

PUBLIC

THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON TUESDAY 15 SEPTEMBER 2026.

INQUIRY INTO THE CONDUCT OF THE 2025 HOUSE OF ASSEMBLY AND 2025 LEGISLATIVE COUNCIL ELECTIONS

The Committee met at 9.00 a.m.

Dr Justin Harding

CHAIR (Ms Webb) - Welcome to today's hearing of the Joint Standing Committee on Electoral Matters. Thank you for joining us, Dr Harding. If you could please state your name and the capacity in which you are appearing before the Committee.

Dr HARDING - Yes. Dr Justin Harding. I'm a former academic and public servant with a background in constitutional theory, specifically electoral systems, relationships between the chambers, and general Westminster constitutional theory, including the application of the reserve powers of the Crown.

CHAIR - Thank you. Can I confirm that you've received and read the guide sent to you by the Committee Secretary?

Dr HARDING - I have indeed.

CHAIR - Excellent, thank you. This hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of Parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings. This hearing is public; the public and the media may be present. Should you wish aspects of your evidence to be heard in private, you must make this request to the Committee at this time. Do you understand?

Dr HARDING - I do.

CHAIR - Thank you. Let me introduce you to the Committee who are present here today at the table: Mr Vica Bayley, the Greens member for Clark; Ms Ella Haddad, Labor member for Clark; Kristie Johnston, Independent member for Clark; Mike Gaffney MLC, member for Mersey in our upper House; Cassy O'Connor MLC, member for Hobart in our upper House; Mr Michael Ferguson MP, Liberal member for Bass; Bec Thomas MLC, member for Elwick in the upper House; and I'm Meg Webb MLC, member for Nelson in our upper House. We've also got Fiona and Mary assisting us on secretariat, and Henry on Hansard, in the room with us today.

Dr JUSTIN HARDING WAS CALLED, TOOK THE STATUTORY DECLARATION AND WAS EXAMINED IN PUBLIC via MICROSOFT TEAMS.

CHAIR - Do you wish to make a short opening statement to begin our hearing?

Dr HARDING - Yes, just a very brief one. I think it's fairly well laid out in the submission that I made some months ago now. Essentially, I think the most important thing about moving forward in our current parliamentary democracy is the question of stability, and there has been a certain amount of controversy over that in recent times. Specifically, we have had four early elections - sorry, three early elections in recent years.

Without wishing to cast aspersions on the premiers who gave the advice to the Governor to dissolve the Parliament in those circumstances, I'd just like to say that it is possible, I believe, to put an objective test on the granting of an early dissolution of the House of Assembly, as has been in place in New South Wales since 1991, and that when - the best guarantee of stability is knowing when an election will take place every four years on a specific day, and I think New South Wales has demonstrated over the last 35 years, even during periods of minority government, that having that provision in place has allowed the parliaments to fulfil their full four-year term without necessarily being forced to an early election at the convenience of the temporary occupant of the highest political office in the state.

So, my feeling is that this is a good and important reform that Tasmania should adopt, and that the benefits will be more certainty in the ability to make better and more certain forward planning, and the public, in my opinion, is best served when they get the full four years' worth out of their elected representatives.

That's basically it for my introduction.

CHAIR - Thank you, Dr Harding. Thank you for your submission - it was a really interesting read. I appreciated the way you went through the recent elections and spoke about them in light of this topic. One of the things I wanted to start by asking you was whether - it would be asserted by some - it has been asserted in evidence to us by some - that fixed-term elections may mean stability and certainty coming at the cost of flexibility and being able to avoid being stuck with a parliament that's unworkable. I wondered if you'd like to respond to that, the balance there: what are we delivering in terms of stability and certainty, and is it coming at a cost of being able to move on from an unworkable parliament, if it's necessary?

Dr HARDING - I mean, I think that what I've written in my submission puts a definition on what is and isn't workable. Just because a government is in the minority does not mean the parliament is unworkable. We have seen various examples over the years of parliaments with minority governments working effectively and going through the full four-year term. But, as I've stated in my submission also, there will be occasions when a parliament has genuinely become unworkable, and in those circumstances an exception can and should be made that would allow the governor to dissolve the parliament ahead of time. This isn't a hard and fast rule; it doesn't mean there will never be another early election if we adopt this measure. An early election is still possible, but in more circumscribed circumstances.

CHAIR - You point us to New South Wales as a model that potentially has merit for us to consider. Can you lay out for me - do they provide an example, though, where a potentially unworkable parliament has been dealt with effectively under their system of fixed-term elections and an early election has been gone to when needed, given the scope of what's allowable in their rules?

Dr HARDING - Well, it hasn't arisen yet. In New South Wales, they haven't had an early election since the enactment of this constitutional amendment in 1991. I think that, in and of

itself, given there have been periods of minority government during that time, suggests that this can and does work.

CHAIR - I can see how that's one view to put to it. Since it hasn't been tested in that sense there in New South Wales, is there anywhere else we can look to see where this might have been tested in a similar way? That is, where an early election has been called under a system of fixed-term elections in order to deal with a particularly problematic situation that's arisen within a parliament? Or is there nowhere that we can look to for that example?

Dr HARDING - Not to my present level of knowledge, no. I cannot think of a jurisdiction, certainly in Australia, where they have fixed terms in place and there has been the necessity to call an early election. I mean, it can take place in extraordinary circumstances, of course. I make the point that the so-called reserve powers of the Crown will remain untouched, and so a governor can still, if they in their genuine belief, dissolve the parliament without the advice of the person who was supported by the majority of the lower House. But in those circumstances, the governor, the King's representative, will be as much accountable for what's happened as the politicians who make up the chamber. What I'm saying is that the flexibility is there. The fact that it hasn't happened as yet, I'm not sure that there's any way I can offer you any advice on that.

CHAIR - Thank you. I appreciate that.

Ms O'CONNOR - Thank you, Dr Harding. I wonder if we could just take a step back a little bit and you could just explain, in really simple terms, that step test that has been in place in New South Wales since 1991, and maybe then reflect on how that might apply here and possibly even - you know, we've had three early elections, as you point out - if there'd been that step test, arguably, we wouldn't have had so many premature elections.

Dr HARDING - Yes, well, I mean the test is that the government cannot secure supply to the Crown or maintain the confidence of the House of Assembly, and that no alternative government from within the existing House of Assembly can be formed with a reasonable prospect of carrying on the business of government. Now, that would be a matter for the individual parties and personnel within the House of Assembly to work out. It's part of the normal political process; that's how you work through your business. It's a matter of compromise and working together.

It's becoming increasingly apparent that the two-party system that has prevailed in Australia, largely since 1910, is in decline in my opinion, and that we are likely to see more multi-party and independent members elected. I think that having some guarantee in the form of fixed terms is essential within that context. There is a huge amount of power involved in the premiers' current, largely untrammelled, ability to call an early election to suit their convenience. I'm not saying that that has necessarily happened in recent times. I'm saying that could be construed from recent actions. But if there is this objective test, saying that there can only be an early election unless there is no viable government able to carry on the business of government from the existing parliament, and in those circumstances, yes, you can dissolve the House of Assembly ahead of time. I hope that's reasonably clear.

Ms O'CONNOR - It's really good and clear. I wonder if you could reflect on what it might foster in terms of political culture? If you're creating the circumstances where there's an

expectation that negotiations happen before the red button is pushed, what do you think that fosters?

Dr HARDING - I think it fosters a culture of stability and I would point here to footnote 50 of my submission, which was an explanatory note to the Queensland *Constitution (Fixed Term Parliament) Referendum Act 2015*, and there are a number of points laid out there, which I'll read to you.

There are a number of significant advantages in having fixed, four-year terms of government, namely:

- 1) it provides for better government and better public policy making because decisions can be made in the interests of outcomes and better services for Queenslanders, rather than short-term political gain or what may be the news of the day;
- 2) it removes constant speculation from the political process and provides fairness to all political parties rather than what is in the interest of the government of the day; and
- 3) it provides confidence in government and certainty in government, from the public and also from the business community, which drives investment, economic confidence and job creation.

Ms O'CONNOR - Thank you, very clear.

Ms THOMAS - Thank you, Justin. I appreciate the explanation you gave in response to Ms O'Connor's first question. Just to be even clearer, where your objective test involves - you impose an objective test, as your submission says:

... to the extent possible - as to whether an early election is the sole means by which certain political situations can be resolved. This would be achieved by amendment to the Constitution of the State of Tasmania providing for fixed four-year terms for the House of Assembly, and early dissolutions permissible only in circumstances where the government of the day fails to secure supply to the Crown, and/or is unable to maintain the confidence of the House of Assembly ...

In practical terms, how do you see that playing out? Thinking back to the scenario here, would there need to have been a written agreement or would something be confirmed in writing to demonstrate that supply? Then also, because you go on to say, 'and/or unable to maintain the confidence of the House of Assembly with there being no prospect of a new ministry being formed from this House within 30 days'. You need some sort of written agreement demonstrating supply and also a confidence motion to demonstrate confidence or how does that practically play out?

Dr HARDING - All those things are possible. Mostly, under the current system, my understanding is that the premier gives the governor or the prime minister gives the governor-general an assurance that they have the confidence of the lower House and can guarantee supply to the Crown and that is normally sufficient moving forward. We have also

seen written agreements between crossbenches and the current Liberal government in Tasmania, and they have sometimes worked and sometimes not worked so well.

The fact of the matter is: there is no hard and fast rule. A government can effectively chance its arm, if it wants to test its numbers on the floor of the House, it can do so. If it's voted down, then we look to form another government from the existing Assembly. If that can't occur - and I think last year's election is, to some extent, illustrative of this - in my opinion, there was a potential there for a minority Labor government supported by the crossbench, but in that situation, the leader of the opposition declined to form a government, in which case there seemed to be very little alternative to dissolving the parliament and heading to an election. It's a case of being able to lead a horse to water, but you can't make them drink. The opposition leader at that time decided that they would not attempt to form government and that is - the electorate made their decision and returned a Liberal minority government subsequent to that. That is the sort of situation I think where you would be able to see an early election take place even under the constitutional amendment that I am proposing.

Ms HADDAD - Thanks very much, Justin, and thanks for your really comprehensive written submission. I found it very educative and useful. I've got two questions. First of all, going back to the objective test that New South Wales has had in place since 1991, understanding, as you've described already in response to Cassy's question, it hasn't needed to be exercised. Do you have any reflections or thoughts on how such a test might operate differently here or be called upon differently here because of the difference in the size of the two lower Houses? New South Wales has 93 members and Tasmania has just 35.

Dr HARDING - I'm not sure, necessarily, whether the size is an issue. We are obviously always likely to have governments supported by smaller numbers than you would have in New South Wales. A government, say as we have had, when the House of Assembly was still 25 members, we had, up until 2018 at least, I think four or five consecutive four-year parliaments where there was a full term completed, but the government either had a one-seat majority or was in minority or in coalition. I think the size of the parliament brings into question the likelihood that there will be smaller majorities. But we also, in Australia, have a tradition, I think, of working in good faith, generally speaking. A constitution can only go so far; it's a bare-bones document. Much of politics, as you will be aware, as political practitioners, is formulated by practice and precedent and a lot of that is worked out in the normal course of the political process. That's the best way I can answer your question at this time, sorry.

Ms HADDAD - No, that's good. Thank you for those reflections. My other question is on a different topic. I'm interested in your reflections on the 2010 election compared to the 2025 election. I know that you've described some of Anne Twomey's comments on then-governor Underwood's decisions at that time. My recollections of that time, albeit as a kind of outsider looking in at that point, was that in 2010 both major parties had won an equal number of seats, although the Liberal Party had one more of the primary vote. Correct me if I'm wrong, but my recollection of the time was that then-premier Bartlett's view, and had said during the election campaign, that if the Liberal Party won the majority share of the primary vote that they should be enabled to have the chance to form government, but the governor had a different view, given that Bartlett was the incumbent premier felt that he needed to go in and test the numbers on the floor of the House.

The biggest difference in 2025, from my observation, is that there was a bigger disparity in the number of seats won: I think the Labor Party - 10 seats, the Liberal Party - 14. So, it was

a very different question for then-governor Baker to be considering the possibility of asking an opposition with a clear smaller number of seats to go in and test the numbers. I'm just wondering if you have any reflections on the comparison of those two elections?

Dr HARDING - Yes, 2010 is a particularly problematic example. I think Professor Twomey's analysis is good and well-founded. I think that Mr Underwood, the governor in those circumstances, shall we say, I don't wish to use the term intervene, but acted with regard to matters that were best left to the normal political horse-trading.

Ms O'CONNOR - I think he said at the time - sorry to interrupt, but just to summarise what Justice Underwood said to David Bartlett, effectively was, the premiership is not yours to give away; it's up to the parliament. And I think that was the kind of threshold that Peter Underwood applied.

Dr HARDING - Yes, it was, but he also went on to say that, in his opinion, any alliance, any Liberal government formed with five crossbench Green members would be inherently unstable. To that extent, I think he ventured into territory which were best left to the political process.

Ultimately it worked out. As I say, the political process worked its way through. You had a government formed with a power-sharing arrangement, if not necessarily a formal coalition, between Labor and the Greens. It lasted four years. So, in the ultimate, it worked. The question with 2010, I think, is that the governor possibly overreached by making a determination in advance that he considered that any ministry formed by the Liberal government in that parliament would, of necessity, be unstable, and for that reason he was disinclined to commission Mr Hodgman.

In 2025, we had a situation where, essentially, the two major parties wanted an early election after the vote of no confidence in Mr Rockliff was passed by the House of Assembly. So, the two aren't on all fours in terms of a comparison.

Ms HADDAD - I understand that. I agree that they're not comparable. I guess the reason for my question was exactly that - that they're not comparable even just on the bare bones of how many seats each major party had won. So, I'm wondering whether you have any reflections on the task that was in front of the then-governor. I feel like if she had reached in and decided to commission the opposition leader at that time, without giving the incumbent government the chance to test the numbers on the floor, it would've been a similar overreach to what then-governor Underwood was accused of in 2010.

Dr HARDING - Look, no, I agree with that, and I think that's one of the reasons why the previous governor, Governor Baker, did not press Mr Winter to try and form a government in those circumstances.

Ms HADDAD - Thank you.

CHAIR - Can I follow up on some of the features that have been there across these last three elections we've had in Tasmania - that some people point to as being problematic if we had fixed-term elections. At times, there have been people who have resigned, people who have moved out of a party into becoming Independent or into a different party, and changed the character of representation, I guess, within the Chamber. Some people would assert that that

means that if you've changed the character in that way, you've changed the mandate that was there from the previous election and, therefore, going to an early election and having the flexibility to call an early election, as they did in those recent elections, is in fact more democratic because you're going back to the community to restore a mandate in terms of who's in there and on what basis they're representing their electorate. Could you comment on that sort of view and whether you agree with that, or how you would reflect on it?

Dr HARDING - I look back to the Goss government in Queensland. It was elected for a third term in 1995 with a majority of one seat. They'd lost that seat at a by-election, rather than a resignation, and a move to the crossbench. An alternative government was formed from within that parliament and lasted to the end of that parliament. So, I'm not necessarily sure. You see, we don't actually elect the government; we elect the parliament. The governor then commissions the leader of that team, if you like, within the parliament, who is most likely to be able to carry on the business of government, to become premier.

Now, parliaments in our Westminster-derived system, political allegiances change. But the one thing that is constant throughout is the need for the government to continue to maintain the confidence of the House of Assembly.

CHAIR - Thank you. That's an interesting perspective on it, I think.

Dr HARDING - I'm sorry, I haven't properly addressed your point about democracy. Let's put it this way: if you asked, and I think the majority of people would agree, that rather than have an early election it will be best for the parliament to try to sort through the political issues at stake, if it's necessary to have a change of government from within the existing parliament. Well, that's something that has many precedents in Westminster parliamentary systems. It may not happen as frequently as it once did because the party structure is much more disciplined than it has been in the past, but then again, we're now having a situation where we're having multi-party parliaments and more Independent members elected. So, I think we have to balance democracy against the need to get full value out of the parliament that the people elect every four years.

CHAIR - Yes, I think that's a really interesting point. It's interesting you've highlighted for us that change of government can be delivered not just at an election time, but within the life of a parliament, which is something I think that we often do have not in line of sight.

One of the things I'm wondering about, too: the other thing that's asserted sometimes is because of Tasmania's Hare-Clark system, in some sense we require more flexibility to call early elections when things shift and change. One aspect of that would be - again, this is connected to what we were just speaking about with changes that occur - under our Hare-Clark system, if somebody was to resign, we don't have a by-election - we do a countback and within the same party that the person was from.

If a number of those resignations, for example, happen, what we have seen play out is that sometimes you get way down a ticket within a party and somebody coming into the parliament who, at the time of the previous election received a very small percentage of the votes at that time. So, there would be assertions made by some that that's not particularly democratic and it would be preferable, then, for example, to go to early elections rather than have people in the parliament who really weren't high up on the list of choices for the community to represent them.

Is there anything in that around our Hare-Clark system and the peculiarities of that - and around the table here, I think we've got a lot of fans of our Hare-Clark system - does that change any of the considerations here?

Dr HARDING - Yes and no. If you like, if a by-election was, say, in a single-member electorate system, you might get somebody who has minimal public appeal who happens to be standing in a safe seat and has that party's imprimatur, and they're elected automatically. I mean, they may not have any especially high level of public support in and of themselves. I appreciate that that may be the case, and that it has actually happened a number of times in recent times, but I believe that overall, the Hare-Clark system is the fairest in terms of its conversion of votes cast into seats received. Even in single-member systems there have been minority governments. As I said, New South Wales has one at the moment, Queensland has had an experience of it on three occasions in the last 30 years, as has Western Australia, South Australia and Victoria in the 1990s. That's a quirk of the Hare-Clark system, certainly. I'm not necessarily sure that in and of itself is an argument against fixed terms.

Ms JOHNSTON - Thank you very much, Dr Harding. It's Kristie Johnston here, Independent member for Clark. Thank you very much for your submission. It was very educative and I found it really interesting to read. I just want to go back to reflect on - I think your quote - it's notable in the report that people elect a parliament not a government. It certainly strikes me, as an Independent, talking to members about the last three early elections that we've had - Committee members that is - that they tend to now vote for multi-member electorates across a spectrum. They're not thinking about electing a government; they're thinking about who they want to represent them and they'll go for the full suite. So, in their minds, we've seen a shift from perhaps where we traditionally used to vote along a party line, you'd vote down the ticket one to seven or one to five, whatever at the time. But now we're seeing people electing a parliament, rather than necessarily a government. So, your reflections on that - there's a responsibility then for those members of parliament to find a way to make that work and collaborate, and to form an alternative if the government of the day, for whatever reason, is no longer able to function. Would you suggest that the fixed-term approach and your objective test where an alternative can be formed on the floor is probably a greater reflection in a multi-member seat situation, a reflection of the will of the community - that the community are insisting?

Dr HARDING - Yes, I do. With the Hare-Clark system, people don't necessarily vote one, two, three, four, five, six, seven, Labor, Liberal, Green, whatever; there is cross-party voting. I know - I've examined these figures over the years and I've seen a vote which was cast one for the premier and two for a prominent opposition frontbencher. That occurs. If it was a straight-ticket voting, like we used to have in the Senate after the 1984 reforms until the 2016 reforms, where it was basically a ticket voting and you were elected according to where you were on the party's ticket, that's a different case. In Hare-Clark, there is cross-party voting. I think people get much better value for their vote under Hare-Clark, because in a single-member electoral system every vote above 50 per cent plus one is wasted. Under Hare-Clark, you can elect up to seven members with your vote or contribute towards the election of many members rather than one, and that everybody needs to get the same number of votes in order to be elected. So, in effect, you have a much more representative system now and you have a parliament that represents what the people want and it is up to the politicians, frankly, to try to make it work.

Mr BAYLEY - Thanks, Dr Harding. Just a really quick one, and I think more for the record and for those listening or reading this. Obviously, there are different ways that constitutions require to be changed - we went through a Voice referendum at the federal level to seek to change - the referendum - that's not necessary here. Could you just, for the purpose of the record, step us through what would be required to change the constitution to enact these tests and get your recommendations in place? And, should we go through any other process ahead of that? Obviously, this Committee is part of that process, but should anything else done?

Dr HARDING - I believe so, yeah. Look, essentially the parliament can change the constitution by a simple act as it stands at this time. My opinion is, and the New South Wales fixed-term parliament act follows this, is that certain parts of the constitution should be entrenched as they are federally, which is to say they cannot be altered without a referendum. Entrenchment is something that requires either a special majority of the parliament, say two-thirds of both Houses, or for an act to pass the parliament and then be approved by a referendum. I would advocate that latter course for this particular reform, but we don't need actually to pass this reform with a referendum, although it is within the purview of the parliament to say that we won't adopt this reform unless the people say that we should, if that answers your question adequately?

CHAIR - And when you say that last part there, people would say that via a referendum process of some sort, yes? Is that what you're saying?

Dr HARDING - Yes, that's an option. It doesn't have to happen.

Mr BAYLEY - It doesn't have to happen.

Dr HARDING - No, but I would say that something as important as this and, frankly other aspects of the constitution as well, because at the moment our constitution is very bare bones. I think it could be fleshed out a little and it is preferable that the document that provides the basis for our system of government should not be so easily changed. If you look at the federal constitution, it's a very high bar indeed to change that. It's happened rarely in the last 125 years and I think that there are good reasons that a constitution should not be able to be simply amended by a simple act of the parliament.

Ms THOMAS - Thank you. I'm just wondering your thoughts about the House being required to test confidence in an alternative premier before an early dissolution could occur?

Dr HARDING - Yes, well, that could take the form of an opposition leader moving a vote of confidence in themselves and their government. It could be the governor requesting the opposition to go into parliament and test their numbers by doing that. It could be by the incumbent premier moving a vote of confidence themselves.

Ms THOMAS - In 2025 we saw confidence of the then-premier tested before an early election was called, but we didn't see the confidence in an alternative premier tested until after the election. Do you think both of those things ought to occur before an early election is called?

Dr HARDING - It was a very difficult situation. The motion was moved in the Premier personally and not in the government as a whole. The Premier took the view that the motion was designed to coerce the governing party into changing its leader. The Premier received the

support of his own caucus through his own party room. The opposition leader declined to form a government, so there really was no other alternative.

CHAIR - I'm mindful we have a little bit of time left.

One of the things I was interested to ask you about was why you pointed us towards New South Wales, for example, and not Western Australia. In other material I've read, it seems Western Australia would be a halfway step for us, in a sense, because they don't have fixed terms as such, but they do have a standing date for elections that can be readily changed but just the act of having to change a presupposed date seems to dissuade them from going to early elections. Would that be a smaller shift for us to contemplate as a state more towards the WA model for setting terms for election, rather than fully going to fixed terms like the New South Wales model that you suggested?

Dr HARDING - It's an interesting question. It's called 'partial fixed terms.' In some jurisdictions, only the first three years of a four-year term are fixed and the government, if it commands a majority of the House, can basically call an election any time after the expiration of the third year. But that wouldn't be much of a change from what we have had in terms of the 2021 and 2024 elections. If we'd had partially fixed terms, they would have happened anyway, because you can, you know, effectively call an election early any time after the third year, and the fourth year of the term isn't guaranteed. So, I don't think it makes much of a difference in terms of our lived experience in Tasmania.

As I say, even having fixed terms doesn't mean we can't have an early election. The situation is there, I believe, frankly, that even under fixed terms we would've still had to have an election last year, because there simply wasn't a viable government able to be formed out of the existing House of Assembly. And I don't think partially fixed terms would have made any difference in those circumstances.

Ms WEBB - Thank you. So, you're still pointing us towards the New South Wales model as one that has more merit for us to consider.

Dr HARDING - Yes, I believe so, and Queensland now as well.

Ms O'CONNOR - So, just to be clear, because we ostensibly have four-year terms here in Tasmania, so it's not really partially fixed, is it?

Dr HARDING - No, it's not fixed at all.

Ms O'CONNOR - Yeah, so it's not dissimilar in a way. In terms of Queensland, when did they put that process into place and how has it worked?

Dr HARDING - The referendum was passed in 2015, but it didn't actually come into effect until the parliament before last, which was the first one to be elected under fixed terms. So, it's quite recent in Queensland and we haven't had the opportunity to see whether that sort of culture that has clearly emerged in New South Wales, with there having been no early elections in 35 years, notwithstanding periods of minority government - so I don't think we can draw any conclusions from Queensland at this time. But to the best of my understanding, their model is very close to the New South Wales one.

Ms O'CONNOR - What was the historical context that led up to a referendum in Queensland?

Dr HARDING - It was the only state at that time that was still operating under a three-year term, basically. Three-year terms had been entrenched in the constitution by the Theodore Labor government after they abolished the upper House in 1922, and they provided at that time that the parliament, in order to extend the term of the parliament beyond three years, there would need to be a referendum. The same held true for restoring the upper House. They would both need it. So, those are very old constitutional provisions. And the 2015 didn't just extend the life of the parliament to four years - it also imposed fixed terms.

Ms O'CONNOR - In terms of the referendum result, what was the public mood about four-year terms and fixing them?

Dr HARDING - Very strongly in favour. I can't give you a percentage, but it passed overwhelmingly with bipartisan support - well, multipartisan support - across the political spectrum.

Ms O'CONNOR - Great. Thank you.

CHAIR - Just to squeeze one more question in before we wrap up that's relating to this idea that the power that's there currently in our system for the premier to have that opportunistic ability to determine the timing of an election: potentially, in our Hare-Clark system, where there's an increasingly and, I think, more entrenched presence for minor parties and Independents, is particularly a potent power, because an abruptly called election is certainly a more favourable situation for established major parties rather than for new entrants or for Independent or minor party entrants, who might find it more difficult to stand up a campaign on short notice. I'm making that comment, and I'm interested in your reflections on whether there is a particular advantage in our arrangements for having that power sit with the premier.

Dr HARDING - I think even in single-member electoral systems we're likely to see very significantly more minor parties, or new parties - to use a more accurate term, new parties and Independents elected. And if you have a look at the current opinion polls federally, you will see that current support for the two major parties is at 50 per cent or below, depending on the poll that you read. I would suggest that while Hare-Clark facilitates a more proportional result than single-member electorates, the likelihood of minor parties and independents being elected in single-member electoral systems is very strong now, and you need to look at the crossbench in the federal House of Representatives. It's in double digits now, whereas Independents upon a time, it was unusual to have more than one or two.

So, I think that, especially given Tasmania's more representative electoral system, a curb on the premier's power to dissolve the House of Assembly is more important rather than less.

Ms O'CONNOR - A great way to end.

CHAIR - Thank you very much, Dr Harding, for your time with us today. We appreciate your appearance before us. I'll just make the comment that what you've said with us here today is protected by parliamentary privilege. Once you leave this hearing, you need to be aware the privilege does not attach to comments you may make to anyone, including the media, even if you're just repeating what you've said to us here. Do you understand?

PUBLIC

Dr HARDING - Yes, I understand that. Yes, I do. I appreciate that.

CHAIR - Thank you so much. We really appreciate the submission and the conversation we've had today.

Mr Bayley - Hear, hear.

Dr HARDING - Thank you so much for the opportunity. I'm sorry I missed out last time. I will be making further submissions on other aspects of the state constitution that I think require attention, but that's for another day.

CHAIR - We're very pleased to have this Committee now available to look at these matters. With that, I'll end the hearing.

The witness withdrew.

The Committee suspended at 9.48 a.m.

PUBLIC

THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON TUESDAY 15 SEPTEMBER 2026.

INQUIRY INTO THE CONDUCT OF THE 2025 HOUSE OF ASSEMBLY AND 2025 LEGISLATIVE COUNCIL ELECTIONS

The Committee resumed at 10.00 a.m.

Dr Robert Hortle, Sarah Hyslop and Dr Lachlan Johnson

CHAIR - Welcome to this hearing of the Joint Standing Committee on Electoral Matters and thank you very much for your attendance. I'll introduce the members of the Committee who are here with us today. At the end of the table we have Mr Michael Ferguson MP, Liberal member for Bass; Bec Thomas MLC, Independent member for Elwick; Ella Haddad MP, Labor member for Clark; Kristie Johnston MP, Independent member for Clark; Vica Bayley MP, Greens member for Clark. I'm Meg Webb, Independent member for Nelson; Michael Gaffney MLC, member for Mersey; the Honourable Cassy O'Connor MLC, member for Hobart. Here we are also being supported by Mary and Fiona, our secretariat, and also Henry on Hansard.

Could you please introduce yourselves and the name and capacity in which you're appearing before the Committee today?

Dr HORTLE - I'm Dr Robert Hortle. I'm the acting director of the Tasmanian Policy Exchange but appearing today in a personal capacity.

Ms HYSLOP - Hi, my name is Sarah Hyslop. I'm a research associate with the Tasmanian Policy Exchange and I'm also appearing in a personal capacity today.

Dr JOHNSON - I'm Lachlan Johnson. I'm a senior research fellow at the Tasmanian Policy Exchange, also appearing in a personal capacity.

CHAIR - Thank you. Can I confirm that each of you have received and read the guide sent to you by the Committee Secretary?

WITNESSES - Yes.

CHAIR - Great. In terms of admin matters, this hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of Parliament. This protection is not accorded to you if your statements that may be defamatory are repeated or referred to by you outside the parliamentary proceeding. This hearing is public; the public and media may be present. Should you wish aspects of your evidence to be heard in private, you must make this request to the Committee at the time. Do you understand?

WITNESSES - Yes.

PUBLIC

Dr ROBERT HORTLE, Dr LACHLAN JOHNSON and Ms SARAH HYSLOP WERE CALLED, TOOK THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Thank you very much, much appreciated. Would you like to make an opening statement of some sort before we move to questions?

Dr HORTLE - Yes. I'd like to highlight a few key points that we can come back to in questions. I won't provide all of the detail that we have available in this. Before I do that, I should also say that, you know, we have differing views among our team and even among the people presenting here today on fixed-term parliaments. Some of us are more strong supporters of them than others and some have mixed feelings in a range of ways. So, expect there to be a bit of debate between us as well, which I think is a good thing and a healthy thing.

To begin with, I want to point out some of the advantages that we see in terms of fixed-term parliaments - first up being that it removes the government's trump card in terms of being able to choose the election date that maximises political advantage for them.

Secondly, fixed-term parliaments, in my view, provide greater stability and certainty, not only for the Government and the Parliament but also for the public service, for businesses, for community organisations and for voters as well. This allows better planning of legislative programs, but also business decisions and community service provision decisions as well.

Fixed-term parliaments, I believe, encourage governments to work with the Parliament that they are given, rather than providing an easy way out if Parliament becomes difficult for them to manage, for whatever reason.

Fourth, fixed-term parliaments are a great way of reducing election fatigue. I'm sure everyone remembers how many elections we had last year, or maybe you don't because there were too many. I certainly, off the top of my head, couldn't tell you how many elections Tasmania had last year, and this is my job.

Those are the main things. There are a few common rebuttals and arguments against fixed-term parliaments that I can come back to in questions. If anyone is opposed and wants to put those arguments, we can have that discussion. Otherwise, I'll leave it there. Was there anything you two wanted to add?

Ms HYSLOP - No.

Dr JOHNSON - No. I'm happy to get into some questions and discussion.

CHAIR - Thank you. I think it's an interesting proposition, because there are varied views that have been presented to us on this. And there's that suggestion that fixed terms mean stability and certainty, potentially, but it's at a cost of flexibility and responsiveness to the community's democratic will. I'm wondering about whether you have reflections on the trade-off there, or whether that's potentially not an accurate sort of binary, in this case?

Ms HYSLOP - I think it's hard to say definitively. I think every parliament is different and every political jurisdiction is different, so it's hard to make sweeping generalisations. I think that there are probably trade-offs either way, and I think it depends on what the community values the most as to which way it goes forward.

Dr JOHNSON - Yeah, I'd agree with that. I mean, I think, broadly, I would accept that trade-off is probably the right sort of way to frame the question we're asking. I think the really important considerations are not necessarily, you know, fixed terms versus a maximum term or some other model, but what these things would do in our particular context. I think, if anything, the model - the triggers, if you like - the kinds of things that can dissolve a parliament in a fixed-term or a maximum-term system, and also the really unusual context of Tasmania. We're actually a very, very, unusual parliament, and the way that we elect members in the lower House means that fixed-terms pose challenges here that they don't in a lot of the other places that have tried them.

Ms O'CONNOR - Do you want to unpack that a little bit?

Dr JOHNSON - Yes, sure. I mean, obviously we have multi-member lower House electorates with single transferable vote (STV) voting, Hare-Clark voting, and this means essentially, we can't have by-elections. So, if you've got a fixed-term setting, and you have a lot of change in the Parliament that potentially changes the composition or the effectiveness of the government, it's a lot harder for the electorate to weigh in on how that should be resolved than it is in a place where you can have by-elections and where, I suppose, the sense that the parliament has a really direct and very lasting or continuous mandate can be maintained by by-elections. That makes it challenging.

Part of the challenge, I guess, of applying this evidence in Tasmania is that there are very, very few direct comparators. There's almost nowhere else. I was sort of thinking about this earlier in the week - maybe the one place that's kind of similar is the Republic of Ireland, who have a lower House with proportional representation and STV voting, much like we do. Their upper House is completely different and not worth thinking about at all. But they considered this question in 2018, I think, via a citizens' assembly - so they went through a big process of, much like us, trying to decide whether fixed-term parliaments would be an advantage in Ireland. The citizens' assembly very narrowly recommended that they should adopt a fixed-term parliament. It was never taken up because of constitutional differences and also, I think, just because of watching the experience in the Commons at the time. They were having a very, very difficult experience with fixed-term parliaments in the national legislature at that time because of, you know, Brexit and the particular rules, again, for dissolving parliament under the fixed-term model they adopted.

Again, the rules and the model are almost much more important than the categories, if you like, and it's not a satisfying answer.

Dr HORTLE - I think, if I can just add a couple of things. I probably have a bit of a stronger view on this, and Lachie would disagree with the premise that I think that in Tasmania we explicitly have a system where we elect candidates rather than parties. Even within a party grouping, you vote for a specific candidate. So, that really strengthens arguments against things like what was proposed, I think it was in last year's election - can't remember which election it was - about if someone leaves a party that they should be immediately booted out of parliament - a nonsensical approach in our system.

Then in terms of stability, our system of democratic legitimacy is not entirely premised on elections. Elections are one specific periodic and very blunt mechanism we have for creating democratic legitimacy. Any political scientist who is a democratic theorist would tell you that

to have democratic legitimacy, you need at least four different things. This is the expanded procedural minimum definition of democracy, which is widely accepted in the legislature. You need: elections that are free and fair, of course. You need respect for civil and political rights, so basic rights to freedom of information, expression, assembly and so on. You need horizontal accountability. This is the accountability that exists in between elections. Elections are vertical accountability, horizontal accountability is a separation of powers. So, being held accountable through the courts. It's our system of committees, it's Question Time, it's all of those other things that create accountability in between those once every three-, four-year election cycles.

Then finally, less relevant hopefully in Tasmania, is the absence of tutelary influence, which means that the democratically elected government isn't responsible to an unelected power like the military or a religious authority. So, democracies are much more than elections. So, this argument that a parliament becomes illegitimate if someone changes sides, if the composition moves around, is a fiction, in my view.

CHAIR - Thank you. That's an interesting perspective, I think. Potentially aligned to that is sort of the assertion that we have heard from some about the fact that fixed-term elections enforce an unworkable parliament to continue, potentially. Would you like to reflect on if that's an accurate sort of assertion to make?

Dr HORTLE - I think it's hugely overblown. We don't have any absolute fixed-term parliament systems in Australia and I doubt that's what would be implemented in Tasmania. We have qualified fixed-term parliaments. Every jurisdiction in Australia has various mechanisms for dissolving an unworkable parliament. They might be as simple as a no-confidence motion, which is what was used in the Parliament early last year. So, fixed-term parliaments might not necessarily have prevented some of those elections we had last year. That's not the point.

The point, in part, is symbolic. So, having the expectation of the Parliament running full term legislated or in the *Constitution Act*, however it may be implemented, is a really important signalling mechanism and it's for that reason that, even with all of those options for dissolving a parliament that other states have, we've seen, since they implemented their qualified fixed terms, the length of their parliaments has increased in every case. I think that's the main thing I want to say.

CHAIR - Does anybody else want to weigh in on that one?

Mr BAYLEY - Just a quick question on that: with no diminution of efficiency, efficacy, those other democratic elements that you mentioned, those parliaments, they would have only gone to an election in very few circumstances, but do you feel like the Parliament has performed even though they didn't go to the election?

Dr HORTLE - This is something we were talking about on the way down, like what is your criteria for success here? Like, is a longer term of a parliament necessarily a good thing if it's not stable and productive and so on? I mean, there are inherent values to that stability and longevity. As mentioned earlier, the certainty for business, community, community services and so on. So, even if we leave aside the effectiveness of what's going on, that stability does have some value. But then, of course, yes, you want an effective parliament as well.

I think the New Zealand experience is really relevant here. So, when they shifted to their MMP sort of mixed system that they have at the moment, they knew that that was going to create minority government essentially, that's what they were letting themselves in for. They were also very clear eyed about the fact that establishing the parliamentary culture required to make minority government work was going to take time and there's a great article by, I think, Bill Hicks. I have to check the name, I can provide that, where he talks about that whole process of what they put in place and the fact that they knew that this was going to be a 10- to 15-year process to getting towards a more effective parliament within those fixed bounds. So, again, this is why fixed parliamentary terms as a signalling device are really important. It's that symbolic thing; if you guys are stuck together for four years, you're going to have to work together if you want to govern this state for the good of the people living in it, which is what you all say you want to do. So, I think that is really valuable. It's a signal that helps to create a culture shift and that's something that, at Tas Policy Exchange, we've been arguing for quite consistently for a while now: that for the foreseeable future, minority government is going to be the reality in Tasmania. We will be much benefited as a state if we can all accept that and bring more power back to parliament as a consultative body, as a body that cooperatively develops legislation, because that's how we're going to get the best outcomes for Tasmania.

Dr JOHNSON - Could I just add something on this point about effectiveness? I mentioned the UK before and that again is a great example of where the model becomes so important. I think they had an experiment with fixed terms that lasted about 10 years and their standard for dissolving the Parliament was a two-thirds super majority of the Commons, which is just much too high. So I think, again, a dysfunctional parliament at the best of times would really struggle to get to a two-thirds majority on almost anything. So, the idea of a parliament needing to dismiss itself when it's not working, is kind of a crazy standard. It just brings back the point that, I think Rob was making, which is that having rules that are flexible is very important, but what makes parliaments last is kind of the politics. If you've got a presumptive election date, it's a lot harder to make the case for changing the date, particularly if the reasons are sort of instrumental or political than it is -

CHAIR - Self-serving.

Dr JOHNSON - self-serving, sure - than it is to propose a date when there isn't one already there. It's just really a relatively intuitive kind of political consideration where you're changing something rather than just proposing something where there was nothing before. That's what increases the duration of the Parliament.

Ms O'CONNOR - I read your paper with interest because the tension between the thinking is really clear in the paper. It was a great paper. Thank you very much. I was wondering if you have some observations - and I think they must have informed the paper in some part - on the fact that we've had three early elections here in recent years, 2021, 2024 and 2025 and how a framework within the *Constitution Act* that fixed four-year terms might have mitigated any one of those circumstances?

Ms HYSLOP - I think that there are differing opinions on how many of those could have been averted. I think certainly maybe a couple could have been averted. I'm not sure.

Dr HORTLE - I think if we take one of the more recent ones, so 2024 for example, there's this argument that you need to be able to call elections to create more democratic legitimacy if there's a rogue parliament, which is sort of scaremongering term that gets used,

but it's also a challenge to democratic legitimacy if you have an election called at a time when the majority of candidates are not prepared, not ready to go. We saw in 2024 there were quite a range of people, of course, primarily Independents or minor party candidates who had been expecting and planning for an election later in the year and were unable to run in the 2024 election because it was brought on early. They didn't have their volunteers set up, they didn't have their funding ready to go because they had plans in place for later in the year. Now, that's fine for the major parties because they have the institutional structures to deal with that, they can pull the machine into gear pretty quickly. But this is another version of democratic legitimacy if, by calling an early election when it suits you, you're shutting out potential candidates and challengers that represent different voices in the community. I think that's a bad thing as well.

Then onto 2025, as Sarah said, kind of mixed views on whether fixed terms would have prevented that election or not. Of course we know it came through a no-confidence motion and that's a common trigger for dissolving a parliament even in a qualified fixed-term system. But I think the thing that you can't really judge there and the counterfactual is what Lachie was talking about. It's that signalling element of having a fixed presumptive date and it becoming harder to move away from that, whereas if there is no date, you can kind of just dissolve the parliament with no consequences and we can't really assess the potential impact of that symbolic date, what that might have had in 2025.

Dr JOHNSON - I'm going to sound like a broken record here, but that's exactly right. In a way, the question of would any of those elections have been prevented or avoided under a fixed-term parliament -

Ms O'CONNOR - It's academic.

Dr JOHNSON - is a sort of academic question - exactly. You could have, in inverted commas, fixed-term parliaments in Tasmania without changing any of the rules for dissolving the parliament. It just establishes this presumptive date. It says we'll have elections every second Saturday of every fourth November or something, whatever it is, and then any of the requirements that the governor would usually need to dissolve the Parliament remain the same.

Ms HYSLOP - Which is the case in Western Australia.

Dr JOHNSON - Exactly right, yes, of course.

Ms O'CONNOR - So New South Wales and Queensland, though, have a more rigid process, respecting the reserve powers of the Crown, but there is a test there that seems to, at least in New South Wales since 1991, have prevented any premier who may have wanted an early election from just being able to do it on a political whim. Is that the sort of model we should be looking at here potentially?

Ms HYSLOP - It seems that way. I mean, it's harder for the ruling party to make the case, I guess, to the people and also to the governor.

Mr GAFFNEY - We often hear that fixed terms might help with business confidence because of the length. I'm just wondering, have you done any research about community expectations about their confidence in fixed terms? I had people from mainland even

internationally saying what is going on in Tasmania? So, I'm just wondering, have you had the opportunity to do any local research or assessment of how people feel other than anecdotal?

Dr HORTLE - We have an STP, would love to if we can find anyone to fund that, that would be great.

Ms HYSLOP - We do have our little poll.

CHAIR - Would you like to just explain that?

Ms HYSLOP - So, we had our Policy in my Backyard post or article up on the TPE website about parliamentary fixed terms and we explained the different reasons that might be put for and against and then we had a little poll option at the bottom where people could vote yes for parliamentary fixed terms or no. I had a look the other day, yes, and the updated numbers are about 75 per cent of our readers in favour of fixed terms after reading the article.

CHAIR - Obviously, a selective readership, but very interesting nonetheless.

Ms HYSLOP - Low numbers, yes.

Mr GAFFNEY - Last question. Robert, in your introduction you spoke about the advantages of fixed terms. Would you like to comment on any disadvantages that you see of fixed terms even though that might be against what you prefer? I'm just wondering, from that point of view, do you see any disadvantages of fixed term?

Dr HORTLE - Yes. I think, certainly, if our parliamentary culture isn't able to shift towards that more cooperative, collaborative model, we could end up with a situation where you have a highly dysfunctional parliament. At the same time, if you have the right triggers in place for dissolution, you're never going to be really stuck with that parliament in the ways it is sometimes framed. Other potential disadvantages that I would recognise, I'm obviously huge fan of Hare-Clark - it's something I think I've said publicly before, that I would go to the hills of Mount Wellington and fight guerilla warfare to preserve. That is a joke for the committee, just in case, but it does create some challenges where we had the situation with the two Liberals who defected and became Independents, John Tucker and Lara Alexander, and there is an interesting argument there around the fact that they were able to enter parliament with a relatively small number of first preference votes because they were themselves replacements for earlier resignations on their party's ticket and then they were able to have a really large influence on that parliament, despite having come in with that low number of first-term votes. That is a challenge but again my argument for how we fix that would be parties need to vet better. You need to be ready for seven people from your party to come into the Parliament under Hare-Clark system. It's probably never going to happen, but you need to be prepared for that. So, it's one of these things where we don't want to change the rules of the game just because the actors within the game haven't been operating effectively in that very specific instance.

Mr GAFFNEY - I also liked your comment about it would take 10 to 15 years for it to mature. I think that's valid within the community as well, if fixed terms come in. Can you expand on that a bit further, about how you've come to that 10 to 15? Has it been on experiences somewhere else or is that just a good term, you think, that might show that there is stability in our process even though there could be disagreement within the Parliament?

Dr HORTLE - So, that figure was specifically from the New Zealand experience. That's in an article that someone talks about and you can fact check me on that and look at that article.

CHAIR - You can provide it through to us afterwards.

Dr HORTLE - Yes, I can provide that article.

Ms HYSLOP - This is about changing the political culture in the Parliament and getting people to work more cooperatively across the aisles.

Mr GAFFNEY - Okay, thank you.

Dr JOHNSON - Could I actually just add one point on this thing about replacements and casual vacancies and so on. I think part of the point I was trying to make before with by-elections is that in a couple of those instances Rob was talking about, one of the challenges is that actually those members were, I think, the last available people on the ticket, so what happens after that potentially starts to cause more problems than somebody coming in with a very small number of first preference votes, but with their theoretical constitutional legitimacy perfectly intact. I think once you run out of members to replace casual vacancies, that's probably just a situation where Tasmania is different and we would need to reflect that in the model if we did adopt fixed terms. We might need to have something in there as a trigger that says if we actually run out of people to fill casual vacancies, that's a situation where the governor would be well advised to call an election.

CHAIR - We presumably have to have a system to fill a casual vacancy for an Independent currently. Their not on a party ticket.

Dr JOHNSON - There is a -

Ms HYSLOP - Count back.

Dr JOHNSON - Yeah.

Ms HADDAD - But then, I think the *Electoral Act* allows for a by-election if a ticket is exhausted - if the candidates are exhausted.

Dr JOHNSON - Yes.

CHAIR - I'm going to keep us moving; I am mindful of time.

Ms THOMAS - Thank you. Further to your comment about the 10 to 15 years to mature based on the New Zealand experience, does that depend on the out-clauses or the enabling provisions that still exist about what could trigger a fixed-term election? Like, what are New Zealand's? I know you've provided a helpful table in your paper that outlines an early election could be called in each of our other jurisdictions in Australia if - and there's a range of different inclusions - do you know what New Zealand's are because I'm interested in reflecting. We hear a lot of reference to WA, which effectively is closest to the current Tasmanian experience, other than there is a fixed date in the calendar - a maximum four-year term. What are your thoughts on that and is there a best-practice model, given it varies so much across jurisdictions?

Dr HORTLE - On the New Zealand example, I don't know off the top of my head what their requirements are for dissolving a parliament, but we can look that up and send that through if that's useful?

Ms THOMAS - Yes.

Dr HORTLE - In terms of their specific model for Tasmania, I think, given as we've talked about our system is quite different to other states, although there are similarities, it would require a system that is designed with the Tasmanian context in mind. I think we should look to the other states for inspiration and there are some pretty standard things that will be in there - a no-confidence motion, failure to pass supply bills, those sorts of things - but there are other alternative bits and pieces. New South Wales has this, 'if there's no alternative government within eight days,' as well. The ACT kind of has this presumption that if there is a motion of no confidence that goes through, the Parliament is expected to provide an alternative government rather than trigger an election. I'm not sure how regulated that is or whether it's more of a convention thing. There's a range of different models and I think that gives us an opportunity to consider what works here.

Ms THOMAS - My second question, just to follow up, is in relation to we're now the only jurisdiction not to have fixed terms, although I know the Commonwealth doesn't either, and your paper mentions that Queensland was the most recent convert in 2016 and was the only one to hold a successful referendum on the matter. Has Queensland in your understanding been the only state to hold a referendum, or have any other states held a referendum, or have they all just made the constitutional change through an Act of parliament?

Dr JOHNSON - I couldn't tell you off the top of my head. I think others did. Queensland wasn't the only one that required a referendum. Again, our constitution in Tasmania is an act of parliament, however that works, so we wouldn't need a referendum here, but I don't think Queensland was the only one to hold a referendum, no.

Ms THOMAS - Would that suggest that some other jurisdictions have held referendums that have suggested it shouldn't change to fixed terms and then they've done it anyway?

Dr JOHNSON - I believe there have been other attempts in the past that have been unsuccessful. Again, I'd have to follow up the details and get back to you there. We can take that on notice.

Ms THOMAS - Thank you. Finally, do you have a view on whether it should require a referendum to make this change to our constitution here in Tasmania?

Dr HORTLE - Well, it wouldn't require one. I'm not a constitutional law specialist but I don't think it would be able to have the status of a referendum because we don't have a constitution that requires a change. It would be more like a plebiscite or some sort of non-binding poll. I'm not sure if there would be a mechanism for it to be a binding referendum-style thing.

Ms O'CONNOR - Unless parliament directed there to be - through some mechanism of the Parliament.

Dr HORTLE - Yeah, which would be kind of unusual.

Ms THOMAS - But if at the same time as parliament decided, say parliament did decide to make this change to the constitution, they could also at the same time make the change that it be an entrenched requirement, so that it be entrenched in the constitution that any future changes ought to be decided through a referendum.

Dr HORTLE - Look, it's not something I've considered deeply; this is sort of my first reaction to it. But that first reaction is that I don't think this is something that, given there's no technical need for a referendum, I think that this is something that parliament should lead on and put in place. It's a complicated sort of relatively technical - almost like a Salamanca bubble issue, in some ways, to put out to a referendum. And I think in the current environment that would be very difficult.

Dr JOHNSON - If I can add just one point to that, I think part of the challenge with this is that, again, the yes/no question about should we have fixed terms is less important than all the technical questions about how we have them. I think those are the things that are hardest to resolve in a referendum. We sort of had this experience with the republic referendums in Australia, questions about the model and the implementation became the things that sank the referendum rather than majority opinion on whether republicanism was desirable. So, I think it would probably be a similar case here. The model is so important, and those are the questions that we kind of wouldn't be able to resolve in a referendum, as an instrument.

Dr HORTLE - Just to add to that, and it's much more eloquent than my version of the argument, as I'd agree with Lachie, but it's for these kinds of more technical things that the public delegates responsibility to the Parliament to decide, particularly that kind of really detailed work around a model. So, I think there's a role for parliament to take the lead on that.

Ms HYSLOP - If parliament were able to work together cooperatively to come up with a proposal that they could put to the Tasmanian people, then that would be ideal.

CHAIR - Mr Ferguson.

Mr FERGUSON - Thank you. Good morning and thank you for your paper and your evidence today. Maybe if I open with comment, I just invite you to reflect on the Salamanca bubble comment, which I think is a very wise comment. That is that I think we shouldn't lose sight of the fact, though, that if it was seen as politicians deciding how infrequently the voters get to have a say, I think a cynical public might interpret that negatively. That's just a comment in response to your very good evidence.

I really liked your paper. I thought it was an exceptional, thoughtful piece that actually didn't land on a particular model. I really appreciated the potential pathway forward where you, as the authors of the paper, suggested that one option worth considering is Western Australia. I know there's been some interest around the table in New South Wales. I respect that. But your comments around Western Australia where it's not actually, strictly speaking, a fixed term at all but more of an expectation that builds culture around the parliamentary participants, a maximum four-year term with a default election date on the second Saturday of every fourth March. The comments that you offer are that first, the default election date establishes a norm and makes governments feel that they need a very good reason for messing up the schedule. The other is the symbolic and political power of a fixed date, even if it isn't strictly binding,

changes how the governor would assess requests for early elections, the result being WA parliaments have become much more consistent in length, even though the system still allows flexibility when it's needed. Then you leave the reader to make their own conclusions.

In your opening, you suggested that at the table you have different opinions on it. I'd invite each of yours, if that's okay, Chair, through you, to just hear whether you think that might be an appropriate path for Tasmania, given the uniqueness of our Hare-Clark electoral model in contrast to every other state. Of course, the ACT has it, but it doesn't have an upper House. I just invite your reflections. Is WA a pathway worth considering?

Dr JOHNSON - I think if we were to adopt fixed terms, Western Australia is certainly my preferred model, particularly given how unusual Tasmania is, maintaining the greatest possible degree of flexibility seems like an advantage to me. That would allow us to adopt a sort of presumptive election date without changing any of our triggers for dissolving the Parliament, which I think is probably, you know, a sort of modest, incremental reform that judging by the evidence would almost certainly have the desired effect. I guess I'd probably go back to Sarah's earlier comments that it all depends what you think success looks like. If we adopted a fixed date, we almost certainly would have longer parliaments. I think the evidence is pretty clear that that would be the outcome. I suppose it's just a question of whether we think that that's the outcome we want. Are longer parliaments necessarily more desirable?

Yes, I think, broadly speaking, if I really had to say yes or no, I would probably say I think fixed terms are a pretty good idea, with this Western Australian model.

Ms HYSLOP - I'd agree, too. I do think it's important to have some degree of flexibility built in, because there will be times when that sort of safety valve is needed, particularly in a smaller parliament with the kind of Hare-Clark system that we have here. On the other hand, I think that it is, as Rob said, one way of building in that expectation of a longer term and of working together. So, I think that that's a good thing overall.

Dr HORTLE - I think my natural inclination is towards a slightly stronger model, but I think the Western Australian model is a good compromise and would be a good start to test out that sort of reform in Tasmania and see what sort of impact it has.

Ms O'CONNOR - Just a quick observation, the New South Wales and Queensland models do have flexibility in them, wouldn't you agree, and that sits on the governor as well as the Parliament. So, it would be untrue to describe them as rigid, fixed, hard structures?

Dr HORTLE - They're qualified fixed term.

Ms O'CONNOR - Okay, thanks.

Mr FERGUSON - That's great, thank you very much.

Ms HADDAD - Hi, and thanks. I reiterate everyone else's comments thanking you for the paper and for appearing today. My question kind of expands a little bit on Mr Ferguson's question around what could be described as a Salamanca bubble, if this was perceived as politicians making a decision that people get less access to democracy or less opportunity to vote. It's not a view I share, but I'm just interested in your observations on the potential impact of frequent and early elections on voter fatigue. I think you went to it a little bit, Robert, in your

opening comments, whether the Policy Exchange has had any opportunity to look at the impacts on voter fatigue. Anecdotally, we hear it in our day-to-day jobs, that people are sick of being called to the polls, as they see, too frequently or too often. Some limited examples, again, anecdotally from scrutineers and so on, it seems to have at least a little bit of an impact on people potentially voting intentionally informally or putting in blank ballot papers. I'm just wondering if you had any general observations on the benefits of four-year terms based on voter fatigue?

Dr HORTLE - I'm very slowly working on a paper on informal voting rates in Tasmania, and we have seen a slight increase over time, but yes - I can't necessarily attribute that yet. I think Mr Ferguson's point is a good one - there's definitely going to be a section of the community that argues that, but there's also going to be a section of the community that, as you said, very much has that fatigue. And the attitude in that, I would suggest, but only again, anecdotally, of a larger section of the community is: just get on with it.

I think there's definitely a feeling that our MPs are elected to make decisions to govern, and that people kind of want them to get on with doing that as opposed to coming back to the polls. I would argue the Labor Party was pretty significantly punished at the 2025 election for bringing on, in part, that early election. And I think that is kind of a counter to Mr Ferguson's point, to some extent. But yes, I think definitely there will be a part of the community that says, 'Oh, it's just them entrenching themselves.'

I think we balance that by not having it longer than a four-year term. I think if we shifted it up to a five- or a six-year term or something like that, at the same time as fixing it, that would really start to make people more suspicious. I think at the moment the more pressing concern is people's fatigue with the democratic process.

Ms HADDAD - Thank you.

Ms O'CONNOR - Apart from fixed four-year terms, there are other things that parliaments could do, or governments could do, to make a parliament go the distance, and I'm thinking of 2010 to 2014. You had 10 Liberal members, 10 Labor members, five Greens, and a government was stitched together on the basis of a formal arrangement about how Cabinet would work, how we deal with contentious issues, and if you want to talk about what success looks like, I would argue that that parliament, and that Labor-Green government did the distance and, in my view, was a pretty good government, given that we're in the middle of a global financial crisis with a rock-throwing opposition. But, I'm interested in your observations on the importance of arrangements within minority parliaments that also reinforce a culture of stability and, when times get hard, just getting in there and making it work?

Dr JOHNSON - Could I just really quickly address this point about voter perceptions as well, of parliament changing something like a term or a fixedness of terms unilaterally. I think what that assumes is that parliament is making a decision to entrench itself, to give itself more time, longer jobs, et cetera. An interesting quirk of the political science literature is that that's actually not true. As a general rule, longer terms lead to more turnover. So, within a, say, 10-year period, you'll have more turnover with two or three elections than you will with four elections. So, for whatever reason, adding an additional year of length to a term has, in most places, resulted in, say, a 5 per cent increase in turnover per election. So, in a way, adopting a fixed term may, by extending the duration between elections, counterintuitively might actually make members' terms shorter or make members' overall duration in the Parliament shorter.

On this question about minority government, I think it's a great example of the fact that, again, the culture and attitude of MPs as to whether they will or won't work together in a sort of collaborative parliamentary arrangement is probably a lot more important in that situation than the rules. So, you can impose sort of strictures that force people to work together when they don't want to and that might lead to counterproductive outcomes. What's more valuable is when people do it because they see it as being in the interests of the public in a good way, to behave in the Parliament.

Ms O'CONNOR - Isn't it potentially a bit of a 'yes and?' though? I mean, you have your structure there, that's a fixed four-year term structure, whatever it is and you have stability within the arrangements for whoever forms government. I mean, in a way I would think you'd need a little bit of both.

Ms HYSLOP - I agree. I think that the supportive arrangements would go very nicely with the fixed terms.

Dr HORTLE - Two specific things, if I can, quickly on that. We also have another PIMBY on making minority government work. I commend that to the Committee for a bit of light bedtime reading as well. We put forward some practical suggestions for changing parliamentary culture there and the main thing that I would really like to draw attention to there that I've been arguing for, for a while, and I know many others have as well, is better training and induction for our parliamentarians. So, again, New Zealand has a two or three week training period for new MPs coming in and that training is on a range of things. The importance isn't just the training itself, it's the human connection it builds between parliamentarians. So, I believe Vica Bayley made a joke the other day that maybe we should send all of the new MPs off on boot camp together. This was at the Next25 leadership training event last week.

Mr BAYLEY - All MPs I think it was.

Ms HADDAD - Gumleaves, I think you said, specifically.

Dr HORTLE - Gumleaves was my suggestion, yeah, yeah, back to the high school days. So, anything like that at the outset of a parliament that builds human connection across party lines, that builds trust, that enables us to see the people on the other side of the room as people is really valuable for the future of that parliament. So, it's not just a skill building thing around training for new MPs or all MPs. It's also about building the potential to collaborate. It's the social capital.

Ms HADDAD - It's also seeing us as a workplace and a group of colleagues. That's important.

Dr HORTLE - Exactly, yeah, and you know, there are dangers there. You don't want people across party lines to be too close to each other. You don't want it to be seen from the outside as 'Oh, they're all just working together for their own benefit,' because that comes back to Mr Ferguson's point as some people will say 'Oh, well it's just this cartel system with all the parties working together.'

Ms HADDAD - Funny you say that though - can I interrupt real quick? Because I feel like, as an Opposition member, when the opposition supports something the government does,

PUBLIC

there's a sentiment in the public of, 'What's the point of having an opposition, you're all voting the same way on something?'

Ms O'CONNOR - We ask ourselves that question from time to time, Labor opposition.

Ms HADDAD - Yes, I know. I wasn't speaking about anything specific. But the counter to that is, when we oppose things people are angry about that and say, 'Well, all you do is oppose, all you do is complain; why don't you come up with any solutions of your own?' Which we also do, and both these things can be true at the same time, and they're probably not the same people making both those arguments, but just an observation on what you said.

CHAIR - I'm mindful of time. I turn to Mr Bayley.

Mr BAYLEY - Thanks. As we close, I am interested in your list - I'm not sure what you called it, Rob - in terms of functional democracy, the four elements: the election, the respect for rights, the horizontal accountability and the absence of influence of the military and the church. We've discussed elections and we probably don't need to talk about four here, but can you reflect just quickly on the health of the democracy in the context of those middle two elements, respect for rights and horizontal accountability - how you think Tasmania is tracking? And does it relate back to this issue of stability and electoral terms?

Dr HORTLE - It is a huge question and it's something that some people on the Committee know I can talk for days about if they let me. I think fixed-term parliaments are one part of the puzzle that we need in Tasmania at the moment but it's by far not the biggest and most important piece. I think our reforms in electoral finance have been a really good start, although there are some improvements that could be made there. I think the broader system of our kind of mechanisms for integrity, as we've seen over the past six months to a year, there's a lot of work to be done there. Things like funding for the Integrity Commission to do its job more effectively, looking at their powers and so on. We've put in submissions on that, that are publicly available as well. Our views on all of those sorts of things are out there. Fixed-term parliament is important but by no means the be all and end all. It is not a silver bullet to any of these challenges.

CHAIR - Thank you. That draws us to a close and we very much appreciate your time given for your appearance today and sharing your knowledge and expertise with us. I just need to repeat that 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're just repeating what you've said to us. Do you understand this?

WITNESSES - Yes. Thank you.

CHAIR - Excellent. Thank you so much.

The witnesses withdrew.

The Committee adjourned at 10.47 a.m.