

Submission on the *House of Assembly Restoration Bill 2019*

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The views expressed in this submission are those of the authors and not the University of Tasmania.

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Introduction

We welcome this opportunity to comment on the *House of Assembly Restoration Bill 2018*.

This brief submission outlines our assessment of the key political and administrative issues associated with restoring the Tasmanian House of Assembly to 35 members. Due to time constraints we have not provided detailed analysis of the many implications associated with the restoration, but we have provided a summary of the key issues which we believe the Committee ought to consider.

We support the proposal to restore the House of Assembly to 35 seats in principle. Tasmania currently has one of the smallest lower houses in the world, both in terms of the absolute number of seats, and relative to the size of the population. This has consequences for the capacity of the parliament to fulfil its core responsibilities under the Westminster model, particularly in terms of the relative sizes of the backbench, opposition and committees. Enlarging the House of Assembly is an important first step towards strengthening parliament's legislative and representative functions and enhancing the legitimacy and effectiveness of Tasmania's system of government.

However, there are two sets of issues associated with the restoration which need to be considered. This submission describes these issues and briefly outlines some complementary reforms designed to promote effective and efficient governance in a small jurisdiction such as Tasmania. The restoration as currently proposed will have electoral implications while potentially enhancing the effectiveness of the Tasmanian parliament. We consider each of these issues in turn.

1. Electoral Implications of the Restoration

Increasing the Tasmanian House of Assembly to 35 members while retaining existing electoral boundaries has clear implications for electoral politics and the outcomes of future elections.

These electoral implications should be understood and debated but, in our opinion, do not necessarily outweigh the administrative and democratic dividends that should result come with enlarging the House of Assembly.

Implications of restoration for District Magnitude and Electoral Quotas

Much of the public debate about the size of the Tasmanian House of Assembly has focused on the implications for the effectiveness of Parliament. However, our assessment is that political considerations were a central factor in the 1998 decision to reduce the size of the Assembly to 25 members and remain central to the current debate about the restoration to 35 members.

Given our Hare-Clark electoral system the most visible consequence of an enlarged House is that the district magnitude (representatives per electorate) will increase from 5 to 7 and the associated quota to secure a seat will fall from approximately 16.7% to 12.5%. Reducing the quota in this way will improve the proportionality of the electoral system and will help ensure that representation in the House of Assembly more closely reflects the preferences of electors.

It is possible to increase the size of the House of Assembly to 35 members without changing the district magnitude or the associated electoral quota by creating seven five member electorates. However, we don't support this approach given the administrative costs and complexities associated with no longer using electoral boundaries used to elect Tasmanian members of the House of Representatives.

There is a long-running normative debate on the relative merits of proportional vs majoritarian electoral systems: older democracies with established parties tend to favour majoritarian systems while proportional systems have become increasingly common in the second half of the 20th century.

Historically established political parties have opposed increasing the proportionality of electoral systems because, *ceteris paribus*, the lower the quota the easier it is for emerging parties to secure parliamentary representation. Indeed, there is significant international evidence that established parties engage in cartel-style behavior to actively limit competition from new and emerging political actors.¹

This submission is not concerned with the long-running normative debate about the relative merits of majority and coalition government but we do note that once multi-party systems are established (we would argue this has occurred in Tasmania) then lowering quotas doesn't automatically favour minor parties and independents relative to established parties. For example, it may well have been that the Hodgman government would have secured a larger parliamentary majority in the 2018 Tasmanian election had the parliament been restored to 35 members.

Given the broader trend towards dealignment, where a larger portion of the population abandon stable partisan affiliations, a more proportional electoral system will help ensure that parliamentary representation more accurately reflects voting preferences. Conversely, a single member preferential voting system such as that used to elect the House of Representatives won't prevent independents and emerging parties from securing representation given that political support for established parties has been declining.

2. Governance, Administration and Finance

One of the key arguments in favour of restoring the House of Assembly to 35 seats is that the increased number of representatives broadens the talent and experience pool from which Cabinet (as well as the Shadow Cabinet) can be drawn. Strengthening the experience, expertise, and talent of the parliament is crucial. However, an increase in numbers alone is not necessarily sufficient to ensure that new talent and experience are utilised effectively. Restoring parliament should be the first step in a wider discussion about the best models of governance in small jurisdictions to evaluate whether an enlarged (but ultimately still relatively small) parliament is able to effectively represent and serve Tasmania.

Aligning ministerial portfolios with agency structures

The current division of Cabinet portfolios means some Government Departments serve several different Ministers, and that Ministers all too often have to engage with multiple Departments to administer their portfolio. Although this allows for flexibility in the allocation of portfolios, and for communication and information sharing across Ministers and Departments, it can also lead to doubling up of, or confusion over responsibilities.

If the number of MPs in the Cabinet is to be increased from 9 to 10, a reassessment of the distribution of portfolios relative to departments may help to ensure ministerial roles are as streamlined and efficient as possible.

¹ Richard S. Katz and Peter Mair, *Democracy and the Cartelization of Political Parties*, (Oxford: Oxford University Press, 2018).

Backbench and Opposition

The traditional structure of Westminster systems places parliament at the centre of the legislative process in addition to providing oversight of government decision making and administration. Given this function, the opposition has a formal status and a specific role in a Westminster parliament. In the 25-seat parliament, the relationship between government and parliament has occasionally been challenged by the limited size of the opposition and of the back and cross benches – all of which play crucial roles in reviewing legislation, holding government policy to account and for providing engaged and meaningful representation of the electorate.² In other words, ‘the smaller the parliament, the fewer the number of backbench members there are to challenge the party’s frontbench and moderate the executive’s control of the public agenda.’³ Enlarging the parliament will help to ensure there are sustainable oppositions and backbenches available to balance the executive, provide effective review, and engage directly with constituents.

The Role of Parliamentary Committees in an Enlarged Parliament

The enlarged parliament presents an opportunity to re-evaluate the potential of the parliamentary committee process. Committees are one of the key mechanisms by which parliament is able to review and contribute to government policy and legislation – they present an opportunity to ask questions, collect evidence and commission additional research, consult experts, stakeholders and community members, consensus and broker compromise and to hold ministers and bureaucratic departments to account. In an era where there is growing concern that established political parties and leaders are too remote from the communities they serve, committees can facilitate ‘government by discussion’, helping to connect those doing the governing to those being governed.⁴

If the House of Assembly is to be restored to 35 seats, expanding and strengthening the committee system alongside it would enable an enlarged parliament to engage in building consensus around policy and legislation, and to ensure that policy and legislation are aligned closely to evidence and community needs.

Similarly, an enlarged committee process in the House of Assembly would alleviate some of the pressure on the Legislative Council to conduct legislative review. As Richard Herr suggested in 2005, the smaller House of Assembly has put additional pressure on the Legislative Council to be a more visible and overt critic of the government and government-proposed legislation.⁵ Having more robust lower house and joint committees would help to develop and test legislation in a more deliberative and cross-partisan space, while still enabling the Legislative Council to review proposed legislation in line with its traditional function and responsibilities. Greater deliberation through an expanded committee system would therefore likely reduce the chances of deadlock between the two chambers of parliament while supporting a more thorough legislative review process.

² Harry Evans, ‘Constitutions Safeguards, Bicameralism, Small Jurisdictions and Tasmania’, *Legislative Studies*. 13(2), 1999, p.4.

³ Richard Herr, ‘Democracy and Small Parliaments: Some Diseconomies of Scale’, *Democratic Audit of Australia*, December 2005, p.2.

⁴ Ian Marsh, ‘Can Senate Committees Contribute to “Social Learning”?’ , Papers on Parliament No. 45, August 2006. Available at:

https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/~/~link.aspx?id=AC113D4628DF418F8B4C4AE5782C235A&z=z

⁵ Herr, ‘Democracy and Small Parliaments’, p.2.

Finance

A final concern about enlarging the House of Assembly is the increased cost. As noted by the Hon. Cassy O'Connor, MP, in her second reading speech introducing the bill to restore parliament, a 40% increase in House of Assembly costs equates to roughly \$3.7million.⁶ Although this is a notable cost, a larger parliament can promote better governance, engagement and interest aggregation. In light of this, we suggest that the benefits of a more robust parliamentary system, some of which we have discussed above, outweigh the financial impact, and are a key step towards broader reforms aimed at promoting more effective small state governance.

Conclusion

We broadly support the proposal to restore the Tasmanian House of Assembly to 35 seats. However, as we have outlined in this submission, we also recommend an evaluation of the responsibilities and capacity of the parliament – especially the committees and alignment of the Cabinet to administrative departments – alongside the restoration. This will help to ensure that the enlarged parliament is able to uphold good governance principles and effectively meet Tasmania's legislative and administrative needs going forward.

Thank you for considering our submission. We are happy to appear before the committee to discuss any of the issues raised here.

⁶ Cassy O'Connor MP, Second Reading Speech, *House of Assembly Restoration Bill 2018*, p.4.