

**Legislative Council
Hansard
Thursday 23 May 2024**

[excerpt...]

Joint Standing Committee on Electoral Matters

[12.55 p.m.]

Ms WEBB (Nelson) - Mr President, I move -

That a Joint Standing Committee on electoral matters be appointed for the term of the 51st Parliament to inquire into and report upon electoral and related matters.

I can indicate that we will have a vote at the end of this, and hopefully it will be a positive one. This is something I have been keen for us to address in this place for some time.

A joint standing committee on electoral matters, members will be aware, as I have communicated with them, that there is a slight adjustment to the previously tabled motion, done with discretion through the Clerk to remove some wording. We are working on that slightly updated motion.

Why a joint standing committee on electoral matters? I do not intend to repeat in detail the full content of the background briefing paper that I circulated to members here Friday afternoon last week.

However, there are a few key points I need to place on the public record, as well as provide context to anyone who may be watching today.

Let us start at the beginning. Why have a joint standing committee on electoral matters?

Put simply, participating in free and fair elections is a fundamental right for all Tasmanian citizens. Potentially, it is a right, sadly, that is at risk of being taken for granted by some. As I noted during my Governor's Address-in-reply contribution, we do not have to look far globally to see other democracies being actively undermined, resulting in citizens losing confidence in those electoral systems.

I do not think I need to convince anyone here of how vital it is that public confidence in the conduct of elections is actively maintained; that Tasmanians have no reason to doubt the robustness, health and integrity of our democratic electoral systems. Tasmanians deserve to have full confidence in the administration of elections and also to have an avenue by which to raise and have examined any questions, concerns or suggestions arising from their experience interacting with our electoral systems.

Our parliament can, and must, play a key role in maintaining that public confidence. At the outset, I wish to state very clearly on the public record that the establishment of the proposed joint standing committee on electoral matters should in no way be interpreted as inferring there is any doubt about the validity of the outcomes of our most recent Assembly or Legislative Council elections. That is not the case.

To want to invest in strengthening, protecting and enhancing all aspects of our democratic electoral infrastructure is about taking responsibility for this hard-won gift, that is our democracy.

This is the antithesis of undermining intentions. Nor is the establishment of the proposed committee a slight upon the Tasmanian Electoral Commission, the TEC, perceived or otherwise. It will not do the job of the Electoral Commission any more than the current joint standing committee on integrity undertakes the job of, or undermines, the Integrity Commission, for example.

I will expand upon the relationship between the proposed committee and the TEC in detail a little later in my remarks. Briefly, I acknowledge that some members here may be experiencing a slight case of *deja vu* as we consider this motion.

As some who were here at the time will recall, this Chamber debated a similar motion in 2021 regarding my previous attempt to establish a committee on electoral matters to examine the unique and unprecedented concurrent Assembly and Legislative Council elections, which were held on the same Saturday in May of that year.

As detailed in the background briefing paper I circulated earlier, despite the 2021 motion passing this place, it did not pass the other place.

Given differing circumstances, despite a common intent linking then and now, I do not intend to dwell on that former debate, but for the completeness of the public record, it would have been odd to fail to acknowledge that, as part of our collective history here in this place and the ongoing developments occurring on this issue. We have a little bit there to point to in our past.

The Commonwealth parliament and the state parliaments of New South Wales and Victoria have all established their own joint standing committees on electoral matters and have already circulated information regarding those examples, demonstrating jurisdictions which see such a committee as fulfilling important democratic health checks for the community and an investment in public trust in their systems of governance. Rather than repeat that same information here now, instead I will highlight some common themes which I think are pertinent to our debate today on this motion.

First, it is a key commonality being the routine nature of each of these interstate committees as established components of those parliaments' respective committee systems, no matter who may be in government at the time. This indicates a responsible multi-party commitment, along with independents, to the shared responsibility for maintaining, protecting and enhancing democratic, free and fair elections.

The federal parliament's Joint Standing Committee on Electoral Matters is appointed under a resolution of appointment, which is passed by both the House of Representatives and the Senate following the commencement of each new parliament after a general election. Similarly, the New South Wales parliament establishes its Joint Standing Committee on Electoral Matters via a motion of appointment passed by both the Legislative Assembly and the Legislative Council within a new parliament's initial proceedings. The Victorian Electoral Committee is a statutory committee established under section 9A of the *Parliamentary Committees Act 2003* in that state.

Another commonality is the diverse membership of these interstate committees. Current memberships across all three interstate examples have no less than five different political perspectives represented on them, an extremely important attribute in the context of encouraging public confidence and engagement.

Crucially, there is a congruity of scope shared across each of these interstate examples of established electoral matters committees.

As a matter of routine, the establishing terms of reference for all three committees include

Sitting suspended from 1 p.m. to 2.30 p.m.

MOTION

Joint Standing Committee

Resumed from above.

[3.01 p.m.]

Ms WEBB (Nelson) - Mr President, I was speaking of the congruity of the scope of the electoral matters committees from the other jurisdictions and that as a matter of routine, establishing terms of reference for all three committees in other jurisdictions include the preceding election for that jurisdiction. For example, the current Commonwealth committee has examined the 2022 federal election, tabling its report on 27 November 2023, the New South Wales committee is currently undertaking its mandated inquiry into the administration of the 2023 New South Wales state election and related matters, and the Victorian committee is currently in the reporting stage of its routine inquiry into the conduct of the 2022 Victorian state election.

Importantly, all these committees have the scope to inquire into other electoral related matters, either as referred to them by their parliament or ministers, or via own motion. This is a significant attribute stemming from their constitution as standing committees rather than select committees, which tend to have a singular specific inquiry term of reference. Instead, as standing committees established for the term of each parliament invest scope for each committee to continue working on other additional electoral-related briefs pertinent to the community at the time, once their examination of the conduct of the recent election or elections are completed.

Some of these inquiries as examples from those other jurisdictions include the following: the functions and administration of voting centres, voter participation and informal voting, the impact of social media on elections and electoral administration, adequate funding and resourcing of jurisdictions' electoral commissions, accessible voting reforms, public funding of election campaigns, political donations and reforms and the future conduct of elections operating during times of emergency situations, as well as reviewing and reporting on proposed electoral-related bills.

All of this Tasmania could learn and benefit from. Our national and interstate colleagues have undertaken a wealth of fascinating research and work via the auspices of their respective electoral matter's committees. Time restraints prevent me from exploring in detail those

extensive examples now, but I encourage members who are interested that it is certainly worth your while to examine the broad range of matters examined and reported on that are available on those committees' webpages.

Members may have recognised some of the characteristics that I have highlighted of our other interstate counterparts' respective models within the proposed Tasmanian model. I will now turn to address briefly each of the provisions proposed in the motion before us. In clause 1 it seeks to establish the electoral matters as a standing committee until this current parliament is dissolved. Recently, this parliament's standing committees tend to be statutory and established under legislation. For example, our Integrity Committee is established under section 23 of the *Integrity Commission Act 2009*, while both the Public Works Committee and Public Accounts Committee are established under their own acts, those being the *Public Works Committee Act 1914* and the *Public Accounts Committee Act 1970* respectively.

However, the Tasmanian parliament does have precedent of former joint standing committees being established via resolution or motion, which were the joint standing committee on community development and the joint standing committee on environment, resources and development, last constituted in 2010. Similarly, as mentioned earlier, both the federal and the New South Wales parliaments routinely re-establish their respective electoral matters' joint standing committees via resolution or motions.

Personally, I think it would be a fabulous investment in our democratic infrastructure should Tasmania adopt Victoria's approach by legislating to establish our electoral matters committee as a statutory standing committee; but that is for a future debate. Our focus now is on the current clause, for which as stated, there is ample precedent.

Clause (1)(a) establishes the scope and the potential origin of the proposed committee's work, specifically that relating to the state's electoral legislative architecture and frameworks. This is based upon the New South Wales joint standing committee terms of reference, which details in a similar format the pertinent acts to be included. It is also consistent with the establishing provisions of the Victorian Electoral Matters Committee under its *Parliamentary Committees Act 2003*.

Clause (1)(b) makes it clear that while the committee can examine bills deemed relevant, the referral of those bills is to be via either a minister or a majority vote of either Chamber. This provision is consistent with the democratic principles of the will of a chamber being respected, as well as the executive via a minister, seeking additional consideration and scrutiny of proposed legislation. This point was raised with me in relation to this motion by the member for Murchison, which I acknowledge and thank her.

Clause (2) should be self-explanatory. It is clearly a fundamental function of the proposed committee and is consistent with each of the three interstate committees. The only difference is that due to our system of annual periodic elections for the Legislative Council, the proposed committee will be expected to conduct more than one specific election examination: the recent House of Assembly elections and the recent periodic Legislative Council elections.

Clauses (3) and (4) specify reporting time frames. Clause (3) requires that, should this motion pass both chambers, then the lucky members appointed to the committee will need to provide the report on both this year's March state election and this month's three upper House polls by the end of next year (2025). Both New South Wales and Victoria also stipulate an 18-

month reporting time frame for their respective recent election examination provisions. Commonwealth resolution does not appear to stipulate a reporting time frame on the examination of the most recent federal election.

Clause (4) implements the democratic principle of transparency and openness by ensuring the committee, which is a creature of the entire parliament, remembers to disclose and report back to our colleagues on the matters it has referred to itself to examine. I stress that this is not about asking for permission to undertake those own motions. It is about transparency and accountability back to the Chamber. This clause is consistent with others implemented within other established committee terms of reference - for example, the Joint House Gender and Equality Committee, which we have just recently voted to re-establish, happily.

Clause (5) is self-explanatory and pretty routine. Should the other place move to mirror these provisions as is convention, then the committee will have a membership of eight, which is on par with Victoria's nine members. Not surprisingly, the larger federal and New South Wales parliaments have larger committee memberships with the former having 14 members and the latter 11.

I have covered what the motion does include. However, I also need to touch on what it does not. Members may recall that an initial version of the motion which I circulated for feedback prior to tabling, also included in clause (1) those provisions of the *Local Government Act 1993* that relate to the procedures for and conduct of elections for local councillors and the conduct of local government elector polls. Members may have noted also the inclusion of local government elections is consistent with the Victorian Parliament's equivalent standing committee scope.

It is clear from the New South Wales standing committees index of tabled reports that it has examined matters relating to that state's local government electoral machinery. It was, to my thinking, appropriate and consistent to include our local government tier within the proposed committee scope, but strictly only the provisions that relate to the current legislative provisions for the operation and administration of their local government, local council elections and elector polls. That was in recognition that there is not any other routine mechanism for oversight of those laws other than the state parliament as a whole - just as there is not for the electoral laws under which state MPs are elected. For example, when the last parliament moved to introduce compulsory voting for local government elections, the minister at the time promised a subsequent review of those reforms, which I am still not clear has occurred and been completed. However, as an example, that could have been an appropriate brief for an electoral matters committee to examine as part of its routine business, should the inclusion of local government be part of it.

The inclusion of the local government tier in those initial iterations of this motion before us was in no way intended to infer that the electoral matters committee would or should seek to interfere in the daily operations or the conduct of local government elections and councils. However, concerns were raised with me about the inclusion of local government within the scope of this proposed committee, particularly in the absence of consultation with local council stakeholders prior to debate. I have taken on board those legitimate concerns and, hence, the joint standing committee on electoral matters as proposed under the motion before us, does not include automatic scrutiny of those election-related provisions of the *Local Government Act 1993*. It may be a matter that the committee wishes to address down the track.

It is worth taking a moment to clarify the role of the Tasmanian Electoral Commission within the context of the proposed joint standing committee. As I stated earlier, this call for an electoral matters committee does not indicate any doubt over the results of our elections, nor does it - nor should it - seek to undermine the role and the work of the Tasmanian Electoral Commission. All the other interstate jurisdictions with established electoral matters joint committees also have their own electoral commissions.

We are all familiar with the Australian Electoral Commission, the AEC. Both New South Wales and Victoria have their own respective electoral commissions at a state level. As we all know, the Electoral Commission is a statutory, independent and impartial body. It is responsible for the conduct of the elections of both Houses of this parliament, as well as local government elections, other statutory elections, and the implementation of electoral boundary redistributions.

While it is quite standard for the TEC to be a participant in inquiries by making formal representations to relevant parliamentary reviews, it is not the role of the TEC to undertake inquiries into the full range of matters that may arise as questions, concerns, modernising suggestions, or legislative amendments relating to the conduct of elections. For example, the TEC made a submission to the previous Liberal government's 2018 review into the *Tasmanian Electoral Act 2004*, both in 2018 and again in response to that review's interim report in 2019. The TEC also made submissions to the recent electoral funding and disclosure bills.

Yet, in contrast, it would not be within the TEC role to fully examine the political decisions and ramifications surrounding the circumstances of elections, such as the choice to hold concurrent elections in 2021, which I mentioned earlier.

Most members will be familiar with the election reports issued by the TEC, which provide valuable data and practical insights after each election. However, it is beyond the scope of the TEC to hold public hearings, to receive public submissions, or to examine current or proposed policy changes. These latter roles are the functions of the proposed parliamentary committee, which would also examine, as part of it, the TEC reports.

The AEC provided a written submission to, and appeared before, the most recent Commonwealth Electoral Committee inquiry into the conduct of the 2022 federal election. The New South Wales Electoral Matters Committee received submissions from both the New South Wales Electoral Commission and its Independent Commission Against Corruption into its current routine inquiry of that state's 2023 general election; and both these independent entities have also appeared before the New South Wales Committee during its public hearings held in April and this month.

Victoria's Electoral Matters Committee examination of the 2022 state election in that state similarly received submissions from the Victorian Electoral Commission, which also appeared before the committee during the public hearing stage. Clearly, it need not be a matter of either/or, but both an independent electoral commission and a parliamentary joint standing committee on electoral matters.

It is logical for this committee to be established and commence work as soon as possible, after the most recent state election. In this regard, it is consistent with the re-establishment time frame undertaken by those interstate counterparts. It is also timely, given this proposed standing committee on electoral matters is an initiative also called for by many who are interested in

these matters, including in the publication by the Australia Institute Tasmania - Democracy Agenda for the 51st Parliament, a report released earlier this month.

Establishment of this joint standing committee would fulfil recommendation (5) of that report, which reads, and I quote:

Immediately establish a Joint Standing Committee on Electoral Matters to enable enhanced scrutiny of the administration of all Tasmanian elections, consideration of potential new electoral reforms, and put impetus behind promised electoral reforms that have faltered.

To conclude, I thank members for their constructive feedback and engagement with this proposal, which has resulted in the refined motion currently before us. I believe the current text reflects those discussions undertaken in good faith and, if passed, the resulting committee will reap the benefit of cooperative goodwill from all political perspectives represented in the 51st Parliament.

To reiterate, this motion does not present a radical or subversive idea.

Indeed, as we can see in the routine and established practices of some of our interstate counterparts, including governments led by former prime minister John Howard through to the current Prime Minister, Anthony Albanese, all have voted during each commencement stage of their respective parliaments to reconvene their standing committees with the responsibility of reviewing the election that was just held, which delivered their victory and other associated electoral related matters.

Similarly, so do newly elected state governments in at least two interstate jurisdictions. Each of those new governments participate, along with their political opponents, in their respective parliamentary reviews of election practices, along with their respective electoral commissions, other stakeholders and members of the public, as a matter of course.

It is my firm hope, that we here now, will establish the precedent for this routine democracy health check to be established at the commencement of every new parliament on behalf of the Tasmanian citizens.

Just as we systematically move to re-establish joint standing committees on integrity, public works, public accounts, for example, it will be a consistent move to also re-establish a joint standing committee on electoral matters. I cannot guarantee that outcome, but I foreshadow it as a positive move if that was to occur.

Before such a committee can become a routine practice within our parliamentary fabric, it requires one parliament and hopefully that will be this one, to take the plunge in good faith to establish a new and modernising precedent consistent with the code of conduct principles we all promise to uphold. This motion seeking to establish the first joint standing committee on electoral matters for the Tasmanian parliament provides that groundbreaking vehicle. It offers us a historic opportunity to forge that legacy and I commend the motion to the House.

[...]

Ms WEBB - Mr President. Thank you very much to the government for working with me on this and for the support to see this come to fruition. I am very pleased about that. It is a good outcome and thank you to the member for McIntyre for her remarks in support. I appreciate that also.

Motion agreed to.

Ms WEBB - Mr President, I move

That a message be transmitted to the House of Assembly and requesting its concurrence therein.

Motion agreed to.