

Tasmania

Lachlan Johnson, Richard Eccleston and Mike Lester

Tasmania is Australia's most southerly state, an island separated from the main continent, and the smallest of the six full states in the Commonwealth in terms of its population, area and economy. Yet politically it pulls above its weight, electing 12 senators (compared with two for the Canberra territory), and at times leading the national political debate on some issues. The state is also unique in using the standard two Australian voting systems, but the 'wrong' way around ([Tasmanian Electoral Commission, 2023a](#)). Proportional representation (PR) has been used to elect its 25-member *lower* chamber (the House of Assembly) in five member seats for terms of up to four years. However, under recently passed legislation, the Assembly will be 'restored' to its former size of 35 members effective from the March 2024 election ([TDPC, 2022](#)). The Alternative Vote (AV) is used to elect Tasmania's 15-member *upper* chamber (the Legislative Council (LC)) annually, in a rolling program of elections for two or three single member seats each year, with members serving fixed six-year terms. Having multi-member seats for lower house elections and single-member seats for the upper house is the inverse of all other states with bicameral (two chambers) legislatures. Tasmania's political system has several distinctive features, which have evolved over time, contributing to a unique political culture, and providing key points of difference from the other Australian states.

What does a democratic state government require?

Key elements include:

- ◆ An effective state constitution that provides an anatomy of legitimate public power to: define the limits of state governmental powers; make government accountable to the people by providing for checks and balances; and promote long-term structures.
- ◆ Aboriginal and Torres Strait Islander peoples should be afforded full individual civil and human rights. The histories, languages, cultures, rights and needs of Aboriginal and Torres Strait Islander communities and peoples should be addressed.

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- ◆ Electoral systems for the state's lower and upper houses should accurately translate parties' votes into seats in the state legislature, in different ways that are recognised as legitimate by most citizens. Ideally, the voting systems should foster the overall social representativeness of the two houses of the legislature. Elections and the regulation of political parties should be impartially conducted, with integrity.
- ◆ The political parties should sustain vigorous and effective electoral competition and citizen participation. They should enable the recruitment, selection and development of political leaders for state government; formulate viable policy agendas and frame political choices for state functions; and form governments or, when not in power, hold governments accountable. Political parties should uphold the highest standards of conduct in public life.
- ◆ The parliament should normally maintain full public control of government services and state operations, ensuring public and parliamentary accountability through conditionally supporting the government, and articulating reasoned opposition, via its proceedings. It should be a critically important focus of Tasmania's political debate.
- ◆ The two houses should have different roles and functions, with the House of Assembly providing the premier and most of the cabinet, and much of the political impetus. The LC should operate in ways that further incorporate a plurality of viewpoints and subject a majority government to some effective checks on its power.
- ◆ The Tasmanian government should govern responsively, prioritising the public interest and reflecting state public opinion. Its core executive (premier, cabinet, ministers and key central departments) should provide clear unification of public policies across government, so that the state operates as an effective whole. Both strategic decision-making within the core executive, and more routine policy-making, should foster careful deliberation to establish an inclusive view of the 'public interest'.
- ◆ The core executive and government should operate fully within the law, and ministers should be effectively scrutinised by and politically accountable to parliament. Ministers and departments/agencies must also be legally accountable to independent courts for their conduct and policy decisions. In the wider state public service officials should act with integrity, in accordance with well-enforced codes of conduct, and within the rule of law.
- ◆ The administration of public services should be controlled by democratically elected officials so far as possible. The rights of all citizens should be carefully protected in policy-making, and 'due process' rules followed, with fair and equal public consultation on public service changes. Public services, contracting, regulation and planning/zoning decisions should be completely free from corruption.
- ◆ At the Commonwealth level the Tasmanian government should effectively and transparently represent its citizens' interests.

The chapter considers two recent developments, Tasmania's changing political scene, and how the state coped with the COVID-19 pandemic, before a SWOT analysis that surveys the overall strengths and weaknesses of Tasmanian democracy. The later sections cover several aspects of elections and party politics, how government and parliament operate, and some potential deficiencies in the state's unique constitutional set up.

Tasmania's changing electoral politics

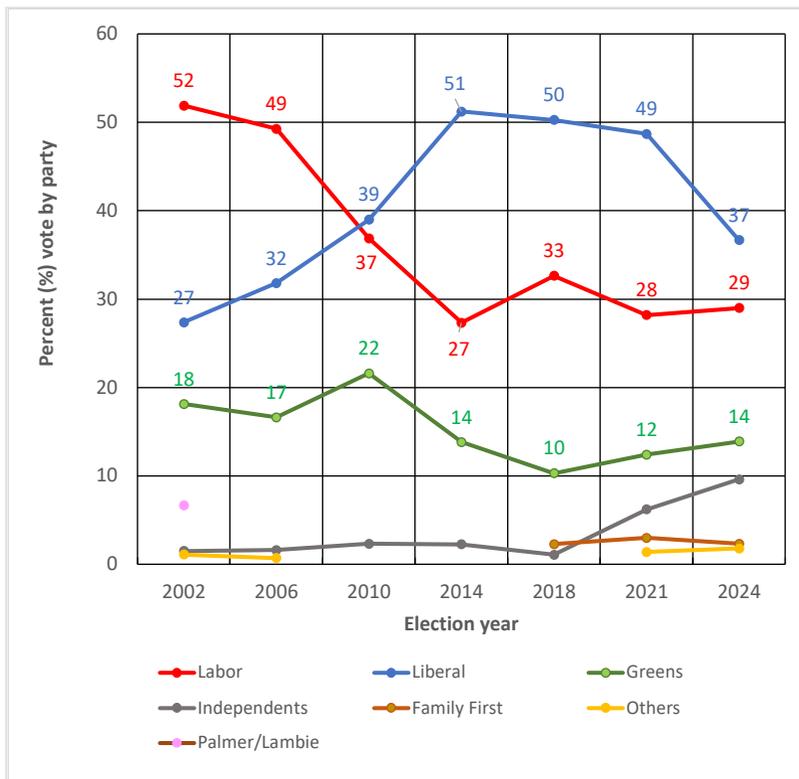
In 2022, the ABC's veteran political commentator Antony Green remarked:

Tasmania has been a Labor stronghold for most of the post-war period. Labor governed the state for 44 of the 47 years between 1935 to 1982, had a controversial reprise as a minority government between 1989 and 1992, and won four elections in a row for 16 years in office between 1998 and 2014.

At state level, the tide seems to have turned against Labor since Will Hodgman led the Liberal Party to victory in 2014. Hodgman became only the second Liberal Leader to win re-election as premier in 2018, and Hodgman's successor Peter Gutwein led the Liberal Party to a third victory in May 2021. It was the first time the Tasmanian Liberal Party had achieved a third term in office. The Labor Party was split by internal divisions before Premier Gutwein called the May 2021 state election. (Green, 2022)

A glance at the parties' shares of first-preference votes, shown in Figure 22.1, could be interpreted as supporting this narrative. Labor support fell dramatically from over half in 2002 to just above a quarter in 2014 and 2021, albeit with a small uplift in between. Votes for the Greens, who have been active in Tasmanian politics in various guises since the 1970s, also fell from nearly a fifth in the first elections this century to around a tenth of voters in the past two. By

Figure 22.1: Party shares of first-preference votes in the Tasmania House of Assembly elections, 2002–2024

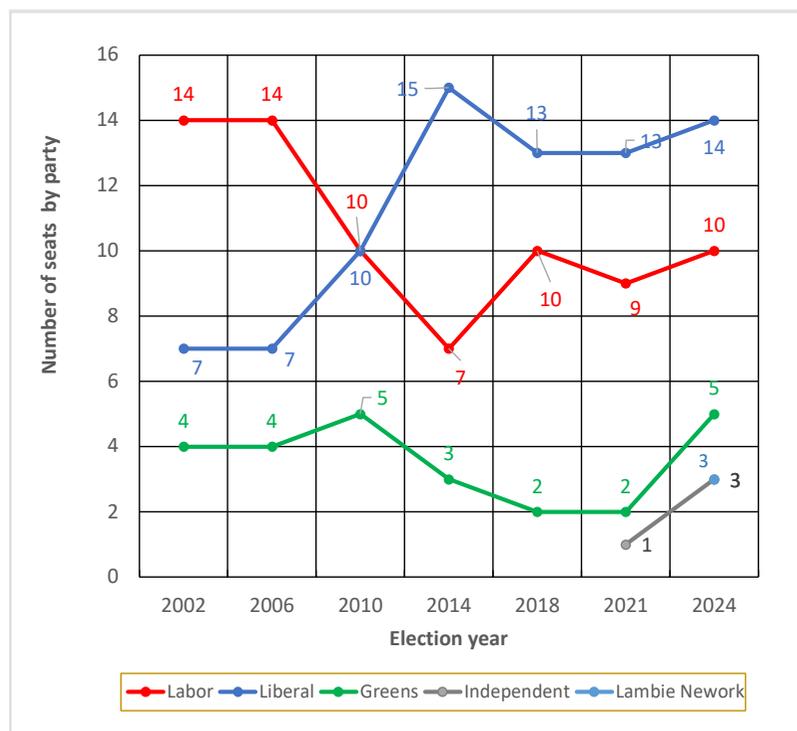


Source: Compiled from data in Tasmanian Electoral Commission (2023b) and Wikipedia (2024a).

contrast, the state-wide Liberal party soared from a quarter of voters in 2002 to run consistently at around a half since 2014. However, at the 2024 state election, called early by the Liberal premier Jeremy Rockliff after two of his MPs defected to the crossbench, the top two parties' support somewhat converged and Green and other voting increased (9News, 2024).

In terms of Assembly seats, the Single Transferable Vote (STV) PR system – in a variant called Hare-Clark in Tasmania – has reliably rendered votes cast into seats. There have been some occasional wobbles arising from Tasmania using the five federal election districts as five-member seats for the Assembly elections. Seats of this size imply that no party or candidate can win representation unless they formally receive around 16 per cent of the final vote count, or somewhat less (depending on the specific ways that votes are cast). Even with transfers this has been a tall order for Tasmania's smaller parties, and even independents are rarely elected (Figure 22.2). The Greens have managed to win and retain seats, and they supported the Labor government from 2010 to 2014 in office when they held the balance of power. However, the main trend has been that the change in voting patterns in Figure 22.1 has translated into a reversal of Labor and Liberal fortunes from 2014 onwards (Figure 22.2). In 2024, the number of seats in the Assembly was increased (from 25 to 35), so that although the Liberal seats total increased, their share of seats fell (from over half to two fifths). Yet, as at previous elections, Labor conceded that the Liberals should reform a minority government, since they retained the largest number of seats (9News, 2024).

Figure 22.2: Party seats in the Tasmania House of Assembly elections, 2002–2021



Source: Compiled from data in Tasmanian Electoral Commission (2023b) and Wikipedia (2024a).

Note: There were 25 members up to 2021, so a majority required 13 MPs. In 2024, the number of seats increased to 35, so a majority requires 18 MPs.

In the past, political scientists argued that minority governments are ‘much more frequent in the PR electoral systems’ (Powell, 2014, p.4), while, in contrast to ‘first past the post’ and AV voting systems, PR creates a challenge to the traditional Westminster two-party model (Bogdanor, 1984, p.121). Arguably, PR helps minorities and coalitions to endure by supplying small parties as ‘contract partners’ whose main aim has been to exist to negotiate post-election agreements to secure policy outcomes rather than necessarily to win government themselves (Cody, 2008, pp.27–29).

Historically, Tasmania has had a high count of minority governments, given its adoption of the Hare-Clark PR voting system in 1907 (Moon, 1995, p.147). This ‘pure’ version of STV allows independents and minor parties to more easily secure representation in the House of Assembly. In the 34 elections since it was introduced, independents or third parties have won seats in all but nine. In two of those nine where no independent was elected, Labor and the Liberal Party each won 15 seats. From 1989, when five Greens were elected to the House of Assembly, until 2021 Tasmania had three ‘hung’ parliaments which resulted in minority governments. All Tasmanian elections have been close and there has been a long-running argument about the prospects and benefits – or otherwise – of single-party majority governments. However, five out of the past six elections delivered exactly that (under the old seats total), the STV system notwithstanding. With the change to 35 seats in 2024, another minority government was formed.

Turning to the LC (the upper house), its 15 seats are elected using the AV system in subdivisions of the state’s five federal districts small enough for a single seat, but whose somewhat artificial boundaries are not necessarily well known to Tasmanians. Voters need to number all candidates in order of preference. Historically, the upper house was dominated by independents with local reputations able to garner majorities at the two-party preferred vote final stage of AV. For a long time, it was the only parliamentary chamber in Australia where most members were independents, not subject to party control, and thus able to provide more autonomous scrutiny of government proposals. However, in recent years both Labor and the Liberals have fielded candidates who have proved able to win seats. The LC membership in spring 2023 showed Labor and the Liberals holding four seats each and the crossbench independents seven seats. In general, governments have had to negotiate legislation through the LC, rather than being able to rely on a single-party majority there.

Elections for the LC’s single-member electorates are conducted in a fairly unusual way. Members are elected for six-year terms with elections alternating between three divisions in one year and two divisions the next. This cycle repeats ad infinitum. Another atypical feature is that the state’s government has no power to ask the governor to dissolve the upper house in the event that it ever used its theoretical power to vote down the annual budget and block supply. As a result, and unlike other state upper houses and the federal Senate, the LC never has to face either a full or half-house general election. With only a third or less of seats contested each year, and with many independents also winning seats, tracking voting behaviours for upper house elections has been difficult. The make-up of the chamber is discussed in the next section.

The COVID-19 pandemic

Throughout the 2020–2022 pandemic crisis period, Tasmania as an island state was in the unique position of having no land borders with other Australian states. Instead, it could rely on the far more easily implemented checks on people arriving at seaports and airports. From March to December 2020, travellers deemed to be ‘non-essential’, including returning residents, were subject to a

mandatory 14-day quarantine, with fines for breaches implemented. Within the island, the Liberal state government's response was also relatively relaxed, with the few lockdowns imposed only where large outbreaks of the virus occurred early on, or in responses to surges in other Australian cities leading to temporary bans on entry from badly affected areas ([Wikipedia, 2023a](#)). More or less bipartisan support for this approach also meant that the 2021 elections did not prompt any major changes in the policy. The vaccination rollout was comprehensive and by 2023, aided by the state mandating it for non-essential retail and some workforces, with three-quarters of adults having three injections and almost all aged citizens four. A few isolated protests against this alleged 'medical apartheid' resulted, but nothing like the movements elsewhere in the country ([Washington Post, 2021](#)). Mandatory vaccination was scrapped in March 2022 ([Constitution Watch, 2022](#)). In all, fewer than 270 deaths from COVID-19 were recorded in Tasmania by spring 2023 ([Tasmanian Department of Health, 2023](#)). However, just under 290,000 COVID-19 cases were monitored after mid-December 2021 from a population of 570,000 (when systematic tests in the state were first put in place). Political disruption was minimal, although LC elections in three seats in 2020 were postponed for a fairly short time (from May to August) ([Wikipedia, 2023b](#)).

Strengths, weaknesses, opportunities and threats (SWOT) analysis

Current strengths	Current weaknesses
<p>The state's electoral systems operate with high integrity. Tasmania's particular version of the STV electoral system used for House of Assembly elections – Hare-Clark voting – is somewhat complex for voters. But it closely translates aggregate voter preferences across parties into well-matched parliamentary representation, especially in the enlarged Assembly with 35 seats from 2024 onwards. At its best, the system also encourages compromise and collaboration among elected members in representing their constituency.</p>	<p>The five-member seats for elections to a smaller lower house were deliberately introduced by the top two parties with a view to curtailing the ability of the Greens and other small parties to win seats. They were used up to the 2021 election. The formal quota of support (the threshold needed to win a seat) was one-sixth of the total vote, although particular configurations of the vote may mean that the last seat in a constituency goes to a party with somewhat less than this level. From 2024 on seven-seat elections in the five electoral districts should give greater proportionality, and the formal quota drops a little to an eighth of votes.</p>
<p>Tasmania's uniquely constituted upper house changes incrementally each year with annual elections and has been relatively influential because of the dominance of independent members there. Its distance and independence from the lower house have been a valuable asset for Tasmanian democracy. Maintaining the independence of the state's upper house prevents its devolution into a 'rubber stamp' and encourages effective, rigorous review, ultimately helping to produce better and more considered policy.</p>	<p>Party politicisation of the LC has increased in recent years, with a majority of members now from the top two parties, reducing its distinctiveness somewhat.</p>

<p>Tasmania has not experienced difficulty in forming governments, even when no party has an overall majority. Either formal coalition agreements have been reached or parties holding the balance of power have agreed to vote supply and support confidence in government motions. Most recent governments have had majority support. The premier can also call an election within the four-year maximum limit, benefiting the incumbent party by ensuring that voting takes place at the most advantageous time, as occurred in 2021. However, this has not been common.</p>	<p>Tasmania's small parliament has been a major source of weakness. With a typical ministry of nine, a party needs just four more MPs to form a government. The talent pool from which to draw a cabinet and ministry has simply been too shallow. And ministers will typically have to cover several crucial portfolio areas (numbering 40 in all), limiting their ability to give each policy area the time and attention it deserves. Accountability to parliament likewise suffers given the scarcity of government backbenchers and the increased responsibility that naturally falls to unelected ministerial staff under this arrangement. In August 2022, however, the Liberal state government committed to restoring parliament to its former size (35 members) at the 2024 state election (TDPC, 2022).</p>
<p>Corruption linked to elected politicians has been rare. However, some internal party battles between factions can become intense, as with Labor before the 2021 election. And donations can influence elections as in the 2018 election, 'which turned largely on Labor's promises of gambling and pokies reform' (Guardian, 2021). The Liberal party received huge donations from vested gambling interests, but the public were left oblivious to the fact until well after the election' (Guardian, 2021).</p>	<p>Tasmania still relies on weak federal legislation spending limits to regulate donations to political parties, but these have been far too high to be effective within the smaller cockpit of state politics. Tasmania's Integrity Commission has some restrictions on investigating party finances while elections are under way. State election disclosure legislation being debated in the Tasmanian Parliament in 2023 was not as comprehensive as that in other Australian states.</p>
<p>Tasmanian public service has been generally effective and public administration has for the most part been well regarded by citizens. The state's Integrity Commission has powers to investigate the administration of public services in most circumstances.</p>	<p>There are some limits on the Integrity Commission's ability to follow through investigations of public service agencies and no statutory requirement for public officials to report suspected or potential corrupt conduct.</p>
<p>In theory, there is a right to information process for citizens. The broader transparency of state government has generally been high, with vigilant MPs and active mainstream and social media coverage of issues.</p>	<p>The under-resourcing of Tasmania's Right to Information system has led to the creation of a huge backlog of requests and unacceptable delays accessing public documents. Average delays in responses are now so long as to render the general 'right' largely ineffective.</p>
<p>Tasmania has a dynamic civil society, a wide range of engaged interest groups, and vigorous public debates about state policy-making. There are few signs of over-polarisation in partisan debates, nor of recent 'democratic backsliding.'</p>	<p>Some conspiracy theories and uglier mobilisations against vaccines and supposedly 'woke' issues (such as the rights of transgender or Aboriginal Tasmanians) have occasionally arisen.</p>

Future opportunities	Future threats
The Tasmanian government has recently completed a review of the <i>Electoral Act 2004</i> and in 2021 Liberal Premier Peter Gutwein pledged a new donations limit of A\$5,000.	Critics argue that the donations limit for a small state like Tasmania should be no more than A\$1,000. At the time of writing, Tasmania's upper house was in the process of debating the government's proposed A\$5,000 limit, which would be (with SA) the equal highest threshold in the country (Australia Institute, 2023 ; Eccleston and Jay, 2019).
Constitutional issues have been handled flexibly by altering the <i>Constitution Act 1934</i> , using normal parliamentary processes only.	Critics argue that Tasmania's Constitution has become outdated and riddled with blank, repealed, obsolete or irrelevant sections. It provides little or no guidance on a wide range of important matters, is arcane and inaccessible, and lacks the authority of a supreme or fundamental law. Since it has never been put to a referendum it is hard to see that it represents the settled will and values of Tasmanians.
The Tasmanian government has committed to a timeline for historical truth-telling and treaty discussions with the state's Indigenous peoples. The process will be led by senior constitutional law experts – including a former Tasmanian Governor (Kate Warner) – alongside Indigenous elders and community leaders.	Notwithstanding the important commitment to the truth-telling and treaty process, historically, treaty discussions with Tasmanian First Nations peoples have occurred only slowly and made little progress. The preamble of the <i>Constitution Act</i> referring to Indigenous peoples is largely symbolic and confers no specific, actionable rights.

The rest of the chapter explores three key issues with clear implications for effective democratic governance in Tasmania– the roles of parliament, the executive and public service; the operations of the electoral systems and party competition; and some constitutional and human rights issues.

Parliament and the executive

Like most states, Tasmania has a bicameral parliament. However, the state's Constitution does not fully specify the relationship between the two houses or their roles in several key areas beyond any doubt and some uncertainties remain ([Gogarty et al., 2016](#)). The appointment of the ministry for instance was not fully specified. In practice, whichever party and leader commands a majority in the House of Assembly forms the government, and most of the ministers come from there. In theory, the Tasmanian LC retained the power to reject money Bills (budgets), and thus send the lower house to an election without its own members having to face the polls – making it an unusually powerful upper house in comparison to other Westminster systems. Yet, since a famous stand-off in the 1880s, the LC has not exercised this power. One further issue has been that there is no longer a formal mechanism to resolve deadlocks between the House of Assembly and the LC, which must instead be negotiated case by case. In addition, Tasmania's Constitution does not clearly articulate the relationship of the ministry to parliament. This has left the authority and responsibilities of Parliament vis-à-vis the government and core executive somewhat unclear, and possibly creates a theoretical lack of accountability or even a risk of a constitutional crisis.

The small size of both chambers in parliament accentuated these problems. The issue of parliamentary reform has never been too far from the forefront of political debate in Tasmania. Throughout the early 1990s, calls to reduce the number of MPs in the state parliament culminated in a 1998 decision to cut the House of Assembly from 35 to 25 members and the upper house from 19 to 15. The change arose ostensibly as a ‘productivity offset’ to justify a controversial 40 per cent pay rise for MPs, after trade union and public opinion demands that MPs should be treated the same as other workers following a previous period of public sector wage restraint and austerity. However, cutting the House’s size also suited the political agenda of the two major parties, who saw it as a chance to make it harder for the Greens to win seats by lifting the formal quota required to win a seat from one-eighth (12.5 per cent) of the total votes cast with seven-member seats to one-sixth (17 per cent) with five-member seats (Crowley, 1999).

Political commentators argued that the decision to cut seats reduced parliamentary accountability, made it difficult to fill ministerial positions (leading to a growing number of ministerial appointments from the upper house) and disadvantaged small parties by raising the formal quota needed to elect a House of Assembly member under the Hare-Clark proportional electoral system. In 2010, the leaders of the three parties represented in Tasmania’s parliament, Labor, the Liberals and the Greens, signed a pact to restore the House of Assembly to its pre-1998 size. The agreement for parliamentary reform of September 2010 also committed the parties to: examine reforms to laws relating to electoral donations; set limits on electoral spending; introduce fixed terms of parliament; introduce a code of conduct for members; tighten rules about conflicts of interest; and provide more parliamentary resources for MPs. At first, little meaningful change came of this pact.

However, in February 2021 a joint party select committee handed down a report recommending that the lower house be increased by 10 members (Whiteley, 2021). The committee found that the 1998 decision to cut MP numbers was harmful because:

- ✦ It eroded the underpinning purpose of the Hare-Clark system (to achieve PR). Restoring 35 members to the House of Assembly to (giving five seven-seat constituencies) would more accurately reflect the original representative purpose of the Hare-Clark system and voters’ preferences.
- ✦ There was compelling evidence that the reduction in MPs undermined the democratic accountability of the House of Assembly, as there are now too few members who were not part of the executive to effectively represent their constituencies. The reduction reduced the capacity of the lower house to undertake its parliamentary functions, particularly its role in robustly debating legislation, undertaking inquiries, policy development and achieving timely quorums for parliamentary committees. A much smaller government backbench also resulted in limited competition for ministerial positions and challenges filling ministerial vacancies. This has negatively affected governance in Tasmania. The 7 to 10 (maximum) ministers in the Tasmanian government also hold more portfolio responsibilities and thus shoulder a greater workload than their interstate counterparts, which has impacted on good governance. Yet if the capacity of the House of Assembly to be an effective forum for scrutiny of the executive was to be retained, the committee recommended keeping a maximum of 10 ministers even in a 35-seat House.

The committee's proposal to restore the Assembly to 35 seats was finally acted on, and the early March 2024 election was the first under the new system (see [Figures 22.1](#) and [22.2](#) earlier).

Under STV, by-elections for the lower house are rare because vacancies that arise between elections (through an MP resigning, for example) are filled by recounting the votes of the retiring member in that division from the preceding election. In July 2020, the resignation from parliament of a government Braddon backbencher (Joan Rylah) highlighted another weakness of the 25-seat House: a shortage of replacement candidates for casual vacancies. Rylah had been elected on a countback following the earlier resignation of her Braddon colleague and former minister Adam Brooks. Following her resignation, Rylah was in turn replaced by Felix Ellis. Under Tasmanian electoral laws, recounts of the votes that elected the retiring member are used to fill casual vacancies. As normal, under STV, the major parties usually nominate five candidates for the full slate of seats in each division and technically any of the unsuccessful candidates in the electorate may be nominated as a replacement. In practice, voters' preference flows have always meant that after recounting the seat has always gone to a candidate lower down the list put forward by the same party. However, in this case the resignation left the government with just a one-seat majority. After Ellis, there were no remaining unsuccessful Liberals who had stood in the Braddon election. If another government member resigned or could not remain a member, there would be no automatic replacement. Thus, instead of a recount, the government would be forced to take the extraordinary step of advising the governor of a need for a by-election (which electoral law allows if needed), because the loss of one seat would cause it to lose its majority.

Responsible government and the core executive

Tasmania's core executive has been constrained by many of the same structural and institutional barriers. The state's cabinet typically consists of nine members, some of whom hold up to six different portfolios. This situation limits the talent pool from which ministers can be drawn and inevitably results in some ministers presiding over a wide range of disparate portfolio areas. In addition, agency structures in the state and ministerial portfolios have not been aligned. For example, the Tasmanian Department of State Growth ([2021](#)) reported to seven of the nine cabinet ministers in the 2021 parliament. The core executive also has increasingly relied on majority party members of the LC to serve as ministers. However, while there has been a clear convention that the state premiers should always sit in the lower house, it has become increasingly common for ministers (including Treasurers, second after the premier) to sit in the upper houses of other Australian parliaments, suggesting that the Tasmanian experience has neither been uncommon nor necessarily problematic ([Young, 2014](#)). The Tasmanian premier has one power not found elsewhere. While all other states and territories have fixed four-year terms for their house of government, Tasmania alone currently has a maximum four-year term. Therefore, the premier may call an election sooner than the limit if they choose, as happened in 2021, when the Liberals won (for them) an unprecedented third term of office by going to the polls 12 months early.

Despite the small size of the Tasmanian parliament and the associated machinery of government, there remains a lack of general coordination across government, with fragmented organisational structures complicating the flow of information while creating high barriers to effective collaboration and resource sharing. A recent Independent Review of the Tasmanian State Service (TSS) conducted by Ian Watt found that:

antiquated, outdated, and inappropriate structural, legal, and administrative arrangements ... make it harder to focus on whole-of-government issues; make it more difficult to lead and manage appropriately; impede the ability to respond in a timely way to changes in the needs of community and business; and suppress the quality of services delivered.’ (2020, p.11)

For these reasons, organisational problems in areas requiring agencies to collaborate – or indeed where whole-of-government coordination is needed – have led to suboptimal outcomes and exacerbated existing resource constraints through duplication (see also [Watt, 2021](#), p.22). There are legislative instruments (such as the *State Policies and Projects Act 1993*) ([Tasmanian Legislation, 2023](#)) that are designed to ensure a whole-of-government approach to complex issues such as planning, public health or climate change. But they have not been used for this purpose in recent years.

Intergovernmental relations

Dealings between the federal government and the states cover key resources (see [Chapter 16](#)) and are critically important for a small jurisdiction like Tasmania, due to its relatively high dependence on Commonwealth funding and revenue. With its lower economic gross state product (GSP), Tasmania has benefited substantially from horizontal fiscal equalisation across the states but has been vulnerable to changing external economic conditions and sometimes arbitrary or political decisions at the federal government level. All states benefit from the federal revenue via various grants and equalisation payments (due to vertical fiscal imbalance) but have no constitutional assurance that their fiscal needs will be met. States without large natural resource bases to exploit (or whose natural resource exploitation potential has been disproportionately impacted by federal treaties or agreements) have had a weaker position in intergovernmental negotiations compared to their larger or richer counterparts. For instance, recent changes to the formula for distributing Goods and Service Tax (GST) receipts across the states moved towards ‘reasonable equalisation’ from ‘full equalisation’, which disproportionately impacted smaller jurisdictions like Tasmania ([TDTF, 2021](#)). The distribution of equalisation funding was also made more difficult still by the COVID-19 pandemic and associated debates about movement, borders and travel restrictions.

On the other hand, Tasmania’s equal representation with 12 members in the federal Senate arguably presents a clear opportunity to advocate for Tasmanian interests at the Commonwealth level. In federal House of Representatives elections, the state has only five MPs, usually split between the top two parties and with an occasional independent. However, at Senate elections the state’s voters are uniquely privileged by having one senator per 21,000 Tasmanians. In addition, the state’s voters have consistently used ‘below-the-line’ senate voting to pick candidates across party lists, and this has delivered several independent representatives to the Senate crossbench. Some (such as former Senator Brian Harradine and current Senator Jacquie Lambie) have used the balance of power in Canberra’s upper house to extract valuable concessions and benefits for the state over a number of years.

Public administration and public services

The TSS is small in absolute terms compared with most other state public services, employing just under 32,000 people (or 25,000 full-time equivalent posts). There are nine state departments and eight other agencies or statutory authorities. As in many other jurisdictions, public services have in recent years been grappling with ever-increasing service delivery expectations among citizens despite tight funding constraints. Demographic challenges associated with an ageing and highly decentralised population add further complexity to these issues in Tasmania. The operating environment for public servants underwent some unprecedented changes during the COVID-19 pandemic, requiring a far more agile and unconventional approach across almost all areas of public administration.

According to the independent review of the state service mentioned ([Watt, 2021](#)), the most important issues for public services have been twofold: diseconomies of small scale, due to weak structures and whole-of-government coordination; and technological readiness. Providing a full range of services in a small regional or remote jurisdiction will always be more challenging due to the small absolute size of the public sector, but this issue is exacerbated in the TSS by duplication, resource-sharing constraints, ‘silos’, and fragmentation. The Watt Review noted that while ‘siloeing’ occurs widely across public agencies, the impact has been ‘disproportionately high in a small state service’, so that the TSS ‘is likely to be missing out on the benefits of building and leveraging economies of scale, while exacerbating single person or system dependencies’ ([Watt 2020](#), p.60).

Second, a lack of technological readiness and preparedness for digitisation have also hindered service provision, increased the cost of public interactions, and potentially even compromised the security of sensitive public data in Tasmania. In 2021, the TSS was rated the least prepared public service in the country in terms of ‘digital readiness’ ([Intermedium, 2021](#)). The Watt Review ([2020](#), p.71) reported that:

digital infrastructure is outdated; platforms and software are being band-aided, with obsolescence not far off; and there is no whole-of-Government roadmap for bringing the TSS up to date. Moreover, cybersecurity is not highly-prioritised and data is not being used effectively to improve the quality of services.

Community confidence in the administration of public services could also benefit from addressing a handful of key systemic or legal weaknesses around the resourcing and management of the freedom of information process. The first of these issues, the FoI process (or ‘Right to Information’ (RTI) in Tasmania), has been an issue for some years. A combination of unnecessarily onerous requirements, a worrying trend toward default resistance to disclosure, and under-resourcing of the state’s RTI office resulted in average wait times for RTI requests reaching as high as 881 days (or 2.4 years) in recent times ([Compton, 2018](#)).

Voting, elections and party competition

Data on the Tasmanian public’s understanding of and opinion regarding the STV/Hare-Clark voting system used in its lower house elections are scarce. However, analysis of voting patterns in elections for the state’s federal senators does suggest a higher level of familiarity with PR systems in Tasmania than in most other states and territories. In 2016, nearly two-thirds of

Tasmanians voted ('below the line') for individual candidates rather than numbering the box for their preferred political party 'above the line', thereby allowing that party to allocate their preferences (although there were other factors that year, including changes to the minimum number of preferences and a highly publicised personal campaign for one Labor senator). Tasmania and the ACT consistently post the highest number of 'below-the-line' ballots in national Senate elections, suggesting that Tasmanian voters are more comfortable with PR and quota preferential voting than counterparts in other jurisdictions.

But do outcomes meet most voters' hopes or expectations of choosing a government able to enact the agendas on which it campaigned? This question is a difficult one to answer. In recent state elections, both of the top two parties have insisted they will not govern in a minority, which could create a constitutional crisis if neither has a majority of MPs, and it might seem to ignore the electorate's potential choice of a hung parliament. It is normal for political parties to campaign for majority government (Strom, 1990) and to rule out making minority government agreements with those parties whose ideologies or policies they vehemently oppose. Opposition parties may also pledge not to form a minority government after one election as part of a longer-term strategy to win an overall majority at the following election. In the Tasmanian context, the Greens consistently reserve the right not to support any government they believe to be guilty of corruption or maladministration. For example, they brought down the Field Labor government in 1992 because of its decision to pursue an increase in woodchip exports, defining this as maladministration. However, it is vastly different for a party to campaign against minority government than to refuse to form a government, a strategy that cannot usually work for incumbent governments.

The political parties

In the post-war period, there was a noticeable fall in combined voter support for the top two parties Labor and the Liberal-National Coalition in both Commonwealth and state elections, from a total of 96 per cent support in 1949 to 80 per cent in 1998 (Bennett, 1999). For example, in his thesis on the impact of post materialism on the Tasmanian Labor Party, Patmore (2000) argued that the Labor Party's history, Tasmania's Hare-Clark electoral system, and the existence and persistence of post materialism in the community contributed to the emergence of environmental parties and a consequential decline in the Australian Labour Party's (ALP) vote share. For the 13 elections in the 46-year period from 1946 to 1986, the average vote share for the ALP in Tasmania was 48.4 per cent. This compares with an average of 38.5 per cent for the nine elections between 1989 and 2018 (see Wikipedia, 2024b).

Yet in the 21st century, no further real decline in two-party dominance has occurred and state politics has remained centred on their adversarial competition. Each party has enjoyed long periods of majority government in the modern era. For example, long-lasting Liberal governments under Hodgman, Gutwein and Rockliff were in power from 2014 to the present. (The Rockliff minority Liberal government's four-year term also could last to 2028.) Successive four-term Labor governments also occurred under Bacon, Lennon, Bartlett and Giddings from 1998–2014. Though generally robust, Tasmania's party system does demonstrate a number of potential vulnerabilities, including dwindling membership, dealignment with communities, thinning links to civil society and less loyal constituencies. Intra-party battles have sometimes been intense, such as those that plagued Labor before the 2021 election and led to the national ALP seeking to reassert internal party discipline (Green, 2022).

Yet the Greens have also become established as the third party in Tasmania over the last three decades. Although their vote dropped below their 2014 peak in the last decade or so, they have proved persistently able to compete (unlike various short-lived micro-parties and ‘surge’ parties) and to shape state policies, and they won more seats in 2024. They have also provided senior personnel with political clout, twice serving as partners in minority governments. The most recent case was a coalition with two ministers in the Bartlett/Giddings Labor government from 2010–2014. Earlier on, the Greens also held the balance of power and afforded supply and confidence to the Rundle Liberal government between 1996–1998, which governed in minority with no arrangement with the Greens. Before that, the party also reached the Accord agreement with the Field Labor government in 1989–1992.

A major source of vulnerability has remained the state’s outdated and inadequate *Electoral Act 2004*. Tasmania’s donations disclosure regime is currently the weakest of any state in Australia. As the law stood until recently:

Tasmania is the only Australian state that does not have state-based legislation regulating the disclosure of gifts and donations to political parties, politicians or election candidates and the only jurisdiction not to regulate ‘third parties’ in elections. (Tasmanian Department of Justice, 2021, p.14)

The nationwide Commonwealth disclosure threshold for donations (at time of writing A\$14,300) is far too high to be effective in state politics. It did not curtail opportunities for undue influence exerted by third parties or via political donations in Tasmanian elections, nor reassure the public that politics were ‘clean’. This issue came to a head at the 2018 state election, in which reform of the licensing, regulation, and taxation of poker machine operators (‘pokies’) was a dominant issue. While the state government has accepted the recommendations of the review in principle, the revised threshold currently under discussion (up to A\$5,000) would still be very high for a small polity ([Guardian, 2021](#)). A threshold of A\$1,000 would bring Tasmania into line with most other Australian states and critics argue that it is the maximum that should be considered, given the historically corrosive influence of political donations on voters’ confidence in the Tasmanian democratic process. As this volume goes to press, Tasmania’s upper house was still debating a A\$5,000 limit proposed by ministers that would put Tasmania (along with SA) onto the highest level of any state ([Eccleston and Jay, 2019](#)).

The powers of the Tasmanian Integrity Commission (TIC) are a second important area of vulnerability. Critics of the TIC have identified areas of weakness, including the lack of a specific campaign finance disclosure regime and the Commission’s inability to investigate potentially corrupt or inappropriate conduct during election campaigns due to the dissolution of Parliament ([Brown et al., 2019](#); [Minshull, 2020](#)). In addition, there is no statutory requirement for public officials to report suspected or potential corrupt conduct.

Constitutional issues and human rights

Tasmania’s constitution has very deep historical roots, which has some implications for how it operates today. Following the creation of a new ‘blended’ LC in 1851, and the end of convict transportation in 1853, an act to establish a parliament and responsible government in ‘Van Diemen’s Land’ (as the state had been known until that time) was drafted, passed and enacted after Crown approval in 1855, creating a 15-member upper house (to replace the pre-existing

LC) which was able to grant or deny assent to bills debated and passed by a 30-member lower house, the House of Assembly. This act has been amended and updated numerous times throughout its long history (notably including its amendment to recognise Tasmanian Aboriginal people in 2016) but it remains substantively similar to its original form in most major respects.

The Tasmanian Constitution's lack of clarity on the functioning of parliament has in the past led to conflict and even the risk of major constitutional crisis. For instance, in 1879, the LC invented a novel and unintended role for itself in the amendment of money bills, which led to a standoff culminating in the upper house adjourning indefinitely. Constitutionally precluded from dissolution by the Governor, this situation essentially held the House of Assembly to ransom, hamstringing government business for three months ([Museum of Australian Democracy, 2021](#)). Notwithstanding these early tussles over the LC's role in amending money bills and ability to hinder government business, for the most part Tasmania has avoided major constitutional crises since. However, there is no lack of potential for problems to arise.

The Constitution provides no guidance on the relationship between the two houses of Parliament, stating only that 'the Governor and the Legislative Council and the House of Assembly shall together constitute the Parliament of Tasmania'. A second oversight is that despite an inferred power that was read in to the *Enabling Act 1850* ([Lumb, 1991](#)), the Tasmanian Constitution provides no explicit general law-making powers to parliament ([Museum of Australian Democracy, 2021](#)). As yet, however, parliament has faced no constitutional challenge to general law-making and has also amended the *Constitution Act* itself frequently over some 170 years, so it is probably safe to assume that this latter issue is an unlikely ground for crisis.

The *Tasmanian Constitution Act* also makes no assertion of the supremacy of parliament that would make clear that the state government is subordinate to parliament, although such a provision is a feature of most other post-colonial Westminster constitutions. Consequently, there is no explicit or general constitutional requirement that the ministry collectively, or ministers individually, report to parliament (although many individual acts obviously place reporting requirements on the relevant ministers, once in office). This oversight at the general level creates a very real risk of constitutional crisis at every election, because all ministerial positions are vacated seven days after the return of the writs, regardless of whether parliament has met or whether any party or group can guarantee to the Governor that they have the confidence of parliament or supply for government.

In addition to these meaningful potential vulnerabilities for effective, accountable and transparent government ([Gogarty, 2016](#)), the constitution also contains several repealed or blank sections and references to obsolete colonial-era legislation despite its silence on other crucially important matters. The *Consensus Statement on the Reform of the Tasmanian Constitution*, drafted by a panel of legal and constitutional experts in 2016, mirrors and expands upon these concerns, noting that the *Constitution Act 1934*:

- ✦ is a consolidation of imperial and colonial legislation and other instruments that has never been put to the Tasmanian people for consultation or consent
- ✦ does not contain any statement as to the social, legal, or constitutional values upon which Tasmanians declare their government rests
- ✦ provides no express power for the parliament to legislate for the people of Tasmania or the basis upon which it should make such laws
- ✦ contains a large number of blank, repealed, redundant or irrelevant provisions
- ✦ does not properly describe many of the organs of the state, their powers, or duties

- ✦ is not clear, readily accessible, transparent, or reflective of the actual conduct of government and the affairs of state
- ✦ is not legally a fundamental or superior law in any way, but one that can be modified in the normal way by any parliament
- ✦ is the least reviewed, reformed, or entrenched State Constitution in Australia ([Gogarty et al., 2016](#)).

These findings clearly demonstrate that clarification and protection of constitutional governance in Tasmania need to be addressed. Changing the constitutional order is too easy and relies too much on respect for Westminster conventions, which neither MPs nor the public understand. This was clearly demonstrated in 1998 when the viability of parliament as an institution was compromised for partisan advantage by reducing its size in order to limit the power of the Tasmanian Greens ([Crowley, 1999](#)). However, in some cases, this problematic situation has enabled a complementary and effective legislative role for the upper house. The recent process of developing and eventually legislating a Voluntary Assisted Dying bill is a good example of this role.

Aboriginal and Torres Strait Islander peoples

While real progress has been made in recent years, the legacies of historical abuse, racism, violence and dispossession of lands continue to cast a long shadow over relations between Indigenous and non-Indigenous Tasmanians. Aboriginal people continue to bear a considerable burden of disadvantage in many of the state's social and economic systems. However, recent efforts are slowly beginning to recognise their First Nations peoples status and to consider and address their systematic under-representation in Tasmania's democracy and government. Following a Committee report ([Tasmania Parliament, 2015](#)), in 2016, the *Tasmanian Constitution Act* was amended to include official recognition of Aboriginal Tasmanians and their constitutions in the state's founding document. Flawed as that document is (see earlier) this recognition is a welcome and long overdue update. The Constitution's preamble now includes the following text:

And whereas the Parliament, on behalf of all the people of Tasmania, acknowledges the Aboriginal people as Tasmania's First People and the traditional and original owners of Tasmanian lands and waters; recognises the enduring spiritual, social, cultural and economic importance of traditional lands and waters to Tasmanian Aboriginal people; and recognises the unique and lasting contributions that Tasmanian Aboriginal people have made and continue to make to Tasmania ... (TDPC, 2023)

In addition, the lower house Select Committee on the *House of Assembly Restoration Bill 2020* (which recommended increasing the size of Parliament to its former size) found that the under-representation of Tasmanian Aboriginal people in parliament was an historical and contemporary failing that required remedy. The committee acknowledged that, while there had been members elected to the Tasmanian parliament who were Aboriginal, there was no formal Aboriginal representation there. The committee found this lack of formal representation for First Nations peoples negatively impacted on the communities' capacity to advocate for, and progress, reforms. It thus recommended the establishment of dedicated parliamentary representation for the Tasmanian Aboriginal community. However, it also noted there were a number of issues that needed to be resolved before legislation could be enacted to bring this

about, including: ensuring that all Aboriginal Tasmanians are represented; how eligibility would be determined and by whom; whether dedicated seats should be in the House of Assembly or the LC; and how the election of Aboriginal members would work within the Tasmanian electoral framework. To achieve this outcome, the committee recommended that the matter should be further examined by a joint parliamentary inquiry.

Perhaps most importantly, at the opening of the new parliament on 22 June 2021, the government announced through new governor Barbara Baker that there would be a fresh attempt to reconcile with Tasmania's First People, the Palawa, including the possibility of a treaty. The government appointed outgoing governor and University of Tasmania law Professor Kate Warner and her UTAS colleague Professor Tim McCormack to consult with Aboriginal people on a pathway to reconciliation. A government commissioned report in 2021 also recommended the establishment of a Truth Telling Commission to pursue deliberative reconciliation with Aboriginal peoples (TDPC, 2021).

Conclusion

Tasmania's vigorous democracy, high participation rates in STV/Hare-Clark voting, and unique electoral processes have attracted some admirers from other states and internationally, reflecting some of the advantages of having a 'micro-state' population with the full status of a state. In part thanks to intergovernmental transfers, state government has generally been responsive to citizens' wishes. The competition of the top two parties, the presence of the Greens in the legislature and the LC's lack of a government majority have all helped ensure that scrutiny on most salient issues has been effective. Flaws remain, however, especially the over-reduction in the size of the state parliament's lower house (impairing its scrutiny capacities), plus the significant barriers that five-member seats pose for new parties' ability to get established in the House of Assembly. A final challenge confronting both Tasmanian and Australian democracy is how to best recognise and represent First Nations peoples as a key pillar of the broader and long overdue reconciliation process.

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