world and people read about it and say, 'What does go on in Tasmania?' I think from the point of public morale and the political capacity for putting things right, it is extremely important this is dealt with in a positive manner and the parliament is restored to 35 seats.

CHAIR - Thank you, Mr Chapman. I might go to Mr Biggs next. Is there something you would like to say in broad terms?

Mr BIGGS - Yes. I was concentrating in the submission on basing it on the workload that exists. Just checking this morning, the Premier, which is a full-time job in itself, has four portfolios; the Deputy Premier has three; the Attorney-General has five; Guy Barnett has four; Ms Courtney has two; Mr Ferguson, the Leader of the House, has four; and the Treasurer has Environment as well as the role of Treasurer, and so on. I could go down. There are 30 portfolios in all to be shared by 13 people and if that were all of them, there would no backbench at all.

At this point I would like to go to Richard Herr's submission, which is more theoretical, where he says the job of the parliament is this and there is a rough working figure comparing with other working parliaments. He has a ratio of about four times the number of ministers, which is pretty close to 35, and that is for the parliament to work properly.

There are several consequences that have followed from this which I am sure were not considered at the time. One is, for instance, poaching in the Legislative Council because the job of the Legislative Council is to review. If you are in the Legislative Council, you are reviewing your own work, which looks awfully like a conflict of interest to me. That is one point.

The cost issue has been raised. In fact in the paper this morning the Premier said the initial cost would be \$7.9 million, the ongoing cost would be \$7.1 million, I think, throughout the year, which, stated starkly, looks expensive. The counter side of that is that when you have an overload of ministers - for instance, the Hobart hospital site has been ongoing for years; I am not blaming one side or the other - people are simply too busy to get on with the job, to quote our Prime Minister.

The other thing is that if you don't have a backbench and if you don't have ongoing debates in the House, one is likely to make mistakes with bills. One recent one we've seen was the workplace anti-protest bill, which was dismissed as quite a mess.

CHAIR - Struck down by the High Court no less.

Mr BIGGS - Yes, indeed, which is embarrassing. Had that bill been debated in detail by both sides for and against, I am sure, particularly with the number of lawyers in the parliament, that it would have been straightforward and it wouldn't have that -

CHAIR - I will just have to pull you up there. It was debated, robustly debated, and opposition and crossbench parties voted against it, but because it was in the last term of the parliament, we didn't have the numbers to make any improvements. We did our best.

Mr BIGGS - Okay. I hate to say it but apparently it wasn't good enough.

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CHAIR - It wasn't good enough because we didn't have the numbers.

Mr BIGGS - Yes. The location of the hospital, for instance. Again, that is not the fault of any one party. It has been ongoing for years. In short, I think with the current membership we are not fulfilling the functions of parliament that, for instance, Richard Herr has outlined. It is not functional.

Mr KAUFMAN - I really concur and emphasise what Peter and John have emphasised.

In 1959 we had a population, as you would have read, of about 350 000 with 35 members. Today we have a population of 510 000 with 25 members. We understand the politics of it in 1998. We believe it's time for change. We believe performance is a real issue in the parliament because of numbers - not calibre but numbers. There is also a problem with contacts with constituents. It is hard to get a politician, there is hardly a backbencher. There are only opposition people you can talk to.

Mrs RYLAH - There are others.

CHAIR - A very small number of government backbenchers.

Mrs RYLAH - There are government backbenchers, yes.

Mr KAUFMAN - We would also argue that minders and advisers, at a great cost, are running a lot of the work that we believe politicians, and ministers in particular, should be doing. I am not sure what the net cost of moving some civil servants and having more politicians is. I know the Premier is arguing on the basis of cost. We believe that's a furphy.

That is all I have to say at this stage.

CHAIR - Thank you, Mr Kaufman. Mr Chapman, you wanted to go back to the question of costs.

Mr CHAPMAN - He has more or less touched on it. Cost is a great furphy in my view, as Mr Kaufman mentioned. In 1960 when parliament was elected with 35 seats, cost was never an objection. It just wasn't a factor. The report of the parliamentary select committee looking at that recommended an increase because with growth of population, the complexity of the government increased. Where this came from was the Groom government's 40 per cent increase, or it started off with everyone going in every direction. It was an absurd bargain that you would give the big increase but in reward for that people would get less parliamentary service by reducing the parliament - it was the most extraordinary proposition. It didn't happen because the parliamentarians in the end didn't vote to reduce themselves. The Morling report did not recommend a reduction either. It came out of that extraordinary episode and this cost bogy has been going on. From 1960 to 1998 there was no real problem with the cost of government. It wasn't a political issue back in 1960; we've got to have people to run the place.

CHAIR - We also didn't have advisers who are being paid \$260 000 a year.

Mr CHAPMAN - Probably not, no. We have been sucked in by the necessity of having people to carry the work. I think it is a Gilbertian situation. That is where it came from: this curious Faustian bargain that was floated about in 1993 that, yes, we are having this big increase in costs to

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make Tasmania's parliament better, but it will be all right because you have fewer parliamentarians. They didn't say that it will be all right, and you're going to get less parliamentary service, we will have your highly salaried advisers instead. That is where it came from, but it's now totally anachronistic. The origins of this sort of argument of reduction and the lies about that rests with it. That is my view.

CHAIR - Thank you, Mr Chapman. Our office has done a different set of numbers and obviously we don't have access to Treasury and Finance, but we came in that if you increase the House of Assembly, or restore the numbers so it is an increase of about 40 per cent, it equates to roughly \$3.7 million on 2018-19 costs.

Mr CHAPMAN - That was Peter Boyce's figure, or close to it, just off the top of my head.

CHAIR - There is some dispute over what the actual total costs would be, but your argument is that - I might put it this way - Dr Herr and another person who presented this morning essentially said that there may be some costs involved, but there will be offsets and what price democracy. Would you agree with that?

Mr CHAPMAN - What price an effective parliamentary service? You are quite correct to say one or two Liberal backbenchers. That is all there is and as the whole state should be covered, most people wouldn't possibly have proper service from an MP of either party to return government - it can't be done if you're loaded with four or five portfolios. It's my view - and people are always a bit cynical about politics in Australia - that with the inaccessibility of most politicians a lot of the time, what is the point of having politicians? You never get hold of them, you never get anything done. It is a 29 per cent parliament as it was in 1960, just not as efficient. It can't be.

Ms HICKEY - I am a little concerned when you are rationalising the number of ministers. If we are only going to increase by one minister -

Mr CHAPMAN - This is your argument?

Ms HICKEY - Yes, you presume that a lot of these highly paid advisers are still going to stay in the roles. We don't actually have that offset from that point of view because all we would get is probably another few more for the new minister.

CHAIR - That's reasonably assumptive.

Ms HICKEY - You wouldn't be using your backbenchers to be advisers. You have to have highly skilled people for PR and your advisers on health et cetera. These are quite specialised fields.

CHAIR - In the old days the department was the primary adviser.

Ms HICKEY - Yes, so that means we need to have a change of thinking about the relationship between the minister and the secretary of the department. What I'm getting at is that's where this model has veered off to. We're getting highly paid advisers where we used to have frank and fearless advice from the bureaucracy and now a political layer has come into it. What I am concerned about is whether one minister is enough, considering the complexities of the roles in modern times, with all of the social media and everything else that comes into it. I'm a big advocate for increasing the size of the House, but is the addition of one minister going to be enough? I too have huge issues with this costing model. We should be asking for questions on that.

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Mr BIGGS - I am a bit puzzled about the one minister.

Ms HICKEY - Currently the Premier has - is he the ninth minister or the eighth minister?

CHAIR - The ninth.

Ms HICKEY - So we're only going to gain one extra minister if we restore the parliament?

Mr BIGGS - No, there would be more ministers, surely. This can reduce maybe the number of portfolios.

CHAIR - Currently the maximum number of ministers is nine, or eight ministers and a secretary to Cabinet. The bill amends that to increase the limit to 10 ministers or nine ministers and a secretary to Cabinet, which is the way it was prior to 1998.

Mr CHAPMAN - There is a lot more reform that needs to be done, but in my view a cardinal blunder was made by the politicians of the day, particularly by the past premier, who thought he was going to win and bring in a reform program and restore the parliament to what it was. Then the parliament needs to go on a bit further and fully restore the numbers and then a more mature parliament can deal with the minister issues, refinements can be brought in, the Aboriginal issue can be dealt with and, dare I say it, the nexus of the Legislative Council at some stage should be looked at too.

Ms HICKEY - Because we just doing a restoration we have 10 ministers, so effectively we're just getting one extra minister, which is really not spreading the load that much. Would you, with your understanding of government et cetera, support perhaps parliamentary secretaries or junior ministers coming on for some of the smaller portfolios?

Mr BIGGS - Yes, that could be a very good stopgap, but I think there is a real structural problem here, as Peter has alluded to. It is not just a quantitative matter of increasing the number of ministers or decreasing the number of portfolios - 30 seems an awful lot.

CHAIR - We have portfolios such as Defence Industries, just as an example.

Mr BIGGS - Yes. The other thing that comes out of your question, Sue, is the advisers. It is not just the number of advisers and their salaries, but where we had a bureaucracy, it was to give disinterested advice that sought out what seemed to be the best for the particular bill being argued. When we have advisers, they are appointed by the party so they are not giving disinterested advice. I think that is a serious flaw that opens the gate for all sorts of nepotism.

Ms HICKEY - Chair, can I ask a supplementary, because I accept that these gentlemen have a lot better knowledge of the Constitution than myself? If this bill were to get up as it is, which is the simplest way to increase the size of parliament and restore it exactly as it was - to put on junior ministers or paid parliamentary secretaries because they are currently not paid - would that be a constitutional change or something that could just be done through parliament?

Mr CHAPMAN - It could be done through parliament to the extent that the Constitution Act can be amended by parliament. It is not like a federal constitution where you have to have a

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referendum and so on, as we discovered when they reduced the parliament overnight practically from 35 seats to 25.

CHAIR - With no consultation.

Mr CHAPMAN - The Premier sent a letter to me some time ago that gave me the impression he absolutely supported returning the House of Assembly to 35 and he also says that the view is there should be an independent inquiry - this is an old letter - that should take the effectiveness of the operation of the House of Assembly into consideration and address some of the concerns Sue was raising. There is nothing to stop a smaller parliament going on a further reform program; they might not be interested in that but 35 seats is not the be-all and end-all. I'm reluctant to say it in an open forum but the nexus with the Legislative Council may have to be looked at some time too, which in the train of restoring the lower House would limit the lower House. All sorts of things are going to come from this, and we need it - it will shake things up. It will bring more talent to the parliament. It will make a great difference.

CHAIR - You talked earlier about a whole range of things that could flow from the restoration, including the nexus with the Legislative Council and what you described as the Aboriginal question. Have you had a chance to look at the submissions on the website?

Mr CHAPMAN - No.

CHAIR - We have asked a few of our witnesses today about the question of representation of Aboriginal people in the parliament and the proposal - and some of you may have heard it in the media - is that there be a 35 seat House and two seats representation for Aboriginal people -

Mr CHAPMAN - It wasn't clear to me whether it was going to be a 35- or a 37-seat House.

CHAIR - It would be a 37-seat House, 35 of which are elected through the Hare-Clark system, and two who would be elected by Aboriginal people on a statewide basis. Have you any thoughts on that?

Mr BRIGGS - That sounds good to me.

Mr CHAPMAN - We have discussed it vaguely. I have no objections to that, actually. The only concern was that the Hare-Clark system might be upset if it is going to be a statewide electorate and totally independent of it. I have no prima facie objection. We didn't develop a position on it; we more or less had one, but the alternatives are to have representation in the Senate on a national basis with seven Aboriginals - an extra senator for each state. It would certainly make the major parties pay more attention to Aboriginal issues. The Legislative Council could also have representation there, but if the Aboriginal community is strong for this two-seat statewide separate electorate and it doesn't in any way upset the Hare-Clark operation for the rest of it, I don't have any objection. It just wasn't in our original remit when we were looking at it.

Historians look at these things and I think the dispossession of Aborigines was a disgraceful episode. Governor Arthur said it was a fatal error no treaty was negotiated with the Aborigines. Had one been, we would not be visited with these injurious consequences, which will always be a stain on the history of Van Diemen's Land, so it is certainly something we ought to put right.

Ms HICKEY - Does that require a constitutional change as well?

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Mr CHAPMAN - Yes, it would but, again, I do not get spooked by constitutional changes in Tasmania's circumstances because we are not hooked up on a referendum.

CHAIR - We changed the Constitution in 2016 or 2017 here before Madam Speaker was elected and made sure that there was recognition of the Aboriginal people.

Mr CHAPMAN - The constitutional change is not the value it is to the federal system.

Ms HICKEY - That's fine. I guess I'm worried about any arguments for delaying the restoration but, as you say, encouraging reform ongoing from it.

Mr CHAPMAN - It is a big primary step to muscle up the parliament to get on with the various jobs that need to be done and restoring to 35, which is what it was in 1960. It is not such a radical step. It is not a radical step at all.

CHAIR - How do you think it impacts on the broader Tasmanian community to have such a small parliament and ministers who are groaning under the weight of their many portfolios?

Mr CHAPMAN - I have not done a survey. Can I just give you my personal opinion? I come here to some of the debates and visit people from time to time. It is in no way a scientific approach. I think many people would be disillusioned because they cannot get much done. Not many parliamentarians could be like Mr Andrew Wilkie and devote all their time to their constituents and give them that sort of service because of the small size of parliament. Or it is a contributing factor to this.

I just think restoring the parliament would revitalise the place and revitalise the state. It does, after all, let more talent in.

Ms DOW - Do you have a view on getting the community more involved in the legislative committee work process? In some other countries around the world there is a process within the parliament that enables external stakeholders and the community to have their say on the development of legislation through committee work. Do you think that would be a positive thing for Tasmania?

Mr CHAPMAN - Yes, we are doing it now. Right now. This can be done and there is a larger capacity to do it if you have more members of parliament.

Ms DOW - On a more formalised, everyday occurrence.

Mr CHAPMAN - I have not thought this right through, but as it is, you have special committees all the time on matters of controversy. I can see no objection to it provided it is skilfully engineered so that you do not get totally bogged down with committee work and nothing getting done and creating another rod for your back. Provided it is kept in proportion, as I say, the committee system does work. This is not the first time we have appeared before a committee.

Ms HICKEY - The option Ms Dow was talking about just then I saw in action in Scotland. I believe it is the same one in New Zealand. Legislation goes before legislative committees so that instead of having a majority just push it through and then shoot it upstairs, it is actually debated in a committee and ironed out and then voted on before it goes upstairs for final resolution.

PUBLIC

Mr CHAPMAN - It goes back to parliament.

Ms HICKEY - Sorry, yes, but both of those are unicameral parliaments. The idea was to keep much more scrutiny on legislation. I like the idea where it was very participatory for all. None of those parliaments have a majority in the traditional one-party sense.

Mr BIGGS - Yes, I think that is a terrific idea. At the moment I do not think we do have representation, that politicians represent the vast array of people in the community. I think Scandinavia has things like that. In Canada they tried sortition in British Columbia, which is where people are hijacked, as it were, like a jury to debate certain issues. That is really community involvement. It is a big step I think from where we are now.

Mr CHAPMAN - Yes, you need to restore parliament to initiate it. It is worth noting we do have a Legislative Council and it is our position, while we are talking generally, that we should keep it. From time to time it has been quite reformatory. As we mentioned, it brought in one of the most extraordinary episodes. I will take your time for a second. It was in November 2017 when the Legislative Council passed a resolution to create a committee to review the restoration of the House of Assembly and it also passed a resolution to surrender the power of blocking budgets and simply have a suspension veto that lasted one month. It was barely reported. That was extraordinary.

I have gone off on a tangent there. You didn't ask me, Madam Chair, so you can whack me down. The Legislative Council, I think having sat through and endured variable oratory, nevertheless does perform a useful function.

Mrs RYLAH - I was interested Mr Biggs the word that you used for British Columbia, did you call that sortition?

Mr BIGGS - Sortition, yes.

CHAIR - It's a panel of members of the public, isn't it, who are elected?

Mr BIGGS - Yes.

CHAIR - And arguably they could possibly do a better job than the existing democratic structures we've got. I'm being flippant.

Mrs RYLAH - I was intrigued, so thank you.

Mr BIGGS - It's originally drawn from the old Greek idea that citizens directly - that is white males and not slaves or women, but the general idea -

Ms HICKEY - We couldn't agree to that, could we, no?

CHAIR - It would be a modern sortition, more representative.

Mr BIGGS - This is why a sortition selects.

Mr CHAPMAN - It ended in tears.

PUBLIC

Mr BIGGS - Community participation is an extreme, I think, but there are all sorts of ways into it. That would have the important effect of countering what is rife in the community right now, which is cynicism about politics.

Mr CHAPMAN - Particularly in Tasmania.

CHAIR - Bordering on despair.

Mr BIGGS - Yes, well, I think federally as well as in Tasmania. That then leads to this feeling of, 'We've got too many bloody politicians'. It's a vicious circle. We have to fix the system so we try to counter this feeling that people just do not feel involved with the system.

CHAIR - Dr Herr thinks that if you restore the numbers and therefore you improve representation it will be the beginning of the process of restoring trust.

Mr BIGGS - I agree absolutely.

CHAIR - Why do you think so? Why do you think it's as straightforward as that?

Mr BIGGS - Well, I'm not saying it is directly straightforward, but it's a likely outcome. It couldn't be worse at the moment. It could be American, which is much worse.

Mr CHAPMAN - David Llewellyn, talking in 2011, said -

... I could admit now, I guess as being part of the government back in 1998 or 1997 in conspiring ... between the Liberal party and the Labor party to reduce the size of Parliament on the basis that it would take more percentage from minor parties to actually win a seat ... And I think that was wrong. I admit it was wrong. And I think we really should do something about that.

It is that sort of restoring the powers to 'Thank God, they've put this thing right, this shabby sort of operation'. That's what happened, we know what happened. It is an invigorating spirit. It is a serious increase to the numbers of parliament, 29 per cent or whatever it is. The old guard will have to be changed a bit too. It will be invigorating. It has to be. You're pessimistic, but I'm not.

CHAIR - No, I'm not pessimistic, I'm just testing it. I am a little bit pessimistic about public faith in the institutions of democracy and understanding the value of democratic public participation, but I'm not cynical about that. I'm just curious to know why you think it would help to restore trust.

Mr CHAPMAN - Opening the gates to talent.

CHAIR - Opening the gates to talent. Do you think they're shut at the moment, a bit?

Mr CHAPMAN - Well, they're shut, they are 29 per cent shut. Some people can still get in. It makes a difference. Parliament getting back to the people.

CHAIR - That's the way some of us feel, but can you elaborate a bit on how restoring the numbers actually removes power from lobbyists and corporations to an extent -

PUBLIC

Mr CHAPMAN - I didn't say that.

CHAIR - If you've more representation, haven't you less capacity for lobbyists and corporations to influence the small number of members who may represent government?

Mr CHAPMAN - Possibly, but I haven't thought it right through. I'm simply saying it makes it possible - I won't go down that road - for more people to get into parliament and to challenge the hierarchy of whichever one is in, Labor or Liberal, and to present an alternative view. I suppose we have to talk politics for the moment. It has been my belief that if we hadn't had a Hare-Clark system, the green movement would not have taken off in the way it did because it was a system. I am not a greenie, I am not a member of the Greens party and I had a different policy on the Hydro, but that was a perfect example of a grassroots movement because Andrew Inglis Clark actually had a relative gateway to [inaudible] three, or four or five seats.

These are, you could argue, the reason for the reduction, but anyhow, that happened. I don't think it was a bad thing and I am not a greenie. That's a perfect example, if you like. It is argued by some - dear old David Llewellyn says - that the main aim to reduce parliament was to reduce the opportunities of the inconvenient minority parties.

Leaving aside the Greens or other minority parties out there, it is more people coming in and asking awkward questions. The hierarchy doesn't like being asked awkward questions and that's executive government.

We're talking about democracy and executive government here. No-one wants to have people arguing all the time saying rude things and blocking things, but that's the democratic exercise. That's why I think it would liven up things no end. People say, 'Thank God they have put that to bed'. It's been 20 years now.

A number of motions come before the House of Assembly, the recent two from the Greens. We have had the Boyce report, we have had the Morling report and we have had the agreement of team leaders collapse - it's exasperating for the observing population - what are they up to now? They signed that agreement and then they ran away from it again. That's why I think, do something. I think it would have quite a galvanising effect when the full consequences come through. Anyhow, as a small 'd' democrat, I believe that.

Mrs RYLAH - Mr Chapman, in your discourse you focused on what is seen in the House of parliament in terms of the inability to get legislation through if the majority is held by one party and despite the best efforts of those on the other side, they can't get change.

What I would like to now focus you and your comments on - and I don't know whether you have any experience of this so I am not quite sure whether you are going to be able to comment - is: what impact do you see of the increase in the parliament where the real debate often happens, which is inside the party room, where you have the executive or the ministry in the very dominant position and you have a backbench that is small?

Mr CHAPMAN - It would be bigger though -

Mrs RYLAH - Yes, it would be bigger if it were increased, but do you see that as good, bad or otherwise?

PUBLIC

Mr CHAPMAN - Look at James Hacker from *Yes Minister* - 'What's the backbench up to now?'. You've got to keep on your toes. Julian Amos has argued this. A backbench is a corrective within the party machine; you not only have to satisfy the electorate, but you've got your backbenchers as difficult people up in the wilds asking awkward questions. I can only see this as a thing for the good, I can't see any harm in it. Certainly if everyone is a minister - pretty well everyone is a minister - and there are only one or two backbenchers, there is not much pushback. I certainly can't see anything deleterious in it. I have to say I've had no experience, so don't ask me [inaudible].

Mr BIGGS - A further extension of that argument is that you've got two parties and one gets the majority and you don't then have a properly democratic parliament with discussion. What you have is serial autocracy - one party gets its way for one session; with a change of government, it's one party doing the running for the next session. That is much less a danger in a multi-party system precisely because the parties have to work things out amongst themselves. In Scandinavia, it used to be until very recently. I think in most Scandinavian countries and in New Zealand, they are all multi-party systems and they have far less trouble than we do with two parties shouting at each other and one doing the running for the full term.

CHAIR - And arguably better policy outcomes because they are tested.

Mr BIGGS - Oh yes, that follows; exactly, it is tested.

Mrs RYLAH - I suggest that is not so relevant. It is a democratic process that has happened and there is a majority because that is how you get government. The real testing of stuff has to happen in party rooms where you have parties. If it was not party politics, that would be different, but it is party politics and the real testing has to happen inside a party room.

CHAIR - Only if the party of government is deaf to feedback on the Floor of parliament.

Mr BIGGS - Yes.

CHAIR - I know a lot of things are tested in a party room and I am glad to hear it happens in the Liberal Party room but that is where the real test is only if the party of government isn't open to improvements in debates on the Floor.

Mr BIGGS - Those waters are muddied by factions, of course.

Mrs RYLAH - Of course, yes, and it is complex. I just wanted to focus on that really important part of the parliament.

Mr CHAPMAN - In a larger party room, you would have some sort of backbench that amongst other things would like to be on the frontbench and chip, chip, chipping away. That is good for the executive.

CHAIR - Except it didn't stop Labor federally voting for the tax cuts. It's not always a given that if you have a robust backbench, they will buck the prevailing power structure.

Mr CHAPMAN - They had a traumatic experience and were in a state of shock.

PUBLIC

Mr KAUFMAN - The big problem was superannuation, the federal backbench, arguing. I think the more numbers, the better for the party as well as the parliament and the democracy.

CHAIR - Mr Kaufman, you have watched politics here for many, many years.

Mr KAUFMAN - I haven't been inside this building since 1974, but I love politics.

CHAIR - You don't have to come into the building to be an observer. How do you think the reduction in numbers has impacted on democracy and governance?

Mr KAUFMAN - To be blunt, I think it's not the calibre. If we look at the recent health fiasco, that is no reflection on the minister of the time, but it's too big a job for the numbers. It's just too complex. I don't know how you hold down two or three ministries. It's baffling. We talk about increasing by one; that can be changed to two, three. The ministerial part is only one element of it. It's the number of representatives. It's about democracy as well as pure party numbers. That's how I see it. I think the more numbers, the healthier the democracy.

Mr BIGGS - I think the underlying challenge is that democracy isn't winner takes all, which I think tends to happen now. We've got to get a system where government is for all Australians. Bob Hawke managed that, but unfortunately there are not many Bob Hawkes around now. There must be some structural way of handling that and multiparty systems go towards that, I think.

Mr CHAPMAN - I will quote Andrew Inglis Clark here -

Power wielded by a majority may be used as oppressively as if it were exercised by despot or an oligarchy and the doctrine of the natural and fundamental rights of the individual is as condemnatory of the oppression in the one case as in the other.

Its solution: 'A system of electing representatives which will ensure the presence in the legislature of representatives of all opinions.'

That is what the Hare-Clark system was about and that was what was diminished when the parliament was reduced in 1998. It was a blow against Hare-Clarkism, if you like. That was his analysis. He drafted the federal Constitution as well. He is one of the great Tasmanians. I think it is one of the ironies that they have changed the electorate to Clark and there is still resistance to putting the system back to how it should be.

CHAIR - Thank you. We have now got to the end of your session of giving evidence. Is there anything else that you would like to put on the record before we let you go from the table?

Mr CHAPMAN - I think we've expressed ourselves.

CHAIR - We've covered all the points in the submissions, apart from the historical detail that is in yours, but that's on the record as evidence before us.

As I advised you at the commencement of your evidence, what you've said to us here today is protected by parliamentary privilege. Once you leave the table, you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you said to us. Are you comfortable with that?

PUBLIC

Messrs CHAPMAN, BIGGS AND KAUFMAN - Yes.

CHAIR - Thanks so much for coming in today and giving us your time and your insights. It is much appreciated.

Mr CHAPMAN - I can leave you a document if you like.

CHAIR - Do you want to table it?

Mr CHAPMAN - If you want to table it. It is just some things referred to in our submission anyhow, but you may find them useful.

CHAIR - Great, thank you.

THE WITNESSES WITHDREW.

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Mr MICHAEL MANSELL, CHAIR, ABORIGINAL LAND COUNCIL OF TASMANIA, AND **Ms DENISE GARDNER**, CAPE BARREN ISLAND ABORIGINAL ASSOCIATION, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Welcome. Before you begin giving your evidence I need to reiterate some important aspects of the guide sent to you by the committee secretary. A committee hearing is a proceeding of parliament and this means it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or any place out of parliament. It applies to ensure that parliament receives the very best information when conducting its inquiries. It is important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the confines of the parliamentary proceedings. This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private you must make this request and given an explanation prior to giving the relevant evidence. Is that all clear and are you comfortable with that?

Mr MANSELL - Yes.

CHAIR - Which of you here today would like to start speaking to the joint submission?

Mr MANSELL - I'm the oldest and the frailest so I might as well lead off.

CHAIR - I have never heard you called that before.

Mr MANSELL - I'm not an Elder, but I'm in the old and frail department.

CHAIR - You're not frail.

Mr MANSELL - When we looked at the terms of reference of the committee, which is considering the return from 25 seats in the parliament to 35, it raised directly the question of political representation. It is obviously implicit that the committee's task is considering broader representation in the parliament than is currently the case.

It seemed to us to naturally follow. If you are talking about parliamentary representation, as John Chesterman says, the makeup of parliaments should reflect the people the parliament governs. As we know in Tasmania, since the parliament opened in the 1850s Aboriginal people on Cape Barren Island in the 1800s were talking about not being represented - the George Everetts, the John Maynards, the Tom Mansells and those sort of people - and as a consequence of being excluded from the parliamentary processes of that time, they ended up with the Cape Barren Reserve Act, which was a form of apartheid, the only bit of legislated apartheid that Tasmania really has had.

Our view is that Tasmania should have Aboriginal representation guaranteed in the parliament. The question is: how do you do it? Mathematically on the numbers, with the current system the dice are loaded heavily against us. I don't have all the figures to back this up, but you probably have around 10 000 adult Aborigines on the electoral rolls in each of the five divisions. Even if they voted for one Aboriginal candidate, they're not going to get up. Even if it was one statewide thing, they're still not going to get up.

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If you have Aborigines enter the parliament through the political parties, like we have in the federal parliament, the problem remains that they are compromised because their loyalty is first of all to the political parties through which they enter parliament, so instead of being able to openly represent the views and the issues that Aboriginal people want raised in the political context, they have to have one eye on the values of the political party and the policies while at the same time trying to represent Aboriginal people, so they're compromised.

New Zealand for 100-odd years has said Maoris should be in the parliament. In the United States the state of Maine has three Indians in the parliament. Bolivia has either five or seven, so it is not uncommon for democracies to include indigenous people in the makeup of the parliament in a way that guarantees that parliament will have indigenous representation.

We have come to this committee because I think twice we have gone to the tribunals that are reviewing the divisions and argued this very case. These divisions, the way they are set out with the community of interest, are not considering the position of Aboriginal people who want to elect their own people to the parliament and their unanimous view has been, 'Look, we're terribly sympathetic to your proposal, but this is for the politicians, not us; we're not the policy-makers'. This group is, and this group is going to report to the parliament and say, 'Look, if we're talking about the Tasmanian democracy being representative democracy, we have to involve the original people in there in some form.

We say designated seats is probably the only way to do it because Katherine Hay was made a member through the Labor Party, but she would say, 'Look, I couldn't represent Aboriginal people, I tried to', and had she been elected by Aboriginal people, she would have been free to speak about these issues. People might say that with the agitation the Aboriginal political movement has made since the 1970s we have made small but significant gains. The parliamentary process should offer an opportunity to Aboriginal people other than marching in the streets, protesting and getting in the media all the time. Of course, younger ones want to do it differently. They want to grow up knowing they have a real chance, the same as other kids of their age, of getting into the parliament and representing a particular value and the people who they are close to.

On that basis, we put this proposal that there be two Aboriginal seats based on a statewide electorate. Yes, it does tend to add a new element to your discussion about whether it is 25 or 35, but the issue is so significant that the fact that this wasn't primarily considered when the committee was set up, shouldn't be a reason not consider it now. People may argue, 'Oh well, the consequences'. I have heard some of the discussion about how is that going to affect the Hare-Clark system. I wonder what they would have said back in 1902 when women were coming to get the vote. I can image those white males saying, 'Oh, you know, the women and all these problems they are going to cause' et cetera.

The opportunities have been passed too often. We had all the land taken off us in the 1800s, the whole lot. We were shoved on islands and people started to regain consolidation, even though they were an Aboriginal family in Perth or Devonport, wherever W Dalrymple was. In 1901, when Australia became a federation, what a great opportunity then for them to say, 'Okay look, we have dispossessed them, but this is a new nation, let's involve them'. No. The only reference to us in the Australian Constitution was to exclude us.

In 1967, when Tasmania, I think, voted 90 per cent 'Yes' for Aborigines, what a great opportunity to say, 'Tasmania has this enormous amount of goodwill, let's have a look at Aboriginal representation in parliament'. Nothing.

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There has been some terrific representation from different political parties. The Liberal Party introduced land rights legislation and broke the back of the argument Aborigines in Tasmania will get nothing. Tasmania was the first state to compensate the stolen generations. Tasmania can do things if it has the political leadership.

If the proposal for Aboriginal representation in the parliament were guaranteed - that is what we are after - white people are always guaranteed to have people in the parliament. Aborigines are not.

Give us the same opportunity, even though it would be on a small scale. If Aborigines are guaranteed representation, you then hand over the eligibility process to the Tasmanian Electoral Commission and they deal with this stuff, the same way as the Australian Electoral Commission dealt with ATSIC from 1991 to 2004, where they had an Aboriginal roll. They invited Aboriginal people to go on the roll. They then either stand as candidates on the roll, or they just vote for people on the roll. That is the same process that the Tasmanian Electoral Office runs under the Aboriginal Lands Act. For 24 years, they have been running this process. The Tasmanian Electoral Commission takes it out of the political arena; they have the Commonwealth criteria and the Electoral Commission decides eligibility.

I know most people would say, 'Oh, we have heard all of the arguments about Aboriginality, how is this going to work?'

Don't forget there was a constitutional crisis last year where 15 people who were elected to the federal parliament were declared ineligible. People say to us, 'How are you going to deal with it?' We are not the ones who have been in such a crisis.

The stuff about who is Aboriginal is public agitation by different groups - you know, my group, someone else's group - it is agitated in the public arena. When it comes to the electoral commissions, whether it is federal or state running ATSIC or the Aboriginal Lands Act, they depoliticise that. They administer the criteria and people go on the roll. ATSIC survived and the Aboriginal Land Council has survived.

When we talk about arguments of Aboriginality, if 15 people out of 226 are ineligible to stand for the federal parliament, it didn't stop the process of the parliament continuing. In 1946 people were agitating in the High Court that Catholics owed allegiance to a foreign power in Rome, so they should not be eligible. From 1946 to 2018, this agitation has continued yet the parliamentary system has withstood the challenges and is able to keep on going.

We say we want to be part of that system. We want Aboriginal people to be able to stand up and say, 'Yes, I want to represent my people, I want to agitate the issues that no-one else can be expected to agitate'. We are the only people who have lost the whole state. No-one else has lost so much land. No one else has had their identity denied them until 2017 when the Aboriginal Relics Act was changed. It still had this reference to the last Tasmanian.

CHAIR - The 1876 date.

Mr MANSELL - The 1876 date. The half castes around the islands, when we were all shipped over in the 1950s under the assimilation program, were all denied representation. It just seems to us that the time is right. You have this debate going on federally about a voice to the parliament.

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What is better than a voice inside the parliament? Barnaby Joyce is already talking about how you can have better Senate representation. He is complaining that from the original thought that the Senate would represent the states, the major political parties have taken it over and it represents the political parties rather than the state. Barnaby Joyce is saying you have to break this down. The Australian Constitution provides, until the parliament decides otherwise, that it will be state boundaries. He is saying it is about time the federal parliament did it differently and gave people in the bush the voice.

CHAIR - Presumably you've forgiven Mr Joyce for his really damaging statements before the election about the voice to parliament being a third Chamber, which actually created a really unfortunate image in people's minds of what voice was about.

Mr MANSELL - The voice being proposed by Noel Pearson is an advisory body that sits outside the parliament. One of the defects of that is that it delivers no services, it cannot return any land, it doesn't have a budget of its own to distribute to Aboriginal communities who desperately need funds, it can't impose its will onto parliament and it can't burden any parliamentary discussion. It can't even decide its own composition. The Government would decide that. The advice that it gives has to be listened to. I cannot really imagine any advisory body set up, no matter who is on it, being listened to by the politicians. They say, 'We were elected by our political parties and our electorates and that's who we're answerable to, not to some advisory body who is going to come up with stuff we don't listen to'.

CHAIR - I would like to think that the Greens would respond to that a little bit differently, but thank you, Mr Mansell. Denise did you want to say something before we roll onto questions?

Ms GARDNER - Yes, I'm probably not quite of Mick's level. I think we're an over-consulted people. We've had some politicians who have just been terrific and they will do their job. Then they will come over to Cape Barren and ask us questions. If they don't like what they hear, off they go, end of story. Unless we are saying what pleases them, we see the same with every advisory committee or council that seems to be set up. They are handpicked by the government, so it's not democratic. That committee or that advisory council is always going to have boundaries where they're not going to be able to speak out too much or go against what the rule is. That doesn't work for us. We need someone who has a seat in parliament who comes to us, one of our people who understands our issues and rightfully represents us. We want a voice.

CHAIR - Yes, a direct voice.

Ms GARDNER - A direct voice.

Ms HICKEY - This is probably not so much a question but a bit of a statement. While there is always a risk that Jennifer Houston may not be re-elected or could lose her seat for whatever reason, she gives you a good voice and many a time I sit there and listen to some very interesting explanations on country and the way Aboriginals look at issues that we might not consider normally. I must say she should be commended for that because she does bring a bit of a voice to the parliament. I think your proposition is very interesting and probably, as you say, if ever there was a time in history, this might be it. I just have one little niggle and that is that if we go to a different process, and I understand all the reasons why, we would be creating a sort of a balance of power issue where lots of things could be traded, which obviously would be very good for you guys, but that might make a government of the day bow to something they probably would not have done normally.

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CHAIR - It would be no different in a way, though, than if the Greens had the balance of power, or another independent.

Ms HICKEY - I am just thinking that out. I understand and I think it would be great to see something like this, but I'm just trying to work out the mathematics of it too.

CHAIR - Or if a particular Speaker held the balance of power.

Ms HICKEY - There you go. You never know.

Mr MANSELL - I think at one stage, just on that point, it was not in Maine but another American state where Indians first of all were admitted on the basis that they could speak but couldn't vote, and it may have been on that very point, but that changed I think - it might have been Maine in the old days - on the basis that if you're in, you're in with full voting rights, the same as everybody else, otherwise it is discriminatory.

Ms HICKEY - Yes, I would accept that too.

Mrs RYLAH - Wasn't it in New Zealand originally where the Maoris were given a voice but couldn't vote?

CHAIR - They had a treaty that gave them a pretty strong voice.

Mrs RYLAH - I don't think they could vote.

Mr MANSELL - You might be right, but I know they have seven members now but it was less than that when they first went into the parliament. It may well have been without voting rights, but when the Treaty of Waitangi was legislated in 1975, which makes it fairly recent, they clearly had full voting rights by then, and I think a couple of times they increased the numbers from whatever it began with to seven now.

CHAIR - Michael, I think this is really interesting, potentially an evolution of thought from within your community. I have talked to really talented Aboriginal Tasmanians about running for parliament, seeking representation, and have had the quite understandable response that, 'That is your system. Your system has shafted us, so why should we participate in that system?' Now what you said to the committee is that you want to be part of that system. It is a kind of acknowledgement that one of the major mechanisms for achieving justice for your people is to be within the system that exists, isn't it?

Mr MANSELL - You've got protection of culture, protection of history and hope for the future - they all have a political element to it. You can have other people making the political decisions and saying we will give you a school on Cape Barren. Back in 2005 Paula Wriedt was probably the best education minister we had. She ignored the department and said, 'I can see that without a school there all these Aboriginal kids are being sent off to Launceston and Hobart and they just don't go back', and the legal service was picking them up by the dozens because they just weren't handling it well, but this school has kept Aboriginal kids there and they are now grown up. You can have someone like that very rarely making that decision, but since then we have had no good decisions in education, return of land has just stopped since 2003, I think it was, and there is just nothing happening. All the politicians have their own demands and considerations they have

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to deal with. I think it would be not only juicy but it would also enrich the parliament to have Aboriginal people in parliament raising Aboriginal issues and being able to go back out into the community as Aboriginal politicians and talk about these issues.

On the question of whether this is jumping and grabbing hold of the white man's system, it's the reality. Aboriginal people were sovereign and the High Court has said there was a change of sovereignty but there is still sovereignty amongst Aboriginal people, but how that sovereignty is expressed is the difficulty. In this case, Aboriginal representatives in the parliament would not be expressing Aboriginal sovereignty, but it would push back slightly the power of people outside the Aboriginal community to decide the day-to-day fate of Aboriginal people and it would at least give us a voice inside the parliament and say, 'Hey, hang on there a minute, you haven't considered this' - like the abalone quota. When they're talking about changing the abalone rules, I am going to have to write a letter to someone but it will be ignored. I will be saying that on the muttonbird islands hundreds of tonnes of fish are being taken from around those foreshores, so when the muttonbirders throw a craypot over, it comes back empty. When you go to get a feed of abalone to balance your diet of muttonbirds, there is no abalone because everybody is coming in and getting it.

CHAIR - Commercial or recreational fishers? Sorry to interrupt but I am curious to know.

Mr MANSELL - It depends where it is. Up on the north-west coast you've got both commercial and amateurs. Out at Babel you've got mostly commercial because it is hard to get to. They are taking 60 tonnes of crayfish before Christmas so when we go out and throw a craypot in we wonder why there are no crayfish going in it. This is a real problem and all we are left with outside the parliamentary process is the writing of letters and the response is, 'Thank you very much, Michael, for writing that in', but then you hear no more and things just go ahead as usual.

Mrs RYLAH - Earlier today I asked some questions of some witnesses with regard to what they expressed as the potential or the realities of having a hybrid system within one House of parliament - in other words, having some seats based on an electorate that is part of the state and other seats on a different basis. I asked them specifically about a statewide basis as you proposed. They are saying there is history that says there are problems when you have differences in the same House. Could I put to you two options? Either we consider changing the Legislative Council in this state to being elected like the Senate, in other words on a statewide basis and have Aboriginal seats in that House, or is it that Aboriginal seats would be best if it was on a statewide basis in the Senate itself and not in the state House. Could you give me some comments on both those options, please?

Mr MANSELL - The whole proposal is to give Aboriginal people a voice in the House of Assembly at the state level, not to review government legislation, but to be able to agitate Aboriginal issues in the House of policy, which is the lower House.

Despite what Sue was saying, it is a real issue, 'Hang on what about the deals that are struck?' We would say our Aboriginal representatives should be able to act the same as other politicians and do what has to be done politically within the rules to get the best deal for Aboriginal people. It is not intended to hold up government or hold up supply. The whole point of it is to give Aboriginal people a voice. For that reason, we are looking at the House of Assembly.

Just to correct a discussion earlier, we are looking that if it is 35 to be two seats within that 35, not an additional two.

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Mrs RYLAH - Okay, that wasn't clear.

Mr MANSELL - I hate to take a couple of seats off you, Cassy, but -

CHAIR - No, you wouldn't necessarily be taking them from us, but from the cut. That actually significantly complicates the legislation we've got before us. It's potentially more of an efficient and elegant solution to have 35 seats under Hare-Clark and then the two seats statewide.

Mr MANSELL - I mean we're not going to be fussed, quite frankly, if there were 25 and Aboriginal representation or if you've got 35 and Aboriginal representation, or 37 or 40 plus Aboriginal representation. Our point is to give Aboriginal people a voice.

As far as the Senate is concerned, the idea has been thrown around for some time that of the 12 seats available to each of the states, but not the territories, one of those should be allocated to an Aboriginal representative. If that got up, you would have 76 senators, of whom six would be Aboriginal, elected by Aboriginal people on a similar roll that we're talking about here. The difference between that proposal and this one is that there are federal issues and there are state issues. The state owns the crown land not the federal government. Land return is a big issue for Aboriginal people here and around the country.

The federal government has the broad Aboriginal affairs powers, but they tend not to use them to override the states when it comes to a range of state issues. Education, housing and health are state issues even though the Commonwealth uses its power as the financier of these things.

There is not enough Aboriginal housing in Tasmania. The health services are provided by Canberra so that is a good system. Had that not happened we would have been in trouble. The health standards of Aboriginal people are improving. The law of the state is the law of the state. If we are to reduce the Aboriginal imprisonment rates in the state, the federal government is not going to use its federal powers to impose its will on the courts. Where these programs exist as alternative to imprisonment, like we ran over at lungtalanana/Clarke Island years ago, it was funded by the state government. They suddenly cut it off. There must have been 70 or 80 kids went through that and the recidivism rate dropped down. When they came back into the cities, we didn't have a very good system to pick them up. Their repeat offences dropped off because of that program.

If we want to reduce the imprisonment rate and the amount of contact between police and Aboriginal youth, you have to urge the courts to look at these alternatives. That is legislation. The Sentencing Act and a range of other things are state laws. If we can get the federal government to fund these programs and the state to fund the programs, you have to be able to say to the courts, the magistrates and the judges, 'Take advantage of these alternatives'. Even if you get changes in the Senate, you still have to have representation at a state level because there are so many state issues.

Mrs RYLAH - You have named the three in particular - health, recidivism and imprisonment, and land return. Thank you very much.

Ms DOW - I would like to thank you for your submission and your proposal. We have had a lot of talk today about representation and the importance of that. Many have shared that there is the challenge of ensuring that the constituency work done by members is balanced with their parliamentary role. I am from regional Tasmania and I advocate strongly for that wherever I can. I would like to try to understand where those two positions you are proposing within the parliament would be drawn from? What sort of underlying assurity can you give around that being good

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representation around the state of all of the different Aboriginal communities within the Tasmanian community? How would you ensure they were adequately representing the interests of all Aboriginal people in Tasmania?

Mr MANSELL - The issues for Aboriginal people in Burnie are the same as the issues at Huonville as they are on Flinders. You have social inequality, you have legal issues and over-imprisonment, land returns, the sorts of things we talked about. It would not really matter whether someone came from Marrawah or Hobart, or both of them came from Hobart, because you would expect that if they want to attract the vote of Aboriginal people, they are going to have to get around. Get off their bums and go round and talk to people and represent all people on issues that are common to all of the Aboriginal groups. I think that rather than divide it into a north-south thing like the old football stuff again -

Ms DOW - I am not suggesting that; I am just curious to see how it would work.

Mr MANSELL - Two things. I think it would work better if it were a statewide thing. ATSIC was always statewide. The Aboriginal Land Council is not. One of the problems there is that if you do not get enough people suddenly standing from Hobart, or Launceston or the Burnie area, all of a sudden you are struggling and you have to run out and encourage people to stand. They think it is boring on the Land Council. It would be good if it were statewide like ATSIC was and then you had a lot of people standing, a lot of people voting.

The other thing is about how many Aboriginal people. If this thing gets up, it would be terribly hard for one Aboriginal person in the parliament, especially in the initial stages, to be able to deal with this. They really would like one of their own people to be able to run things past and work with. I am sure with the makeup of the parliament now there would be some very good people in the parliament that they could go to, but you need them to be able to go to those very friendly people in the parliament.

Ms DOW - Thank you.

CHAIR - Michael, the move towards a treaty, the need for a treaty, is happening at a quite depressingly glacial pace at a national level, but we are seeing different jurisdictions talk about developing state-based treaties. Obviously that is something we would like to see progress in Tasmania. I say 'we' - I mean obviously the Greens.

I will just put a sequence to you. We have a piece of legislation before us; it is a very straight bill, it simply seeks to restore the House to what it was in 1998. We heard from the Tasmanian Constitution Society which said basically 'Get the bedrock right and then you can deal with other outstanding wrongs and issues'. One that was mentioned is obviously Aboriginal representation. Then there is the talk of the treaty and that time will come.

Can you see merit in bringing the treaty forward, pushing for treaty talks to come forward and making representation in fact at all levels of government, part of those treaty talks?

Mr MANSELL - We would argue that the bedrock of parliamentary democracy is undermined if Aboriginal people in this process are still kept out. We would say it is a core element of Tasmanian representative democracy to have Aboriginal people in there now and then you go off and do other things.

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The second point is that we would expect those Aboriginal representatives to be able to agitate for things like a treaty or for land returns or a range of other issues, and be able to consult all their parliamentary colleagues and say, 'Look, this is the position here, what do you reckon about this?'. We would negotiate from within the parliament instead of us coming down lobbying every blue moon and saying, 'I know you're busy, but what about this?', and everybody says, 'Oh, I've got 101 things going on, I'll think about that later.' In the system.

CHAIR - How many people are on the ALCT roll?

Mr MANSELL - I think about 500 or 600, not that many, although it is not compulsory voting. We need to keep in mind that compulsory voting seriously increases the number of people who go on rolls, but if it's voluntary and they know they're going onto boring committees, the number of people is hard to increase. But if you're going to be a member of parliament representing at the highest political level in Tasmania the political interests of Aboriginal people, the numbers of adult electors could be as many as 10 000. It would certainly be far and above anything that the Land Council could put forward and it would be higher than ATSIC, which was just an election of people to distribute revenue, nothing more.

CHAIR - I think the ATSIC roll is sitting at about 4000 or 5000, from memory.

Mr MANSELL - I think it was about 1100.

CHAIR - Okay. I am interested in this because it comes back to the conundrum of Aboriginality. In your submission you talk about the ABS figures where in 2016, 23 572 Tasmanians identified as Aboriginal, which in some ways is amazing and wonderful, but also must present some challenges to the Tasmanian Aboriginal Centre and other Aboriginal organisations. How do you resolve that issue if you even need to? If we're going to a situation where there is a statewide vote for Aboriginal representation, you will have to be really explicit about who has the responsibility and the right to vote.

Mr MANSELL - The Electoral Commission would decide that. It is an independent body that depoliticises this whole process and it would look at the adult members of the 23 000 figure and apply criteria the same as with the 15 people who were disqualified to be in federal parliament. They would apply criteria, presumably that the person identifies an Aboriginal -

CHAIR - Community recognition.

Mr MANSELL - Community recognition, and has Aboriginal ancestry. They would apply the criteria. If they came up with a figure of 15 000 adults or 5000, that is an independent body applying this process. We can't put forward a process and say Aboriginal people should be represented in the parliament but it can only be those people who everybody knows is Aboriginal and there is no question about it. That is not the way the political system works. Once you agree that there will be Aboriginal representation in parliament, it necessarily follows that someone other than the core Aboriginal community will go to decide who is eligible. We accept that.

Ms HICKEY - Would this mean that the Aboriginal community would get two votes in parliament?

Mr MANSELL - No, one vote.

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Ms HICKEY - You can only vote for that.

Mr MANSELL - You either go on the Aboriginal roll to vote for an Aboriginal candidate or you vote in the general election, but not both. That is the way it operates in New Zealand, and the same in Maine and in Bolivia. Again, they have a separate roll there as well.

Mrs RYLAH - It is either/or.

Mr MANSELL - It is either/or, but you can't do both.

Mrs RYLAH - Can you change? In one election could you be on this roll and then you might decide to be on the other roll?

Mr MANSELL - Yes.

Mrs RYLAH - Assuming that you have Aboriginality.

Mr MANSELL - If I am on one of the general rolls or the Aboriginal roll, I could swap over in the next election.

Mrs RYLAH - And back.

Mr MANSELL - Yes.

Ms HICKEY - It has been very interesting and challenging, but a well-argued case.

Mr MANSELL - We will come down to collect our two seats later.

CHAIR - What you said earlier about how non-Aboriginal people are guaranteed representation is interesting. I would challenge that, possibly. I think a lot of marginalised groups in our community are not necessarily guaranteed representation, along with the obvious case of the First People.

Mr MANSELL - You have the Hmong, but notwithstanding, if you picked out a whole lot of ethnic groups, white people are still guaranteed to have people in the Tasmanian Parliament.

CHAIR - Well, if race is your measure for quality, sure, but just having white people in the parliament does not mean that non-Aboriginal people are going to get good representation or good policies.

Mr MANSELL - No, but looking at the history of Tasmania, we've had a bloody raw deal and one of the reasons, amongst many things - attitudes and people genuinely thinking they were doing the right thing but were doing the wrong thing - is the lack of Aboriginal input into the political decision-making process. I have seen the history where about eight heads of the families on Cape Barren thought that the Cape Barren Reserve Act was going to guarantee land rights for the Aboriginal families on Cape Barren and provide a school to take over from the Lucy Beeton School on Badger Island. Instead, somebody designed it in the parliament to say that from now on, these people will have a white overseer, and they're not allowed to drink alcohol. It is the only place in Tasmania where you weren't allowed to consume alcohol, under threat of imprisonment, and where

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Aboriginal people were literally taken by police and moved off Cape Barren because they broke these rules.

That was made at that political level, even though people outside the parliamentary process thought they were going to get a different deal. The communication is better nowadays but it highlights the point that if political decisions are made that directly or indirectly affect Aboriginal people, surely we have a right to have input into that process?

CHAIR - Just stepping back from a number of the issues we have discussed today, what are your broad thoughts on the reduction in numbers to 25? How this is impacting on representation for Aboriginal people and a whole suite of other people in Tasmania?

Mr MANSELL - We know the deals that were done to reduce the numbers to 25. I like the idea. Obviously our submission is based on the idea of broader political representation and whatever the number of members that this group recommends, we would support that because you have a far greater insight into how many numbers are required in Tasmania to give that broader political representation. We say that as long as you have Aborigines included among that, count on our support, for what it is worth.

CHAIR - Thank you. Anything else you wanted to say, Denise?

Ms GARDNER - We said that we're ready to take our two seats.

CHAIR - Before you leave, I have to say a few words for procedural reasons. As I advised you at commencement of your evidence, what you have said to us here today is protected by parliamentary privilege. Once you leave the table, you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you said to us. Thanks so much for coming in. Did you travel all the way down from Cape Barren?

Ms GARDNER - Yes.

CHAIR - You're a legend - thank you.

Ms GARDNER - On behalf of the people to have a voice.

Mr MANSELL - Thank you for giving us the opportunity to present our case.

CHAIR - No, thank you.

THE WITNESSES WITHDREW.