

Robert Cosgrove

ROBERT COSGROVE
His first nine years as Premier 1939-48

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This thesis contains no material which has been accepted for the award of any other higher degree or graduate diploma in any tertiary institution, and to the best of my knowledge and belief, it contains no material previously published or written by another person, except when due reference has been made in the text of the thesis.


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ABBREVIATIONS

<u>A.D.B.</u>	<u>Australian Dictionary of Biography</u>
ALP	Australian Labo(u)r Party
AOT	Archives Office of Tasmania
CA	Commonwealth Archives
C.S.O.	Chief Secretary's Office
<u>E</u>	<u>Examiner</u>
HA	House of Assembly
HASO	House of Assembly Standing Orders
HEC	Hydro-Electric Commission
LC	Legislative Council
LCSO	Legislative Council Standing Orders
<u>M</u>	<u>Mercury</u>
MLC	Member of the Legislative Council
Minutes	Minute Book, Criminal Sittings 6 November 1945-11 March 1952
NS	Non-State acquisitions in the AOT
P.O.	Premier's Office
R. v. Cosgrove	Rex v. Cosgove, <u>Tasmanian State Reports</u> , 1948
S	Secret
SGD	Solicitor-General's Department
<u>THRAPP</u>	Papers and Proceedings of the Tasmanian Historical Research Association
<u>V</u>	<u>Voice</u>
<u>V&P</u>	Votes & Proceedings of the Parliament of Tasmania

CHRONOLOGY OF EVENTS

1939	10 June <i>3 September</i> 18 December	Death of Ogilvie, Dwyer-Gray Premier <i>outbreak of war</i> Cosgrove becomes Premier
1940	<i>10 June</i> <i>14 June</i> 21 September	<i>War with Italy</i> <i>Fall of France</i> Federal election, Menzies Government returned 22 UAP, 14 UCP, 32 ALP, 6 Other
1941	22 June 29 August 3 October <i>8 December</i> 13 December	<i>Nazi Germany invades USSR</i> Menzies replaced by Fadden John Curtin becomes Prime Minister <i>Japan attacks Pearl Harbour</i> <i>United States enters war</i> Tasmanian election Cosgrove government returned 20 Labor, 10 National
1942	May	introduction of uniform taxation
1943	21 August	Federal election, return of Curtin government 49 Labor, 23 UAP, 2 Independent
1944	<i>6 June</i> 19 August	<i>Allied forces land at Normandy</i> Powers referendum
1945	9 May 5 July 12 July <i>2 September</i>	<i>V.E. Day</i> Death of John Curtin, replaced by Forde Chifley elected as leader of Federal Labor <i>V.J. Day</i>
1946	28 September 23 November	Federal election return of Chifley government 43 Labor, 15 Liberal, 11 Country, 5 Other Tasmanian election return of Cosgrove government 15 Labor, 14 Liberal, 1 Independent
1947	11 November 2-9 December 19 December	allegations against Robert Cosgrove Royal Commission into Cosgrove Brooker replaces Cosgrove as Premier
1948	10-21 February 25 February July 31 August	trial of Robert Cosgrove Cosgrove resumes premiership Legislative Council blocks supply Tasmanian election return of Cosgrove government 15 Labor, 13 Liberal, 3 Independent

bold Tasmania

plain Australia/national concern

italic rest of the world

INTRODUCTION

“Within the Labor Party, he was regarded as a conservative but not anti-progress”

Doug Lowe, The price of power, p.5.

Robert Cosgrove was an example of the perceived image of the 'traditional' Labor party politician. He had a working class background, a government school education, and a link with the trade union movement. He was born in 1884, nineteen years before the Tasmanian branch of the ALP. His father was a farmer, and young Robert was educated at government run schools. Beginning at Campania, he later attended the Sorell, and Richmond State Schools, and the St Mary's Boys' School in Hobart.¹ In November 1898, he was confirmed into the Roman Catholic Church, an organisation in which he was to remain for his life-time. His confirmation card noted him as being Bertie Cosgrove², thereby using a less formal name, illustrating at an early age, an element of his character which was evident continuously throughout his life. Cosgrove was a leader of the people, a fact he did not forget. His continual appearances at everyday events such as football matches lends itself to the image of a man not only elected by the people, but also one of them.

As was the case with so many other members of the Labor movement, Cosgrove found it necessary to leave home to find work. In his case, this first entailed going to New Zealand in 1906, where he gained his first work with an organised union-the Wellington Trades Hall Council.³ He then went to Ballarat three years later, where he worked with the Singer

¹L.L. Robson, A history of Tasmania volume 2(Melbourne, 1991), p. 431. .

²C.5/1 Cosgrove Papers. UTA.

³John Reynolds, 'Premiers and political leaders', in A century of responsible government 1856-1956, edited by F.C. Green(Hobart, 1956?), p.237.

Sewing Machine Company as a traveller.⁴ The date of his return to Tasmania is unknown, however he was back in the state by 1913, by which time he was employed by Robert Walker and company in Murray Street, Hobart.⁵

He was first elected to parliament in 1919, but this did not last very long. He failed to keep his seat at the 1922 election, but returned in 1925, this time for six years. He was one of the casualties of the anti-Labor backlash when he lost his seat at the 1931 election, but returned in 1934, the year A.G. Ogilvie led the party to victory. This time he stayed for twenty-four years. Under Ogilvie, he was Minister for Forestry, Agriculture, and the Agricultural bank. When Ogilvie died suddenly in June 1939, Cosgrove was still a junior member of the cabinet. The most senior minister was Edmund Dwyer-Gray, but he was 69 years old. The leadership battle was between Cosgrove and Tom D'Alton, who lost the caucus vote when someone changed their mind on the day of the election.⁶ The transition period of six months was a wise move. Dwyer-Gray was popular with the press⁷, and a change over period would allow Cosgrove to prepare himself for his new duties. In December 1939, after serving as Treasurer, he replaced Dwyer-Gray as Premier, who returned to the Treasury.

⁴Robson, *op. cit.*, p. 237; C.5/1 Cosgrove Papers. UTA.

⁵Robson, *op. cit.*, p. 237.

⁶A.G.L. Haig, 'Politics and the individual: the case of Thomas D'Alton', unpublished paper presented to the Centre for Tasmanian Historical Studies, 6 November 1992.

⁷Richard Davis, Eighty years Labor 1903-83(Hobart, 1983), p. 37.

He was premier for almost nineteen years, with the exception of the period December 1947 to February 1948, when he stood aside over charges of corruption. Upon his retirement from parliament, Cosgrove was knighted⁸, and made a life member of the Commonwealth Parliamentary Association.⁹ After he retired, he kept a strong interest in politics. This included an unsuccessful attempt in 1959, to have his daughter elected as a member for Denison.¹⁰ He died in 1969. A requiem mass was celebrated at St Mary's Cathedral on 27 August 1969.

Cosgrove's term as Premier of Tasmania can be remembered for four main reasons. First, he is the longest premier in the history of Tasmania, holding the position for almost nineteen years. Secondly, he was the premier for all but three months of the Second World War. It was during his premiership Tasmania was most likely to be invaded by the armed forces of another country. Thirdly, he was the first Tasmanian Premier to be tried before a judge and jury. He stood down as party leader in December 1947, on the understanding he would regain the position once the trial was over. He was not, however, the first party leader in Australia to be tried, but as with his Queensland counterpart of the 1920s, the charges were not proven. Finally, it was in Tasmania, in the latter part of his career, that the famous split occurred within the ALP. This brought about the creation of the Democratic Labor Party, and led to the Federal branch remaining on the

⁸KCMG(1959)

⁹C.5/2 Cosgrove Papers. UTA.

¹⁰Davis, *op. cit.*, p. 58

Opposition benches until 1972. This last episode will not be investigated within this work, but being of such far reaching importance, it is still worth noting.

During the first world war, Cosgrove had been involved in the anti-conscription movement.¹¹

The case against conscription repeated many of the themes of the first anti-conscription campaign: conscription was morally wrong-it was not right to force another man to give his life; compulsion was wanted for civil reasons rather than military-to suppress the workers and enforce repressive economic conditions. Finally, the government could not be trusted with such enormous power.¹²

Cosgrove had not been alone in his opposition to conscription. Even within the Labor party, there were those who opposed the idea of forcing men to fight the Central Powers. Along with Joe Lyons, there were also men of the calibre of T.J. Ryan, Premier of Queensland. Cosgrove was not alone amongst the Roman Catholic element in his opposition to conscription. Whilst Bishops such as Clune and Kelly were urging people to vote 'yes' at the 1916 referendum, there were others, most notably Archbishop Daniel Mannix, who argued for the 'no' case. They argued, "support for the war did not inevitably mean support for conscription." There were those within the Labor party who advocated the conscription of the wealth from the richer elements of Australian society on the basis "you should not force an individual to sacrifice his life when you had not forced others to sacrifice their wealth"¹³,

¹¹Robson, op. cit., pp. 122-123.

¹²Marilyn Lake, A divided society: Tasmania during World War I (Melbourne, 1975), pp. 122-123.

¹³Edmund Campion, Australian Catholics (Ringwood, 1987), p.83.

an argument which recurred during world war II. This opposition to conscription was to lead to a distinctive anti-Catholic outbreak in the 1920s. Protestant movements were created, with the basic belief it was necessary to be Protestant to be loyal. "Conversely, to the British Australians Catholicism meant disloyalty-disloyalty to the Empire."¹⁴ This might explain, in part, the reason why Cosgrove lost his seat in 1922. He was not only anti-conscription, but also a member of the Roman Catholic Church, thereby 'reinforcing' the image that all members of that church were not loyal to King and Empire.

Also in 1916, Cosgrove had become a member of a Temperance organisation. At the referendum held at the same time as the 1916 State election, it sought to have hotels close at 6 p.m., and it went well enough to gain a vote of two to one in favour of this move from the electors of Denison.¹⁵ Cosgrove was not the first member of the Labor party to be involved in a temperance organisation. In the early days of the movement within Australia, there had been men of the ilk of G.D. Clark, Charles Seymour, Albert Hinchcliffe, Mat Reid, David Bowman, Fred Coneybeer, and Frank Lundie who advocated drinking non-alcoholic beverages. The difference with Cosgrove was that he was Roman Catholic, opposed to conscription, and pro-temperance. Coneybeer was an Anglican, who was expelled from the party in 1917, Hinchcliffe was a Christian Scientist, Reid was a

¹⁴Ibid., p.87.

¹⁵Lake, op. cit., p.46.

Theosophist, and Clark was a Methodist.¹⁶ There was one other person who fitted all four criteria-Edmund Dwyer-Gray¹⁷, but this still only leaves the total at two people. Another point to come out of Cosgrove's activities within the temperance movement was his ability to work with people who had differing political outlooks. In this case, other members of the group were members of the Liberal party. These included W.H. Lee, J.C. McPhee, both of whom became Premier of Tasmania, W.J. Fullerton, and H.J.M. Payne.¹⁸

It is reasonable to expect Cosgrove's link with this organisation to have helped him with his attempt to enter parliament in 1916. There was clearly a wish, on the part of the electors of Denison, to have the hotels close early. This did not translate into votes for Cosgrove. Even when he succeeded in gaining a seat in 1919, it was due to a variety of reasons.

His prohibitionist stand, his base in the unions, his reputation as a moderate in Labor politics and not least, his position on the ballot paper, directly following Cleary (who secured 1260 first-preference votes above the quota) all contributed to his success.¹⁹

Clearly it was not possible in the early inter-war period, for a new candidate to gain a seat in parliament, with only a single issue platform.

¹⁶Howard Coxon, John Playford, and Robert Reid, Biographical register of the South Australian parliament 1857-1957(Netley, S.A., 1985); C.N. Connolly, Biographical register of the New South Wales parliament 1856-1901(Canberra, 1983), pp. 54-55; D.B. Waterson, A biographical register of the Queensland parliament 1860-1929(Canberra, 1972), pp. 85, 157; R. McMullin, The light on the hill(Melbourne, 1991), pp. 13, 18, 24, 30, 78.

¹⁷R.P. Davis, 'Edmund Dwyer-Gray', A.D.B., vol 12, pp. 390-91.

¹⁸Lake, op. cit., p. 46.

¹⁹Ibid., p. 185.

At the State conference in May, he was elected to the party executive, the first position in his rise to high office.²⁰ In May 1920, he was elected President of the Tasmanian branch of the ALP²¹, and later that same year, he chaired a parliamentary committee on the Fair Rents Bill.²² In December 1925, he was one of the government members on the joint committee on the constitution.²³ In the course of passing the 1924-25 budget, the Legislative Council did not wish to pass the Lyons government's budget as presented. Instead of accepting the upper house's amendments, the appropriation bill was taken to the administrator, Sir Herbert Nicholls, who gave it the Royal Assent being sought by the Premier. The outcome of the committee's meetings was an amendment to the Tasmanian Constitution Act, which meant the government could not repeat the actions of 1924. There is no evidence available to suggest how Cosgrove acted whilst on the committee, but he had only just re-entered parliament, so there is every reason to believe he agreed totally with the views of the Premier. One long-term effect of this scenario was the 1948 constitutional crisis. If the Lyons cabinet had won the conflict with the Legislative Council, it is fair to suggest the period following the trial of Cosgrove would have taken a different course.

²⁰*Ibid.*, p.180.

²¹R. Davis, *Eighty years Labor...*, pp. 12, 15.

²²Robson, *op.cit.*, p. 367.

²³Robson, *op. cit.*, p. 402.

Throughout his life, many people made favourable remarks about, and to Cosgrove. In a referee report written at Dover in June 1903, young Robert is described as being "honest, trustful, and obedient, very obliging to customers." In this latter part can be seen an early recognition of the importance of communication with people as a whole. In the previous year, a reference from Lester Brothers contained the following: "[Cosgrove] gave us every satisfaction, we believe him to be thoroughly honest and trustworthy. he left our employ to better himself." In October 1903, the President of the Hobart Catholic Young Men's Society wrote Robert Cosgrove "has always been an energetic worker, his departure will be a great loss, to our Society." Similarly, William Campbell, Grocer and Tea Dealer, "found him ready & willing to do any kind of work & always very civil & attentive to customers." One report of note, which was given to Cosgrove, came from the Singer Sewing Machine Company, just before he went to New Zealand in December 1909. In it, the writer noted the company did not normally write referee reports for travellers, "but you can refer anyone to us and we will be pleased to give a favourable answer to any questions they may ask concerning you."²⁴ Upon his election to the presidency of the Denison branch of the Workers Political League in 1913, he received a note from James Guy, which said in part "I trust your successor in the office of Secretary will have as good a record as you have earned, and that you may do as well in the chair as in command of the books."²⁵ Of more general note,

²⁴C.5/1 Cosgrove Papers. UTA.

²⁵C.5/30 Cosgrove Papers. UTA.

Townsley, in his book The government of Tasmania, states Cosgrove was "Stolid, imperturbable, hard-working and always accessible". Furthermore, he "exercised considerable authority as Premier", and was "familiar with every aspect of the state of the government".²⁶

²⁶(St. Lucia, 1977), p. 101.

CHAPTER ONE

THE DEFENCE OF TASMANIA

"Yet there was seldom a sense of urgency let alone panic about the war in Tasmania. Allied headquarters regarded the island as an 'isolated locality' and undoubtedly this perception was widespread. Even in April 1942, when invasion of at least part of Australia was a distinct possibility, civil defence officers in Tasmania found the public deplorably indifferent."

L L. Robson, A history of Tasmania vol. 2, p.504.

When war was declared in September 1939, the Australian people, being loyal to King, country, and empire, sent their young men off to fight the enemy. At first against the tyranny of Nazi Germany, this was soon followed by allies of the Great War, Italy and Japan. At home in Australia, efforts were made to keep the enemy, should they try to invade this country, at arms length. In Tasmania, the same regulations and resolve were in place as in the other states. Robert Cosgrove, the war-time Premier, obediently followed the instructions of the successive Prime Ministers-Menzies, Fadden, Curtin, Forde, and Chifley-and helped, one way or another, to obey the instructions coming out of Canberra. Tasmania's war effort covered many areas, each overlaying different elements of everyday life. Foremost amongst these were matters dealing with air raid shelters, lighting regulations, and evacuation plans. Tasmania also played its part in the production of munitions, largely due to the personal efforts of Premier Cosgrove.

On 3 September 1939, the people of Australia found themselves at war with Germany. There was no need for a formal declaration, since the Government at Westminster had already performed this act.¹ At this stage, Robert Cosgrove was still Treasurer in the Dwyer-Gray Government, and was not to become Premier for three more months.

¹In his address to the nation, Prime Minister Menzies said Britain had declared war against Germany, "and that, as a result, Australia is also at war". Menzies quoted in R. McMullin, The light on the hill (Melbourne, 1991), pp.99-100. See P. Hasluck, The government and the people vol 1, (Canberra, 1952), p.154 for the actual proclamation.

When the founding fathers of the Commonwealth met late last century, defence of the new Australia was given to the soon to be created Federal Government. Under section 51(vi) of the Constitution, all matters dealing with the Naval and Military Forces rest with the Government in Canberra². Cosgrove was not unlike his counterparts interstate. His was a duty of carrying out the plans and policies developed by the Federal Governments.

When he became Premier, Cosgrove did not take direct control over the war effort in Tasmania, preferring to leave that to other people. The Civil Defence Legion (CDL), an organisation created by Ogilvie in February 1939, was controlled by the Minister for Lands and Works.³ Even after Cosgrove took on the additional responsibility of Minister for Civil Defence, a study of the papers available shows most of the work being undertaken by its Director. The Premier, on two occasions, delegated all but the power to delegate, to its director.⁴ In Cosgrove's defence, whilst he did not take personal control as far as writing the papers, he was still subject to the principle of ministerial responsibility, and was therefore answerable for its actions.

The CDL was the central element of Tasmania's war effort, since it was responsible for the carrying out of defence policy. This covered such areas as shelters, lighting, and evacuation. Since

²The founding fathers of the constitution looked to the United States of America and Canada for precedents. John Quick and Robert Garren, The annotated constitution of the Australian Commonwealth (Sydney, 1901), p.561.

³P.O. 43/7/39 AOT

⁴P.O. 43/10/42; P.O. 43/27/43 AOT

defence policy decisions were made in Canberra, all the CDL had to do was to ensure the orders were carried out.

For the early part of the war, the possibility of Australia being invaded did not greatly concern Cosgrove. Until the 'phoney war'⁵ ended in July 1940, the Australian Governments lacked enthusiasm. This problem arose because the war was being fought on the other side of the world. If it had begun in the Pacific region, then there would have been a greater sense of urgency, since the battles would have been closer to home, with an immediate danger of invasion.

There had been preparation in the 1930s for an outbreak of hostilities. As early as 1935, plans covering the defence of Australia were drawn up, in case it came under attack from an external military force. In November, Prime Minister Lyons called for papers from members of the Federal Cabinet for a conference, to be held in Hobart in the following February. In response, Archdale Parkhill, the Minister of Defence, sent a draft paper written by the Military Board, which included "the protection of the civil population against the result of gas attacks".⁶ At the conference, which took place in Adelaide in August 1936, an agreement was reached whereby the State Governments would look after "the training of the personnel of essential civil services", whereas the Commonwealth would look after the equipment, manuals, and "the services of officers to

⁵ A term used by historians for the period from 3 September 1939, to the fall of France in July 1940. For an example of this, see Townsley, Tasmania from colony to statehood 1803-1945 (Hobart, 1991), p.412.

⁶ Hasluck vol 1, p.125.

instruct key personnel and technical information and advice.”⁷

At another conference a similar decision was made. At the March 1939 meeting, the Australian Governments signed an agreement that said in part, they were fully aware of the need to complete the tasks under way for the protection of the civil population if there was an aerial attack. This covered the possibility of the enemy using gas, high explosive and incendiary bombs.⁸ It is odd, after such early preparations, the governments should have been so lax when the war began.

When hostilities finally broke out, these preparations were wasted. It was as if the governments had spent all their enthusiasm working on plans in the advent of war, so that when it finally arrived, they could not manage to undertake any further efforts. Townsley, in his book Tasmania from colony to statehood, suggests although there had been many years of preparation, when war broke out, there was not enough administrative machinery to undertake the tasks needed. The amount of money spent on defence was insufficient, despite its budgetary allocations from Parliament. Communication between the Commonwealth departments, and between the Commonwealth and State Governments was poor, and from the outset, there was too much work left to improvisation. Townsley concludes, the ‘phoney war’ allowed the Australian Governments time to correct the errors made to date, but it also

⁷Hasluck, vol 1, p.126.

⁸P.O. 43/1/41 AOT; Hasluck, vol 1, p.134.

led to laziness.⁹

The Commonwealth Government had decided not to construct air raid shelters in the cities, and the plan for the construction of a shelter under Franklin Square, as there had been ten years earlier, was dropped since it cost too much to build, and there were too many engineering difficulties in such a project.¹⁰ This suggests a higher fear of war in 1930 than in 1940. In a minute written at the beginning of 1940, members of the State Cabinet were informed the lack of Commonwealth funding for air raid shelters. If the situation changed, the State Government did not want sole responsibility for their construction; whilst local authorities were expected to look after their own people, as happened in England.¹¹

From the outbreak of the war, efforts were made to have a munitions factory created in Tasmania. It was not until 1940 that one was opened, and only after considerable effort by Cosgrove. The government in Canberra had looked first to New South Wales, and then to Victoria when allotting its choices. It was quite logical these two states should be the first choices, since they the two largest areas of population, and facilities for the production of munitions were already in place.

The first factory to be built in Tasmania was a munitions annexe next to the railway workshops in Launceston. It was

⁹Townsley, *Tasmania...*, p.412.

¹⁰Robert Cosgrove to W.R. Peel Salisbury, Sandy Bay, 22 October 1940. P.O. 43/118/40. AOT; P.O. 43/8/40 AOT

¹¹P.O. 43/8/40 AOT

built to construct Q.F. twenty-five pounder H.E. shell cases, with the funds coming from the Commonwealth for the buildings and machinery, whilst the State paid "a small proportion of the initial cost". It had an initial staff of about one hundred and thirty men, with about half of these being skilled operators.¹²

It had an initial cost of £10,000, the money for the construction of the building, to house the plant, was to be lent by the Commonwealth Government, subject to the acceptance by the State Government of certain conditions. The loan, less depreciation, was to be repaid within ten years;

The Tasmanian Government [was] to erect a building to be approved by the Director, Gun Ammunition Production, as suitable for the production of not less than 150,000 shell Q.F. 25 pdr. H.E. per annum; provision [was] to be made also for extension of the building for an additional capacity of not less than 150,000 per annum if required at a later date;

the loan was to be interest free so long as the building was used for Commonwealth work, whether in use or idle; the Commonwealth was to charge a rent of four per cent on depreciated value for the duration of the time the State Government used the building; and, depreciation was to be ten per cent of the money lent. These conditions were accepted by the Cosgrove Government within three days of receipt of the letter from Prime Minister Menzies.¹³ Within four months, the cost had increased to £14,000, and the extra money was lent on

¹²Press Statement by Cosgrove, 22 October 1940. P.O. 43/72/40 AOT; Robson Vol 2, p.485.

¹³Prime Minister to Cosgrove, 9 November 1940; Cosgrove to Menzies 12 November 1940. P.O. 43/72/40 AOT.

the same conditions as before.¹⁴

A factory was also built at Derwent Park at a total cost to the Commonwealth Government of £942,899¹⁵. At its peak, in December 1943, it employed 1,350 people, of whom eight hundred and fifty were women, or sixty-three per cent of its workforce. This was the rule rather than the exception. The war years enabled many women to enter the workforce on a full-time basis, and take over many of the areas seen as male oriented in peace-time. However, with the demobilisation of the forces, most, if not all of these positions reverted to male dominance. The production, which was outstanding, was even more remarkable when it is realised the employees were taken on without any prior experience. In its first two months, 13,855 mortar bombs were made, reaching a peak of 96,095 in November-December 1943, with a total war-time effort of 618,298. The initial cost per bomb was five shillings, but this went down to a low of three shillings ten pence. In its first month, five thousand two inch mortar bomb tails were made, reaching a peak of 124,594 for the four week period ending 30 June 1944. With an initial cost of five shillings nine pence each, this went down to a low price of two shillings ten pence. The production of twenty millimetre cases peaked at 187,636 in September 1944, with a total war-time production of around one million. The

¹⁴acting Prime Minister to Cosgrove, 10 March 1941; Cosgrove to acting Prime Minister, 12 March 1941. P.O. 43/12/41 AOT.

¹⁵ land	£3,988
annexe of thirty-seven buildings	£377,911
plant	£532,000
installation of plant	<u>£29,000</u>
Total	<u>£942,899</u>

initial cost of five shillings each at the start of production, went down to a low price of two shillings three pence. Similarly, 690,813 forty millimetre cases were produced.¹⁶

By 1941, the Tasmanian Government was taking the situation seriously. With the fall of France in May 1940, and with Britain seen to be on the verge of collapse, a sense of urgency entered the war effort. For the first time since the war began, the government were contemplating the need for the evacuation of the population should an enemy force invade Tasmania. At this stage in the war, the only forces who might have invaded Australia were the Germans and the Italians. This was unlikely, since there were no Italo-German activities within close proximity. The fear of invasion had increased enough for the Health Department to ensure they could evacuate the patients and staff at the Royal Hobart Hospital should an emergency arise.¹⁷

The physical protection of Tasmania was in the hands of the Volunteer Defence Corps¹⁸, and the three elements of the Australian armed forces-Army, Navy, and Air Force. With the defence of Australia being taken seriously, detailed plans were drawn up to cater for an aerial and naval invasion of Tasmania. In Hobart, the Ocean, Queens, and Kings piers, Franklin and Electrolytic-Zinc company wharves were to be destroyed by fire, ignited by a mixture of fuel oil and kerosene, with the latter

¹⁶ Matt O'Brien, Tasmania's war effort (Hobart, 1946?), p.35.

¹⁷ "CIVIL DEFENCE ACTIVITIES", M, 16 January 1941.

¹⁸ O'Brien, op. cit., p.13.

being supplemented by fire boats from the Navy. Elizabeth pier, being constructed from reinforced concrete, was to be destroyed by explosives. Similar actions were planned for Princes wharf, however owing to a lack of explosives in Tasmania, this was altered to sinking boats around it, in the hope their masts would slow down any enemy fleet. Lurgurena berth was to be left until the last possible moment before being destroyed by explosives.¹⁹ This plan of destruction was supplemented by the siting of guns, giving emphasis in Hobart to four main areas: the land within a radius of one hundred yards from the GPO, covering H. Jones and Co, Anglesea Barracks, government offices, the hospital, and the most important business premises; Electrolytic-Zinc Company plant, and HEC sub-stations; the area between these two locations, where the majority of the poorer residential houses were located; and Bridgewater bridge, the arterial route between Hobart and the rest of Tasmania.²⁰

If Hobart was attacked, aerial bombardment was most likely to come from the south or east. Any attack starting from the west would have been hampered by the mountain. This would have meant the need to fly at five thousand feet, especially if the weather was bad, with the planes going down to two thousand feet to drop their bombs. Should such an episode occur, "the most probable attack will be from light craft with few bombs." Special attention was given to the Electrolytic-Zinc company, which was seen as the single most important element of the war industry, although the plant was scattered, making complete

¹⁹S/84/11. CA.

²⁰S/52/35; S/54/13. CA.

destruction difficult.²¹

Restrictions on everyday life increased once the Japanese entered the war. With an enemy force so close to home, the possibility of invasion became realistic. As the Japanese forces moved closer to Australia, the fear increased, as did the restrictions. On the personal level, the war infringed on everyday life in a number of ways. One of these was lighting. Regulations were introduced covering the use of lights. At home they were covered, or extinguished; "car headlights were masked"; advertising was not allowed; daylight saving was introduced; and late night shopping, wherever it was in operation, was removed, causing the shops to be shut by 6pm.²² This also covered patriotic events.²³

In Tasmania, lighting control was enforced by the police and air raid precaution staff. Instructions were set out covering the procedure to be followed in the event of an air raid, and were tested throughout the war. Lighting use was determined by the Hydro-Electric Commission, which directed verbally, or in writing, to the Director of Civil Defence, a nominee, or the Commissioner of Police. In the test, the duty officer at the Headquarters of 6 Military District would inform the Commissioner of Police, the Hydro-Electric Commission, Director of Civil Defence, and the Premier's office. The operator at the main metropolitan sub-station informed the operators of

²¹S/54/13. CA.

²²Paul Hasluck, The government and the people vol 2 (Canberra, 1970), pp.64-65.

²³P.O. 43/66/41 AOT

public lighting in the cities and towns around the state, which led to a state wide black-out.²⁴ By 1942, Hobart could be blacked-out within three minutes of the order given, and it only took ten minutes for the entire state to be in total darkness.²⁵

In the event of a raid, the people of the city or town were to move to a place of safety. In the interstate cities, slit trenches and basement shelters were available²⁶, but in Tasmania this was not the case. The Director of Civil Defence suggested the ground floor of buildings would be sufficiently safe. He did, however, accept the view slit trenches would be fine for those people living in the suburbs.²⁷ For the most part, the buildings within the Hobart commercial district were no more than two or three storeys high. There were, however, a few notable exceptions. Amongst these were the Kodak building in Elizabeth Street, the T & G building on the corner of Collins and Murray Streets, which is seven storeys high, and the health Department building on the corner of Davey and Murray Streets.²⁸ Whilst the construction of a single air raid shelter under Franklin Square was not possible, a series of shelters throughout the city would have been better than the ground floor of a two storey building. There were ready made buildings which might have served in the event of an emergency. There was the Variety Picture Theatre in Elizabeth Street, two dance halls-Trocadero

²⁴P.O. 43/42/41 AOT

²⁵P.O. 43/1/42 AOT

²⁶Hasluck vol 2, p. 125.

²⁷P.O. 43/1/42 AOT. Slit trenches were ordered to be dug to accommodate all troops stationed within fifty miles of the coast. MILCOMMAND MELB to MILCOMMAND HOBART, 9 December 1941. S/39/86. CA.

²⁸30/8469; 30/5532; NS/892/54; NS/892/52. AOT.

opposite the G.P.O. in Elizabeth Street, and the Royale Ball Room in Liverpool Street; air raid shelters in Bathurst and Murray Streets and in Franklin Square; as well as underground toilets in Elizabeth and Harrington Streets; and the Star Café in Elizabeth Street. All of these places were underground, although their total capacity cannot be clearly stated.

By the beginning of 1942, there should have been six factories constructing munitions. The Commonwealth factory in Derwent Park, and the shell annexe in Launceston were producing brass straps, brass cartridge cases, and twenty-five pounder H.E. shells. However, problems had arisen in the other four plants. The building was still to be erected at the tool annexe attached to the Railway Workshops in Launceston; as was the case with the optical annexe at the university, and the Bond store at the Launceston Workshops. The Primer Annexe at H. Jones and Co. was still awaiting its plant, with production expected to commence in March 1942. The total outlay was £930,100.²⁹ Cosgrove expressed concern over these delays in production in a press statement of 26 March 1942.³⁰ He had good reason to complain. The war had been underway for over two years, and the work being undertaken in Tasmania should have been in production for nearly all that time. The inability of this work to be in full production by this stage in the war illustrates a lack of Commonwealth-State relations.

²⁹H.B. Bennett, Chairman, Board of Area Management, to Cosgrove, 27 January 1942. P.O. 43/5/42 AOT; Alison Alexander, Glenorchy 1804-1964 (Glenorchy, 1986), pp.272-273; Richard Davis, Open to talent (Hobart, 1991), p. 109.

³⁰Press Statement of Cosgrove, 26 March 1942. P.O. 43/5/42 AOT.

With the participation of the Japanese in the war, the government drew up plans covering a possible invasion of Australia. The possibility of Japan entering the war was seen as early as June 1940. This illustrated the importance of the Dutch East Indies, and French Indo-China, which was seen as a Japanese target. By February 1941, war with Japan was considered likely, making the continuous defence of the coast a necessity.³¹ An evacuation committee was created in January 1942, with Cosgrove, as Minister for Civil Defence, in the chair.³² The three requirements of the committee were: the need to decrease the population of target areas; to "Evacuate a proportion of the Civil population from forward areas in anticipation of raids or invasion"; and, to evacuate people from forward areas in case of invasion. This was necessary with the knowledge a submarine could enter the Derwent, and travel underwater as far as Hobart.³³

Cosgrove perceived problems in carrying out an evacuation. Plans for a large scale evacuation were available, and covered all the major areas, such as accommodation, food, and bedding, as well as the places to be evacuated, and where the evacuees were to be taken. Cosgrove suggested the best the government could hope to achieve was the evacuation of people from the target areas as set out by the military. He suggested the movement of

³¹A.H.Q. Operational Instruction No. 1, 22 June 1940; Australian Military forces-6th Military District. S/39/56. CA.

³²P.O. 43/10/42 AOT

³³Australian Military forces-6th Military District, 15 December 1940. S/39/56. CA.

30,000 women and children was too difficult to hope to accomplish.³⁴ The idea of evacuating so many people was not helped by Prime Minister Curtin's statement that large scale evacuation resulting from invasion "would be detrimental to the morale of the people and should be strongly discouraged", although a limited evacuation might be possible.³⁵ It was likely there would have been difficulties in carrying out these plans. In the event of an invasion of Australia, especially if the national capital fell, then the entirety of the country would then have to capitulate to the occupying forces. In this scenario, there did not seem to be much point of working out a way of evacuating the people of Hobart, short of setting up a government in exile. Should Tasmania be the target, the likelihood of the State Government surviving would be small.

This was followed in the following April by protestations from G.A. Walch, Director of Civil Defence. He viewed the idea of moving 33,500 people to the New Norfolk and Hamilton Municipalities³⁶, and housing them in hop kilns, wool and shearing sheds, with concern. It would, he believed, have moral and physical effects. This, he considered, would be worse than leaving them where they were living, even if they were under fire. If it was necessary to move them, it would be far better for them to be temporarily evacuated to the hills. If evacuation was necessary, these people-expectant mothers, women with children under 5 years, and old aged, invalid, and infirm people,

³⁴Cosgrove to H.J.R. Cole, Town Clerk, Hobart, 1 April 1942. P.O. 43/10/42 AOT

³⁵Prime Minister Curtin to Cosgrove, 22 May 1942. P.O. 43/10/42 AOT

³⁶22,500 were to go to New Norfolk, whilst 10,000 were to go to Hamilton.

who would not number more than 10,000-would be better off in private homes, and hop pickers' huts. It was also necessary to have the Hobart City Council to make plans for the evacuation of 2,000 people, who might have to leave target or bombed out areas, to be accommodated in Hobart.³⁷

In the previous January, the civil defence organisation in Hobart was tested in a scenario covering a Japanese aerial attack. Supervised by Colonel H.H. Dean of the Department of Home Security, the final report praised most of the participants, although he believed the term 'special constable' was confusing. Some of these people lacked the necessary skills.³⁸ In the second half of 1940, Lieut-Col. R.W.M. Thirkell, Director of Civilian Defence and State Cooperation, had toured Australia, and inspected the civil defence systems in each state. His belief that "with short intensified training and if issued with equipment" he reasonably expected Tasmania and South Australia to deal with an emergency³⁹, agrees with Dean's report written two and a half years later. The problem with both of these reports was they were working on ideal conditions. The Japanese might only have sent in five planes as 'occurred' in the test in 1943, but unless there was an actual attack, there was no real way of testing the defence mechanisms of Hobart.

By the beginning of 1943, the manufacture of munitions was in full production. Output at the shell annexe in Launceston had

³⁷Walch to Commander, Tasmanian Forces, Anglesea Barracks, 5 April 1943.
P.O. 43/11/43 AOT

³⁸P.O. 43/3/43 AOT

³⁹Hasluck vol 2, pp. 640-641.

increased from three thousand to seven thousand five hundred units per week, which was expected to reach ten thousand within a few weeks. More machinery was expected to arrive from the Commonwealth for other types of shells, to be produced at a rate of three thousand per week, which was to require a proportional increase in staff. The tool annexe was employing eighty-three skilled staff, and the Commonwealth Government had already supplied machinery to the value of £80,000. The optical munitions annexe at the university commenced production in May 1942, and the building and equipment had been expanded. The building and plant were worth about £36,000, all of which had been given by the Commonwealth. There was a staff in excess of one hundred and forty, which was to be increased to more than two hundred. The primer annexe was in full production, with a staff of one hundred and fifty, whilst the plant was to stay as it was; and the bond store was in constant use. By this stage in the war, approximately fifty-four local contractors had been working on engineering projects in the previous twelve months, worth a total of £205,000.⁴⁰ The total value of munition produced in Tasmania during the 1942/43 financial year was £3,000,000.⁴¹

The arrival of 1944 saw the loosening of some of the war-time regulations. In January, baffle walls, bricked up windows, and glass protection could be removed. "The decision must not", wrote H.P. Lazzarini, Minister for Home Security, "be regarded

⁴⁰Cosgrove's address to Commonwealth Grants Commission, Hobart, 11 February 1943. P.O. 43/22/43 AOT.

⁴¹'PRODUCTION OF MUNITIONS IN TASMANIA', M, 7 August 1943.

as an indication that we can relax our maximum war effort.”⁴² In June, permission was given for all areas beyond 20 degrees south to remove all shelters where the space could be better used for war effort, “or where in the opinion of the State Authorities relaxations should be granted to provide adequate natural light and ventilation”; trench and outside shelters made from timber or galvanised steel may be removed in cases where the material was needed, or were a danger; pill boxes, which had been constructed up Elizabeth Street the previous year⁴³, were not to be demolished; and “Main splinter-roof walling at bulk oil installations erected as a result of Orders issued under a National Security (Protection of Bulk Oil Installations) Regulations shall not be dismantled at this stage.”⁴⁴ By September, the policy on pill boxes had been altered to allow for their dismantling if the State authorities considered them a nuisance or health hazard.⁴⁵

By this stage in the war, the Allied forces were advancing against the Axis powers. In Europe, the American led forces had landed at Normandy, with Paris regained by the forces of Free France in late August; whilst the Soviet forces had regained most of its homeland. In the Pacific theatre, the Allied forces were on the verge of re-taking the Philippines.

By the second half of 1944, there were signs of a decrease in the

⁴²Telegram from H.P. Lazzarini, Minister for Home Security, to Cosgrove, 12 January 1944. P.O. 43/6/44 AOT

⁴³P.O. 43/15/43 AOT

⁴⁴Press Statement by Lazzarini, 30 June 1944. P.O. 43/6/44 AOT

⁴⁵Prime Minister Curtin to Cosgrove, 29 September 1944. P.O. 43/12/44 AOT

production of munitions in Tasmania. J. Harold Brown, State Secretary of the Metal and Munitions Union, in a letter to the Premier, expressed concern over rumours circulating to the effect the Derwent Park factory was to be closed. Although he replied, "You may be sure that every effort will be made to see that these buildings will continue to be used for industrial purposes"⁴⁶, Cosgrove must have realised at this stage the future for the plant, at least in the area of war production, was limited, and its ability to remain open after the cessation of hostilities would rest with the make up of post-war reconstruction. As it was, the end of munitions production in Hobart came in early 1945.⁴⁷ The total value of munition produced at the Launceston Railway Annexe during the war was £1,500,000⁴⁸, which easily justifies the almost £12,000,000 spent by the Commonwealth Government for the entirety of Tasmania.⁴⁹

At the end of the year, the policy towards Civil Defence as a whole came under review. It was to go onto a reserve footing, only to be called up if needed. There was to be a small central staff so as to keep information up to date. The part-time local authorities were to stay, and they were to keep up to date records of those who had been trained. Other voluntary organisations were to be kept as needed. The public warning systems were no longer needed. The Defence Committee had

⁴⁶J. Harold Brown State Secretary, Metal and Munitions Union, to Cosgrove, 24 July 1944; Cosgrove to Brown, 28 July 1944. P.O. 43/32/44 AOT.

⁴⁷'MUNITION PRODUCTION IN HOBART TO CEASE', M, 1 January 1945. P.O. 43/1/45 AOT

⁴⁸O'Brien, op.cit., p. 46.

⁴⁹Ibid., p.30.

agreed, in principle, to keep a nucleus of civil defence after the war had ended.⁵⁰

In early 1945, with the war close to an end, there was a further relaxation of shelter regulations by the War Cabinet. They considered them no longer necessary; demolition could begin "subject to the approval of the Manpower Authorities and to the National Security (Building Operations) Regulations"; although the Commonwealth could not afford to give the States any manpower for this operation.⁵¹ The conclusion of hostilities witnessed the disbanding of the Civil Defence Legion. It ceased to exist from 4 October 1945, 6 years 8 months after Ogilvie brought it into existence.

⁵⁰acting Prime Minister to Cosgrove (CIRCULAR), 29 December 1944. P.O. 43/4/45 AOT

⁵¹Prime Minister Curtin to Cosgrove (CIRCULAR), 2 February 1945. P.O. 43/14/45 AOT

CHAPTER TWO

CIVIL WORK IN A WAR-TIME SITUATION

“Robert Cosgrove impressed as a moderate, well-balanced and most patriotic man to lead the state in wartime”

L.L. Robson, A history of Tasmania volume 2, p.483.

During the war years, not only was there the problem of defending Tasmania against the ever present danger of enemy invasion¹, but also the normal activities of governing the state. During the first six years of his premiership, Cosgrove faced the problems of post-war reconstruction, a state election, and extra responsibilities, not least of which was administering the HEC Act. Added to this were areas unique to this period. The first of these was the introduction of uniform taxation. Since 1942, the taxpayers of Australia have paid income tax to the Commonwealth Government. Secondly, there was an unsuccessful attempt to extend the powers of the Commonwealth Government, which, had it been successful, would have ensured the name of Robert Cosgrove would have been remembered throughout the country, rather than just in Tasmania.

When Cosgrove succeeded to the premiership, he retained almost exactly the same cabinet as Ogilvie. Dwyer-Gray went back to the Treasury, whilst E.J. Ogilvie, the late Premier's brother, and Davies retained the portfolios they held under Ogilvie. D'Alton, who had been given Agriculture, Commerce, Forestry, and Agricultural Bank under Dwyer-Gray retained all but Commerce, whilst Brooker, who had been brought into the cabinet, retained Chief Secretary and Transport. Gaha, Madden, and McDonald, who were members of the Executive Council without office, retained their positions, and were joined by Lewis and Becker.² This retention of

¹see Chapter 1.

²V&P, vol cxi, 1949.

portfolios would confirm Cosgrove was seeking continuity and stability.

Between 1940 and 1945, there were eleven cabinets. Of the nine ministers in his first cabinet, only four-Cosgrove, James McDonald, Brooker, and James Madden-were still holding ministerial portfolios by the end of 1945. From his original cabinet, Eric Ogilvie resigned his post in August 1940, Thomas Davies died in September 1942, D'Alton had become High Commissioner to New Zealand, John Gaha moved to the Commonwealth Parliament, and Dwyer-Gray died in December 1945.

Preparation for post-war reconstruction began in February 1940, with the presentation of papers to the Economic Cabinet within the Menzies Government.³ In Tasmania, this started later in the year, when the Prime Minister sent a letter to Cosgrove seeking the government's co-operation, to ensure there were not any conflicts between the Commonwealth and State Instrumentalities, in the area preference of employment to returned soldiers.⁴

At the same time, the federal Department of Labour and National Service was created with the sole purpose of "post-war rehabilitation and reconstruction".⁵ In the following January, Menzies sought Cosgrove's co-operation with the

³Paul Hasluck, The Government and the people vol 1 (Canberra, 1952), p. 189.

⁴Menzies to Cosgrove, 7 October 1940. P.O. 84/41/40. AOT.

⁵Hasluck vol 1, p. 470.

work of this new department. He informed the Premier the work to be undertaken covered the reinstatement of soldiers to civil life, and the absorption of munitions workers. There was the need for co-operation between the Commonwealth and State Governments, and a conference was to be held soon.⁶ Cosgrove replied stating the State Government were happy to co-operate.⁷

Harold Holt, Minister for Labour and National Service, believed plans had to be made on the assumption the Allied forces would win the war based "on the view that if we are defeated somebody else will probably be doing our planning for us." He stated there was no point waiting for the war to end before commencing plans for post-war reconstruction, and there was a need to ensure there was no overlapping or duplication. The Reconstruction Directorate of his department was to be the general secretariat. He put forward a seven point plan. Supervise industrial development, which areas were to be permanent; the same for export markets; the training and placement in civil occupations of demobilised personnel and munition workers; reconstruction proposals and policies in other countries; what Australia's interests will be "in the various types of international settlements that may come after the war"; governmental checking of their financial and industrial policies and their effects, modify where necessary; and, education of people on the problems of reconstruction. Co-operation was sought through Premiers;

⁶Menzies to Cosgrove, 17 January 1941. P.O. 84/5/41. AOT.

⁷Cosgrove to Menzies, 21 January 1941. P.O. 84/5/41. AOT.

conferences, Loans Council, Agricultural Council, and other ministerial conferences. There was also to be a liaison officer.⁸ For this position, Cosgrove chose Dr E.R. Walker, Professor of Economics at the University of Tasmania.⁹

The Commonwealth Government set up an Inter-Departmental Advisory Committee, chaired by the Minister for Labour and National Service, with Dr H.V. Evatt as his deputy. A conference of State officers with officials of the Reconstruction Division was set down for 10 June.¹⁰ Cosgrove wrote to the Prime Minister seeking a postponement due to problems arising, but as there were difficulties with the late arrival of the Premier's letter, and the Western Australian delegate was on his way to Canberra, this was not possible.¹¹

In July, at the advice of Professor Walker, a State Investigational Committee was formed to ensure no overlapping of work.¹² Cosgrove was the Chairman, with the Director of Public Works, Commissioner of Transport, Walker, Chairman of the State Financial Committee, and F.J. Carter, Assistant Under Secretary as members.¹³ News of

⁸Statement from Harold Holt, 4 February 1941(?). P.O. 84/5/41. AOT

⁹Cosgrove to Fadden, acting Prime Minister, 7 May 1941. P.O. 84/5/41. AOT.

¹⁰Fadden to Cosgrove, 24 May 1941. P.O. 84/5/41. AOT.

¹¹Cosgrove to Prime Minister, 30 May 1941; Minister for Labour to Cosgrove (telegram), 4 June 1941. P.O. 84/5/41. AOT.

¹²Walker to Cosgrove (memo), 30 June 1941; 'POST-WAR RECONSTRUCTION', M, 17 July 1941. P.O. 84/5/41. AOT.

¹³Cosgrove to R.G. Osborne, Chairman, State Financial Committee, 26 September 1941. P.O. 84/5/41. AOT. Although it had a different name, the Post-War Reconstruction Committee seems to have been the same as

the creation of this body was sent to the Secretary of the Department of Labour and National Service.¹⁴

At the end of November 1941, the parliament was prorogued, and an election set down for 13 December. In addressing the people of Tasmania, Cosgrove based his case for the re-election of his government on the record set. In his policy speech, he talked about the work done in areas such as munitions, improvements in health care, housing, as well as ensuring the continuance of hydro electricity, despite the drain of work force, and the setting up of a joint select committee on the constitution.¹⁵ Support came, as was to be expected, from the Voice.

Columns could be written about the achievements of the Cosgrove Administration, but this is unnecessary in these enlightened days.¹⁶

Throughout the campaign, eight editorials between 20 November and 15 December discussed the choice of the electors. From the beginning, the Mercury was against the government. From suggesting they lacked a policy¹⁷, it went on to advise its readers "The Labour Party fails lamentably to offer a programme."¹⁸ The editor went on to suggest

Either the Premier was so taken with the idea of springing an election on his opponents that he overlooked the need for a policy, or he believed the

the State Investigational Committee mentioned by Walker in the previous June.

¹⁴F.J. Carter to Roland Wilson, Secretary, Department of Labour and National Service, 26 September 1941. P.O. 84/5/41. AOT

¹⁵'LABOUR'S PROGRAMME', M, 20 November 1941.

¹⁶V, 15 November 1941.

¹⁷'POLICY SPEECH WITHOUT POLICY', M, 20 November 1941.

¹⁸'STATE NOMINATIONS', M, 25 November 1941.

electorate would be dazzled by the brassy glitter of Labour 'achievement'.

He went on to suggest the best of Labor's policies were "borrowed from the Nationalist Party."¹⁹ Had the voters taken heed of the views of the editor of the Mercury, they would have voted overwhelmingly for the Nationalist party, whose policies were "sound and practical, easily capable of performance even in these times."²⁰ The Japanese invasion of Pearl Harbour cut short the campaign²¹, so that even though no occupying forces ever set foot on Tasmanian soil, they did nevertheless effect our democratic system of government.

Despite the best efforts of the Mercury- "No words need be wasted in regrets of recriminations over the decision of the electors"²²-the government was returned with an increased majority. New members included A.J. White, a future Agent-General for Tasmania in London, for Labor, and Sir John McPhee, a former Premier, for the Nationalists. The government finished with a ten seat majority in a house of thirty members.²³ The election was notable for being the first in which candidates were linked as parties, so that the electors could easily tell which contenders were with which groups.²⁴

¹⁹'LABOUR'S PATCHWORK POLICY', M, 4 December 1941.

²⁰'STATE NOMINATIONS', M, 25 November 1941.

²¹'ANNOUNCEMENT by THE PREMIER', M, 10 December 1941.

²²'LABOUR GOVERNMENT'S WIN', M, 15 December 1941.

²³W.A. Townsley, Tasmania from colony to statehood 1803-1945(Hobart, 1991), p. 425.

²⁴'STATE NOMINATIONS', M, 25 November 1941.

Davis, in Eighty years Labor, suggests the reason for the Labor win was the memory of Ogilvie.²⁵ There is much in this argument. As the basis of the election campaign was Labor's achievements since 1934, the voters almost certainly kept this in mind when casting their votes. The last time the people had gone to the polls was in 1937, and as only half of the intervening period had seen Cosgrove as premier, there is not very much which they could have judged as purely his achievements.

In early 1941, a plan came forward from Canberra for the unification of taxation. In a statement to a conference of State Premiers, Arthur Fadden, acting Prime Minister, suggested

If a uniform income taxation could be imposed over the whole of Australia to cover both State and Federal requirements, some millions of additional revenue could be raised without exceeding the level of taxation now reached in the highest taxing State from Commonwealth and State taxation combined.

He went on to state,

It would not be reasonable to suggest full compensation for loss of revenue. The higher taxing States should submit to the consequences of some loss of revenue in order to balance the increased taxation falling on the people of the less highly taxed States.²⁶

At first, this idea gained support in Tasmania. The State Finance Committee recommended to the government it should support this move²⁷, however within three weeks of it

²⁵(Hobart, 1983), p.39.

²⁶acting Prime Minister's statement to taxation conference of State Premiers, 6 February 1941. P.O. 115/6/41. AOT.

²⁷State Finance Committee, 1 April 1942. P.O. 115/6/41. AOT.

being formally announced²⁸, the Cosgrove Government had changed its mind.²⁹ Before the end of June, the plans had been dropped³⁰, with the vote against its adoption being unanimous.³¹

In the following year, the idea was resurrected by the Curtin Government, and successfully introduced. The initial plans were for the provision of uniform taxation to be handed over to the Commonwealth Government for the duration of the war, plus twelve months.³² If this was adhered to, income taxation would have been returned to the State Governments by September 1946, although for convenience, it would have continued until 30 June 1947.

Edmund Dwyer-Gray, Tasmanian Treasurer, recommended to Cosgrove he should not oppose the legislation on the grounds of States rights, rather on the basis it would adversely effect the solvency of the States, especially Tasmania. Even if the States objected to the move, Dwyer-Gray believed the Curtin Government could unify the payment of income tax using the National Security Act, or by passing taxation legislation. In any case, he believed such an alteration could not be permanent since it contravened the Commonwealth Constitution.³³

²⁸'UNIFORM TAXES', M, 26 June 1941.

²⁹'UNIFORMITY IN TAXES', M, 26 June 1941.

³⁰'FEDERAL TAX PLAN ABANDONED', M, 28 June 1941.

³¹'PREMIERS REJECT UNIFICATION' (Editorial), M, 30 June 1941.

³²Prime Minister Curtin to Cosgrove, 1 April 1942. P.O. 115/5/42. AOT.

³³Dwyer-Gray to Cosgrove, 13 April 1942. P.O. 115/5/42. AOT

In late May, Cosgrove, in a telegram to J.B. Chifley, the Federal Treasurer, sought the acceptance of the proposal of the Queensland Premier. He sought the removal of clause 30, which dealt with the priority of the collection of taxation, and the inclusion of clause 14A, which would have meant the collection of taxes was a joint Commonwealth-State affair.³⁴ However, in his reply, Chifley said this could not be done on constitutional grounds, although he did not elaborate further.³⁵

The legislation was passed by both houses of the Commonwealth Parliament, although this was due to some members of the opposition crossing the floor.³⁶ Prominent amongst these were Arthur Fadden, Leader of the Opposition, and Percy Spender. The second reading passed the House of Representatives with ease-forty-one ayes against eleven noes-whereas it only gained a majority of eight in the Senate.³⁷ An appeal was lodged in the High Court by four State Governments.³⁸ After deliberation by cabinet, it was decided Tasmania would not join in this case³⁹, despite Cosgrove's dislike of the centralisation of these powers.

³⁴Cosgrove to Chifley, 28 May 1942. P.O. 115/5/42. AOT.

³⁵Chifley to Cosgrove, 29 May 1942. P.O. 115/5/42. AOT.

³⁶Ross McMullin, Light on the hill(Melbourne, 1991), p. 220.

³⁷Commonwealth Hansard, vol 171, pp. 1747, 1991.

³⁸*South Australia v Commonwealth*, Commonwealth Law Reports, Vol. 65, pp.373-472.

³⁹Press Statement, 10 June 1942; Cosgrove to Curtin, 18 June 1942. P.O. 115/5/42. AOT.

The States based their appeal on what they believed to be violations of sections fifty-one, ninety-six, and ninety-nine of the Commonwealth Constitution. Chifley

said that the Government did not 'seek to take away from the States their power to impose taxes upon incomes, but proposes to make a payment of financial assistance to any State which agrees to suspend their power in the interests of national defence'.⁴⁰

The states lost their appeal by a majority of three judges to two.⁴¹ Motions opposing the Commonwealth Government's move were made before the federal executive of the Australian Labor Party⁴², and the 1942 and 1945 Tasmanian ALP conferences⁴³, although the latter two, at least, were defeated.

During the six years of Cosgrove's term as Premier, 1940-45, a total of five hundred and fifty-seven Bills were introduced into the House of Assembly. Of these, one hundred and thirteen did not pass through both houses, and two hundred and ninety-one were passed by the Legislative Council without amendments.⁴⁴ Conflicts with the upper house were a constant problem for Cosgrove. On five occasions during

⁴⁰Chifley quoted in Paul Hasluck, The government and the people vol 2 (Canberra, 1970), p. 318.

⁴¹Gavin Souter, Acts of parliament(Melbourne, 1988), p.351.

⁴²Patrick Weller and Beverley Lloyd, Federal executive minutes 1915-1955 (Melbourne, 1978), p.244

⁴³ Minutes of meeting of annual conference. NS/788/13. AOT.

⁴⁴ 1940:	111 Bills	85 Acts	52 not amended
1941:	93 Bills	71 Acts	47 not amended
1942:	91 Bills	73 Acts	47 not amended
1943:	85 Bills	70 Acts	46 not amended
1944:	90 Bills	76 Acts	54 not amended
1945:	87 Bills	69 Acts	45 not amended
	<u>557 Bills</u>	<u>444 Acts</u>	<u>291 not amended</u>

V&P, vols. cxxii, cxxiv, cxxvi, cxxviii, cxxx, cxxcii.

the war, he sought to alter the Tasmanian Constitution, but only one of these, the extension of the Legislative Council franchise to returned armed forces personnel, actually gained Royal Assent. Even in this one success, it had been achieved only on its third attempt. There were two attempts each at re-defining the Legislative Council boundaries, and introducing the Commonwealth powers legislation, but all four failed.⁴⁵

In 1942, the Commonwealth Government proposed extending its powers for five years after the cessation of hostilities. The Powers Bill was to temporarily grant to the Federal government certain responsibilities. To save the expense of holding a referendum, a special Commonwealth-State conference was held consisting of eight Members of the House of Representatives, four Senators, and the Premiers and Opposition Leaders of each State parliament.⁴⁶ The plan was that each parliament would pass the same piece of legislation, and in so doing, would remove the need, and expense, of a referendum. With bi-partisan support, the Bill should have gone through the State legislatures with ease. In the end, it was only passed by two parliaments, New South Wales and Queensland. In Victoria, an amendment was inserted seeking the assurance it would only become law if all the parliaments passed the legislation; whilst in South Australia and Western Australia, the Bill was "watered down

⁴⁵P.O. 107/12/42. AOT.

⁴⁶Hasluck, vol 2, p.524.

with amendments.”⁴⁷ The referendum, which was eventually held, was defeated, with only two states voting ‘yes’.

If the plans of the Commonwealth Government had been successful, the areas over which they would have gained control were housing, employment, repatriation, prices, production, distribution of goods, marketing of commodities, trusts, combines and monopolies, family allowances, and the Aboriginal people.⁴⁸ Cosgrove stated repatriation ought to be a Commonwealth matter, and the States could not afford to be responsible for the payment of the dole. In a show of bipartisanship, H.S. Baker, Leader of the Opposition, said he would have liked to have moved an amendment, but instead accepted the Bill for the sake of the package as a whole. He added it was “the most important bill dealt with by the Legislature since the inception of Federation.”⁴⁹

In Tasmania, the Bill was introduced by Cosgrove on 15 December 1942. It was described as

A bill to refer certain matters to the Parliament of the Commonwealth until the expiration of five years after Australia ceases to be engaged in hostilities in the present War.

By suspending standing order two hundred and thirty-five, the Bill passed through all the stages in one day.⁵⁰ Arriving at the Legislative Council on 16 December, it was read for

⁴⁷McMullin, *op. cit.*, p. 231.

⁴⁸L.L. Robson, *A history of Tasmania* vol. 2(Melbourne, 1991), p.497; Townsley, p. 432; ‘POWERS FOR COMMONWEALTH’, *M*, 16 December 1942.

⁴⁹‘POWERS FOR COMMONWEALTH’, *M*, 16 December 1942.

⁵⁰*V&P*, vol. cxxvi, pp. 153, 155-6(HA)

the first time. A motion was made, and withdrawn, to suspend standing orders, but the council decided to defer the second reading of the bill until 19 January 1943 by a division of ten to six. On 20 January, both Cosgrove and Baker went to the Legislative Council, where the Premier was allowed to address the chamber on why it should pass the Bill.⁵¹ When it was debated again, it was on the chamber's agenda for three days, but was lost by a division of seven votes to ten.⁵² The action of members of the Legislative Council suggests an inbuilt dislike of losing any of its powers, especially when they are being transferred to Canberra. This distrust of 'centralisation' goes back to the days of the Constitutional Conventions in the latter days of the nineteenth century, and the fact there was bipartisan support did not make any difference to the Council's opposition to the Bill. A similar episode was to occur in 1946.

In 1942, Cosgrove added to his list of ministerial responsibilities by becoming Minister Administering the Hydro-Electric Commission Act. By taking on this extra duty, he became, at least in theory, the man responsible to parliament for the creation and distribution of Tasmania's energy supply.

In the middle years of the war, the supply of electricity was seen to be as important as munitions production. In a sense, this was true, since the munitions factories needed

⁵¹'OPINIONS ON TRANSFER OF POWER', M, 21 January 1943.

⁵²V&P, vol cxxvi, pp. 119, 122, 125, 127(LC)

electricity. The HEC suffered as much as other employers from lack of manpower during the war, and this led to the slowing down of the construction of new power lines. Despite this handicap, full power was generally available throughout the 1942-43 year. Added to this, the amount of energy available to industries was more than fifteen thousand horse power over the contract amounts. The production for that year was up five and a half *per cent* over the previous year, and there were three thousand one hundred and ninety units per head of population. Despite the wartime conditions, eight hundred and forty-three new consumers were connected, compared to one thousand two hundred and sixty-three the previous year. The revenue for 1942-43 was £778,142, of which £763,644 came from the sale of energy, overall a seven point seven *per cent* increase over the previous year. Working expenses had also increased, this time by £595 to £225,672. For the first time, there was a note on surplus in an annual report, which for 1942-43 was £124,392. The capital expenditure was £619,603, taking the total at 30 June 1943 to £8,411,645.⁵³

By 1943, the question of preferential treatment of returned armed forces personnel was a major issue. At the Commonwealth level, there were the Australian Soldiers' Repatriation Act 1920-1943, and the War Service Land Settlement Agreements Act 1945. At the State level, some pressure came from the R.S.S.&A.I.L.A., the forerunner of the

⁵³HEC report, 1942-43, V&P, Vol. cxxix, paper 34.

R.S.L., for legislation to be passed by the Tasmanian Parliament. Despite another letter from its president in January 1944, Cosgrove believed there was little he could do about it, stating it was a Commonwealth matter.⁵⁴ There were precedents upon which Cosgrove could have based a similar Bill for those returning from active service during World War II. The parliament of New South Wales had passed the Returned Soldiers and Sailors Employment Act immediately after the First World War, and there was the Discharged Servicemen's Preference Act (Vic.) 1943.

At the 1943 and 1944 State ALP conferences, four items were submitted on the topic of post-war reconstruction. In the former, a motion was passed to set up a women's consultative committee in each state for post-war housing. It was to seek the views of women on the layout and design of the houses, and "a copy of this resolution be sent to the Chairman of the Social Security Committee." There were three motions on the agenda at the 1944 conference. First, land for post-war reconstruction and repatriation was to be bought at a cost not greater than 1939 prices. Secondly,

advances for repatriation and post-war reconstruction purposes shall be made available throughout the Commonwealth Bank at not more than 2 per cent administration or service charge.

Thirdly, war industries were to be converted into businesses for the construction of household goods, which were to be sold at a cost affordable to all.⁵⁵

⁵⁴Cosgrove to J.A. Mitchell, President, RSS&AILA, P.O. 84/35/43; Mitchell to Cosgrove, 4 January 1944; Press Statement, 3 May 1944. P.O. 84/1/44. AOT.

⁵⁵Minutes of meeting of annual conference. NS/788/13. AOT.

Between November 1943 and December 1945, three ministerial statements were made concerning post-war reconstruction. In the first of these, the Chief Secretary, John Madden, declared the major plan was "to handle the allocation of work to men of the forces on their discharge from the war", and, "to provide men with suitable employment to the benefit of both the State and themselves." This was to be done through liaison with the Commonwealth Department of Post-War Reconstruction, Tasmanian government departments, municipalities, and private enterprise employers. The plan not only covered those returning from the armed forces, but also the men and women who worked in the munitions factories and other areas of importance.⁵⁶

Cosgrove re-introduced the Powers Bill on 30 March 1943. The second reading passed without problems on 1 April, whilst it passed through the committee stage and its third reading on 14 April, the day it was sent to the Legislative Council. The second reading in the House of Assembly was passed by a vote of twenty ayes to two noes, with Messrs Marriott and Ockerby the only dissenters; and the vote for a Joint Committee of Parliament to look into the Bill was passed by the same margin. On 14 April, Cosgrove moved an amendment that read

This Act shall not come into operation unless and until the Governor, by proclamation, certifies that the Bill for this Act has been approved by a

⁵⁶V&P, Vol. cxxviii, 1943-44, pp. 120-121(HA)

majority of the electors at a poll of electors taken in accordance with a law enacted by Parliament in that behalf.

It was passed by fourteen votes to ten.⁵⁷ The Bill was read for the first time the day it arrived in the Legislative Council. The second reading was deferred for six months on 26 May. The division was seven each, and the President's casting voting went against the Government.⁵⁸ By voting against the Bill, he destroyed any chances of it succeeding in Tasmania.

Due to its lack of success in the country as a whole, Cosgrove suggested, and the Labor party agreed to put the fourteen points to the people as a referendum.⁵⁹ The 'Yes' case was led by its chief Commonwealth architect, Dr H.V. Evatt, Federal Attorney-General, and former Justice of the High Court of Australia; whilst the 'No' campaign in Tasmania was directed by the Tasmanian Constitutional League⁶⁰. In writing about the referendum campaign, Townsley notes "the Labor Party was embarrassed by the strong support given by the Australian Communist Party".⁶¹ Whilst it was again a legal organisation, and the Soviet Union was one of the Allied powers, the Australian people as a whole are fundamentally conservative in nature, particularly when it comes to changing the Commonwealth Constitution. The referendum was held on 19 August 1944, and was only passed in South Australia and Western

⁵⁷V&P, Vol. cxxviii, pp. 5, 13, 34-35(HA).

⁵⁸V&P, Vol. cxxxviii, pp. 19, 35(LC).

⁵⁹Hasluck vol 2, p. 530.

⁶⁰Robson, *op.cit.*, p. 497.

⁶¹Townsley, *op.cit.*, p. 449.

Australia. In Tasmania, the 'No' vote was sixty-one *per cent*, with a majority in each of the five electorates. Nation-wide, the 'Yes' campaign succeeded in only twenty-two of the seventy-four electorates. Robson notes the 'Yes' vote in Moonah, a very safe Labor subdivision, was only a majority of ninety-five votes.⁶² There was an attempt to resurrect the Powers Bill at the Tasmanian State Conference in 1945, when a motion was put and passed urging the Commonwealth Government to try again.⁶³

This had been Cosgrove's best opportunity to leave his mark on the national scene. It had been his idea to attempt to have separate Bills passed by the State legislatures, and the upper house of Tasmania had been amongst the most vehement to ensure the Bill's failure. Had the plan succeeded, the Australian tax-payer would have been spared the expense of a referendum, and Cosgrove would have left a major mark on Australian political history. Whilst the referendum failed, this episode illustrates the respect with which Cosgrove was held by the ALP as a whole. One of the curious points in this episode was the actions of the Nationalist leader, H.S. Baker. A prominent member of the 'No' campaign at the referendum, he had supported Cosgrove's attempts to have the Bill passed by the Tasmanian parliament. This change of view is odd. Whilst he was willing to support the Bill through parliament, Baker

⁶²Townsley p. 450; Robson, p. 498.

⁶³1945 State Conference, item 187. Minutes of meetings of annual conference March 1943-March 1946. NS/788/13. AOT.

would have realised such an attempt to change the Commonwealth Constitution was fraught with problems. Cosgrove could not have afforded to change sides, as such a move would have led to great embarrassment for the Labor party as a whole, especially after he had been so public in his support for the changes.⁶⁴

By the end of the 1943-44 year, the HEC found it necessary to modify its programme, to make it as flexible as possible. It still suffered from a lack of manpower, but despite this, power plants had been erected at the Tarraleah and Waddamana stations, and power production had improved. By this time, eighty-five *per cent* of homes had electricity, but it was seen as being impossible to supply the rest. The commission had spent £71,836 from its reserve to extend into "scattered rural areas", and another £10,000 that year to continue this project. From 1 July 1944, it acquired the Launceston Corporation for £244,000 thereby supplying electricity to forty-two of the forty-six municipalities. This only left Tasman, but it was hoped to cover this area by an extension from Dunalley. There was a new sub-station at the Royal Hobart Hospital, and supply of electricity had increased by 12,479,000 units, or ten *per cent* over the previous year. The revenue was £803,926, an increase of £25,784, or three *per cent*, whilst the working expenses were £239,085, an increase of £13,413. An extra £27,000 was added to the reserve fund, which had been created during the

⁶⁴McMullin, p.231; Davis, *op. cit.*, pp. 41-42; Robson, p. 498.

1942-43 year, which now totalled £61,067. Due to the war, no mention could be made of developments and proposals.⁶⁵

In his 1944 statement, Edward Brooker, the minister in charge of post-war reconstruction, added to Madden's earlier report. The objectives, as Brooker saw them, were employment, in general and specific terms; improvement of the environment through housing, town and country planning, transport, education, social services; extension of social security; and freedom of opportunity. He also saw the post-war period in three phases. Phase one was a transition period, which was being dealt with in 1944. It was expected half of the men returning would have jobs to go to as soon as they returned home, but an equal number of men and women would be sacked straight away from these positions. This would, he believed, be catered for in areas of local and short-term public works, and the commencement of long-range projects. Phase two would be a boom period, with little unemployment; whilst phase three, the post-boom period, would see depression off set by an extensive public works programme. He saw housing as the main part of post-war reconstruction, due to the need to increase accommodation for the men returning from the war; and there was to be an extensive education programme.⁶⁶ Whilst Brooker did not suggest how long each of these periods were to last, we can, with the use of hindsight, suggest their parameters. Phase one can be seen to last until the early part of the 1950s when

⁶⁵HEC report, 1943-44, V&P, Vol. cxxxI, paper 20.

⁶⁶V&P, Vol. cxxxI, 1944-45, paper 28.

the last vestiges of rationing were removed. This would lead us to suggest phase two would constitute the remainder of the 1950s and all the following decade, finishing in 1974. This would lead onto phase three, when the member countries of OPEC opted to increase the price of crude oil, after which there was a down turn in the economies of the world as a whole.

Wartime restrictions were still in place during the 1944-45 year, but by then they had become so much a part of everyday life, they "produced a *laissez faire* outlook". The major work undertaken by the HEC was at Butler's Gorge, where a fluctuation in manpower had meant the number of employees had fallen in 1943 from several hundred to less than one hundred. It was recognised as a Civil Construction Corporations project by order of the Prime Minister, and the Allied Works Council became responsible for the supply of the extra workforce. Despite this, the future looked well. The commission was expecting new industries, and the expansion of present ones after the war. During this year, a new HEC Act was passed by parliament. It was substantially the same as the old one, although there were important changes. From 1944, the organisation was an autonomous statutory body, and whilst there was a Minister administering the HEC Act, there was no compunction for the organisation to report to him. This did not stop the Minister being responsible to parliament for the actions of the HEC. The net capital

expenditure was £575,150, and income amounted to £887,787, an increase of more than fourteen *per cent*.⁶⁷

In the third statement on post-war reconstruction, Brooker noted the need to accelerate the plans due to the war ending earlier than expected. Despite the extensive long- and short-term plans,

the absence of technical personnel in the services retarded, in many respects, the practical working out of such plans to the stage when they could be carried into immediate effect.

However, it had been possible to carry out public works, forestry, mining, agriculture, "and other such developmental plans".⁶⁸

This statement came at the end of a conflict which had effeted everyday life around the world. This was none less so than in Tasmania, where Cosgrove, elected by his party three months after the declaration of war, governed a state at war with Germany, Italy, and Japan. He had become, after a brief interregnum, the successor to A.G. Ogilvie, and as such, went to the 1941 elections with a good chance of retaining government. The election victory was also helped by the condition of the opposition, and further aided by the decision to halt electioneering after the Japanese invasion of Pearl Harbour on 8 December. Cosgrove led the party to an election victory despite the best efforts of the Mercury. The rejection by the Legislative Council of the Powers Bill meant

⁶⁷HEC report 1944-45, V&P, Vol. cxxxiii, paper 16; Doug Lowe, The price of power(Melbourne, 1984), p.6.

⁶⁸V&P, Vol. cxxxiii, 1945-46, paper 32.

Cosgrove did not gain the national recognition which he would have achieved had it been successful; whereas the upper house could not stop the introduction of uniform taxation in 1942.

CHAPTER THREE

NOW THE WAR IS OVER 1946-48

"Labor will legislate and govern for the community
as a whole"

1946 policy speech, p.2

With the cessation of hostilities, the Cosgrove administration entered a new phase. Before the end of 1945, Edmund Dwyer-Gray, Treasurer in both the Ogilvie and Cosgrove governments, died, and allegations came out suggesting corruption existed within the Forestry Department. The government set up a Royal Commission, which recommended D'Alton be tried before a judge and jury. Also in 1946, the Cosgrove government went to the people by choice, and the Legislative Council foiled his attempt to transfer powers of price control to the Commonwealth government. In the following two years, Cosgrove made two further attempts to alter the constitution, but again, these were rejected by the Tasmanian upper house.

In the latter days of the war, allegations came forward suggesting bribery of members of the Forestry Department. The government appointed S.C. Burbury, a barrister in private practice, to undertake investigations into these charges.¹ He reported

a perusal of the Audit Department File No. G.D. 9/8 (which contains the only available material up to the time of the appointment of the Select Committee) shows that the extent and gravity of any allegations having any foundation other than mere hearsay and rumour are not nearly so great as the public have been led to suppose. Nor is there much of a tangible nature to be found from the evidence taken before the Select Committee.

He added there was no evidence of irregularities in the actions of Tom D'Alton, a former Minister for Forests.² If this

¹Sir Stanley believes he was chosen because "the Government thought it desirable that an independent barrister should supervise the initial police enquiries and report." Sir Stanley Burbury to author, 19 October 1992.

²Burbury report, pp. 5, 13. SGD 26. AOT.

report had been accepted by the parliament, the government would not have suffered the repercussions surrounding the Royal Commission. The report was written by an independent authority, which should have meant acceptance by all the parties involved. The fact it was not illustrates the Legislative Council's power of review in action.

The report was not acceptable to many members of the Legislative Council. Joseph Darling, MLC for Cambridge, complained the Burbury report was a whitewash; he, Darling, had further information 'up his sleeve', which would not come out until all the facts had been presented; and he would push for another select committee. Similarly, Leslie Proctor, MLC for South Esk, believed the evidence was worthless as it was not given under oath.³

In December, a Royal Commission was drawn up to investigate allegations stated in the Legislative Council by Joseph Darling in more detail, and Richard Kirby, a judge from New South Wales District Court, was chosen to be the Royal Commissioner. The Burbury report had cleared D'Alton of any charges, so theoretically, there was no need for a further investigation. The most probable reason why the matter went any further was pressure from the Legislative Council. Darling had been an ardent opponent of D'Alton for a long time, whereas the Mercury, not known as a long-term supporter of the government, did not push for a Royal

³FACTS "UP HIS SLEEVE" WILL STAGGER GOVERNMENT, SAYS MLC ON FORESTRY', M, 18 October 1945.

Commission.⁴ The Royal Commission began its hearings on 18 January 1946, sat until early March, and examined twenty-six witnesses, six of whom were in Melbourne. A copy of the transcript of the Royal Commission, a tome in excess of one thousand pages, was made available to D'Alton, who was still occupying the Australian High Commissionership in Wellington.

The commission sought to investigate seven points. These were the improper sale of land at Lake Leake; the payment of £5000 to the Hon W.P. Taylor, Minister for Forests; irregularities in the Forestry Department as shown in the Burbury report; bribery of officers in this department; the allegations brought forward by Joseph Darling; allegations of bribery of E N West MHA⁵, and Secretary of the Tasmanian branch of the ALP, by Alstergren Pty Ltd; and, alleged bribery of subsequent Forest Ministers. Mr Justice Kirby had until 28 February 1946 to report his findings concerning paragraphs 1 and 2; and until 31 March 1946 for the remaining areas.⁶ The Royal Commissioner recommended Edvard Aarstad Alstergren, William George Nosworthy, the majority shareholders of Alstergren Pty Ltd, and D'Alton stand trial to answer charges of corruption under sections 83 and 266 of the Criminal Code.⁷

⁴A.G.L. Haig, 'Politics and the individual: the case of Thomas D'Alton', unpublished paper presented to the Centre for Tasmanian Historical Studies, 6 November 1992.

⁵Ernest West came to Tasmania as a farm boy in the 1920s through a migration scheme, and is treated in more detail in chapter 5 of a thesis by Yvonne Furneaux-Young.

⁶V&P, vol. cccxiii, 1945-46, paper 39.

⁷*Ibid.*, p. 36.

To try the two businessmen, the Solicitor-General, representing the Tasmanian government, sought their extradition from Victoria. This attempt was unsuccessful. In his judgement, Mr Justice Martin stated there was clear evidence both Alstergren and Nosworthy had business dealings with the Tasmanian government. It was also evident D'Alton used his position as a Minister in the administration to gain favours for both men. Sometime before the 1941 election, Nosworthy said the Cosgrove government had performed well in gaining new industries to set up in Tasmania, and he would donate £300 to the ALP election expenses. There was, however, evidence the money sent to D'Alton did not reach the party, and suggestions he gave favours to Alstergren and Nosworthy, thereby acting other than in the best interests of the Tasmanian government. He may, however, have acted in this way because Alstergren, Nosworthy, or both were friends, and independently of the money. Mr Justice Martin concluded by stating that neither of the businessmen appeared before the Royal Commission, or even filed affidavits, that suggested they were either guilty, or were indifferent to dishonesty. He said there was a great suspicion of guilt on the part of Alstergren and Nosworthy, but, in refusing the extradition order, referred to the words of Chief Justice Madden in *O'Donnell v. Heslop*⁸, who stated

the facts on which the prosecution is launched are so flimsy that according to the principles on which preliminary trials are conducted the magistrate

⁸ Victorian Law Report, 1910, pp.162-177.

would come to the conclusion that no jury would convict the accused.

Mr Justice Martin, in presenting his judgement, stated there was evidence of Alstergren and Nosworthy sending money to D'Alton, and that there was a good chance it was for corrupt reasons. One possible reason for not ordering the extradition of Alstergren and Nosworthy, was the court's wish not to co-operate with the Tasmanian government. The expense of appealing to the High Court, even if it was possible, would ensure Cosgrove, and James McDonald, the State Attorney-General, would have to accept the decision of the Victorian judges.

The refusal, by the Victorian court, to order the extradition of the businessmen, meant it was not advisable to continue the case against D'Alton. It would be difficult, stated Gibson, to test D'Alton's explanations if he was the only person tried. At the end of September 1946, the Solicitor-General filed a *Nolle Prosequi*, thereby ending any likelihood of a case being contested against the former Minister for Forests.⁹

After the case came to an end, D'Alton sought re-election to the Tasmanian Parliament. On 22 November 1947, he gained the Legislative Council seat of Gordon, which had been vacant since the death of James McDonald, a former Attorney-General in the Cosgrove government. Peter Hay, in his doctoral thesis on corruption, believes D'Alton's election

⁹SGD 26. AOT.

to the Council was due to the fear of communism, dissatisfaction with economic restrictions, and the findings of the Royal Commission. He also believes it is worthy of note that D'Alton was elected as a Labor party member in a house of independents, although he also notes Gordon was traditionally a safe seat for the ALP.¹⁰ The findings of the Royal Commission certainly did not do his electoral chances any harm. Any grievance the electors may have held against D'Alton were soon forgotten. After his first election, D'Alton retained his seat in the Council with the need to compete for it again. In 1952, 1958, and 1964, D'Alton won the seat without the need and expense of a re-election campaign.¹¹

From January 1946 to July 1948, 257 Bills were introduced into the House of Assembly Of these, 209 gained Royal Assent, and 126 passed through the Legislative Council without amendments.¹² Taken as a whole, the statistics for this period are comparable with those of 1940-45.

During 1946, a number of Bills of some note were introduced in the House of Assembly. Some, such as the Payment of

¹⁰P.R. Hay, "Problems in the analysis of political corruption", unpublished PhD thesis, Hobart, University of Tasmania, 1976, pp. 192-193.

¹¹Haig, *op. cit.*

¹² 1946	89 Bills	77 Acts	49 not amended
1947	119 Bills	100 Acts	53 not amended
1948	<u>49 Bills</u>	<u>32 Acts</u>	<u>24 not amended</u>
	<u>257 Bills</u>	<u>209 Acts</u>	<u>126 not amended</u>

This included Neil Campbell's private member's bill in 1948. The Tasmanian Woolgrowers' Trustee and Executor Company Bill became Act 15/1947, and was one of the Bills to proceed through the Council without amendment. It was the only private member's bill during this period. *V&P*, vols. cxxxiv, cxxxvi, cxxxviii.

members, and Ministers of the Crown Bills gained Royal Assent. Others, such as the Bill to increase the wages of Tasmania's judges did not get any further than being sent to the Legislative Council; whilst the attempt by the government to hand over to the Commonwealth Government the power of price control for three years, was overwhelmingly defeated on the floor of the Council.

The Ministers of the Crown Bill sought to have a new section added to the existing Act, in which honorary ministers would gain an annual salary of £300, plus other allowances, with the wages coming out of consolidated revenue. There was, however, the limit of three such ministers at any time.¹³ Both of the Acts mentioned dealt with money payable to members of parliament. It would, however, be too easy to assume this was the sole reason for their success. The position of honorary minister was one whereby a member of the government party could sit in cabinet without the pressure of a portfolio, helping ministers, and gain experience. By paying them, the parliament recognised the work they were undertaking, rewarding them with a wage, in the hope it would prepare them for work in a portfolio when one was offered.

The unsuccessful attempt to transfer the power of price control to the Commonwealth Government is an interesting example of the obstinacy of the Legislative Council. In early

¹³P.O. 107/5/46. AOT.

February 1946, Cosgrove sought from the Chief Parliamentary Draftsman, a Bill to transfer to the Commonwealth authorities, for three years, certain powers over price control.¹⁴ In his memorandum to the Premier, R.G. Osborne pointed out all the other states had already passed their respective Acts, although in the case of Victoria, it was not in force. The various Acts were to be in operation for various periods of time. In New South Wales, Victoria (if proclaimed), and Queensland, the Acts were to last five years; in South Australia for three years; and in Western Australia for two years. He thought it best the Tasmanian Act should cover all the areas covered by other legislation, although it should not cover "prices charged by State or local authorities, and the prevention of profiteering."¹⁵ The Bill, introduced into the House later that month, was passed in early March, with Ockerby the only dissenter. Whilst there were problems with the idea of transferring these powers, the majority in the House believed it "had served a useful purpose during the war."¹⁶ Even the Mercury considered it was a good idea, although it thought it would have been happier if there was a yearly review.¹⁷ The problem arose when the Bill was in the Legislative Council. It was rejected

¹⁴Memo from Cosgrove to Attorney-General, 5 February 1946. P.O. 129/2/46. AOT.

¹⁵R.G. Osborne, Chief Parliamentary Draftsman, to Cosgrove, 15 February 1946. P.O. 129/2/46. AOT.

¹⁶'Transfer Of Price Control Powers', M, 20 February 1946; 'TRANSFER OF PRICE POWER TO COMMONWEALTH', M, 7 March 1946.

¹⁷'PRICE CONTROL ONLY WHILE NEEDED'(Editorial), M, 7 March 1946.

by a large majority at the end of March, an action the Mercury believed to be short-sighted.¹⁸

This was the second time during Cosgrove's term as Premier the Legislative Council had rejected legislation of this type. On both occasions, it had gained bipartisan support in the House of Assembly. These rejections illustrate the in-built conservatism of the Tasmanian upper house. It had used its position of great power to ensure the State parliament did not lose any powers to the Commonwealth government.

In its first report following the declaration of peace, the HEC made the point of the difficulty ahead of changing from war-time to peace-time conditions. Having been an industry of much importance during the war, it was to lose the internee labour that helped it during its hard times. These people were to be repatriated into Australian society, their jobs were to be given to the soldiers returning from the war. In April 1946, the commission announced there was an increase in the demand for energy. There was to be the erection of two new plants as soon as sufficient manpower was available.¹⁹ It was due to a shortage in this area that the construction of the Clark Dam was behind schedule. The original completion date of the winter of 1946, which was already two years behind schedule²⁰, was set back by another two, making it

¹⁸'Tasmania In "Uncompromising Isolation" Through Council's Prices Decision', 'CONTROL OVER PRICES'(Editorial), M, 22 March 1946.

¹⁹'Likely Power demands Of new Industries', M, 15 April 1946; 'Meeting Demand for Power', E, 15 April 1946.

²⁰'COMPLETION OF BUTLERS GORGE DAM', M, 20 March 1946.

unlikely the project would be finished before 1950. On a happier note, there had been 2568 new consumers connected, an increase of 78.3 *per cent*, with seventy-three *per cent* of these people living in the rural areas of Tasmania; whilst electricity to retail consumers increased by 8.7 *per cent*.²¹

In November, the people of Tasmania were asked to elect a new House of Assembly. The 1946 State election has been ~~rightly~~ declared "one of the dullest on record".²² It saw the return of the government, with a substantially reduced majority. Elections normally gain some front page news stories, but in this case, there was hardly a mention of it on page one of the Mercury. Two reasons for this are connected with the timing of the poll. In the previous September, the people had elected a new Federal parliament, which the Mercury suggested was the reason the people showed such a lack of interest in the State election.²³ Also, the press were offering a detailed coverage of the Nuremburg war trials, an event of international importance.

As happened in 1941, Cosgrove sought re-election based on his party's record whilst in office. In his policy speech, the Premier covered such areas as war-time activities, housing, and education. In the area of the HEC, he reminded the electors, it was a Labor government, under John Earle, that first supplied electrical energy to the people of Tasmania. It

²¹HEC annual report 1945-46. V&P, vol. cxxxv, 1946, paper 35.

²²Richard Davis, Eighty years' Labor(Hobart, 1983), p. 43.

²³'IMPORTANCE OF ELECTION', M, 19 November 1946.

was the government's plan to supply electricity to every "accessible home in Tasmania", and the industries expected to come to this state in the next few years would require the development of another 150,000 horse power of energy.²⁴ In the area of the Legislative Council, it was the aim of the government to introduce a more democratic system of election to that chamber. He wished to remove the power without responsibility factor, and not the house itself, as was the belief espoused by his opponents.²⁵

In its final editorial before the election, the Mercury summed up the campaign as being between the Labor government, with its experience and spotted history, and the Liberal opposition, which had enthusiasm and a new outlook. The government had "become stodgy, stubborn, and unprogressive" through its long stay on the Treasury benches. It concluded:

Irrespective of what party is elected, the people should seek a well-balanced Assembly; they should know from experience that a strong and active Opposition is an essential if there is to be competence in government.²⁶

Whilst there was a swing away from the government, it was insufficient for the newly formed Liberal party to win the election. Davis suggests the Hare-Clark system was a major cause for the return of the Cosgrove government. The Hare-Clark system allows the loss of seats of many sitting

²⁴Policy speech of the Premier of Tasmania 1946, p.24.

²⁵Policy speech..., pp.30-31; 'ATTACK ON LEGISLATIVE COUNCIL', M, 28 October 1946.

²⁶'THE REAL CHOICE TOMORROW', M, 22 November 1946.

members, whilst allowing the return of the government. This particular form of proportional representation, through its use of the single transferable vote, gives equal weight to all candidates, irrespective of their party grouping or experience in the legislature.

No one can be given a safe seat...On election day, voters get an excellent choice between candidates, within parties as well as between them. They can expect their vote to be effective.²⁷

It has been suggested people vote for weak candidates because they believe it to be a foregone conclusion the stronger contenders will gain their seats.²⁸ In the case of the 1946 election, only nine of the nineteen sitting Labor members retained their seats.²⁹ When the house re-convened after the election, sixteen of the thirty members were sitting for the first time. Amongst the new Labor members elected were Eric Reece, W.A. (Bill) Neilson, both of whom went on to become Premiers, and Roy Fagan, one time President of the University Union, and henceforth loyal deputy of both Cosgrove and Reece.³⁰ Neilson is also worth noting as the youngest person to gain a seat in parliament. He turned twenty-one just before the election was called. Reece went into the cabinet, gaining the honorary portfolio of Housing, whilst Fagan became Attorney-General.³¹ On the Opposition bench, new members included Reg Wright, who moved to the Senate at the 1949 election, and Angus Bethune, a future

²⁷Bogey Musidlak, "Hare-Clark system reflects voter intent" (Letter), Australian, 16 October 1992.

²⁸W.A. Townsley quoted in Terry Newman, Hare-Clark in Tasmania (Hobart, 1992), p.252.

²⁹Davis, op.cit., p.43.

³⁰Doug Lowe, The price of power (Melbourne, 1984), pp. 7-8.

³¹Davis, op.cit., p. 44; V&P, vol. cxxxviii, 1948.

premier. Notable amongst those who lost their seats were Henry Lane, Minister for Mines, and Lieutenant-Colonel William Taylor, Forests Minister. Longevity of service did not guarantee return of members. Three men with more than eighteen years service each lost their seats. John Ockerby had been a member since May 1928; Philip Kelly had been in the house for twenty-four years; and Sir Walter Lee, a former Premier, Father of the House³², who had been, until Cosgrove's era, the longest serving Premier of Tasmania, and member for twenty-seven years.

There was a general wish for a change. This comes out in Cosgrove's personal vote. After gaining a sizeable vote at the 1941 election, support for the Premier went down by such an extent he gained less voter confidence than the Independent candidate Rex Townley.³³ One reason for this was the memory of the war. The electors had just gone through six years of hardship, which they could easily associate with the government. There would not be a better way of illustrating their frustration than by redirecting their preferences. If the Liberal party had been better prepared, they may have won the election. Another factor was the outcome of the Royal Commission into Forestry administration. The investigation proved a former member of the cabinet had accepted bribes, and had it not been for the decision of the Full Bench of Victoria, Tom D'Alton would have stood trial.

³²An honorary position given to the longest serving member of the house. The present Father of the House is Michael Polley, Speaker in the Field minority Government.

³³Davis, *op. cit.*, pp. 39, 43.

In 1947, there was a further attempt by the Cosgrove government to alter the Tasmanian constitution. In January, he sought from the Chief Parliamentary Draftsman, a Bill, to be introduced into the House of Assembly, similar to the British Parliamentary Act of 1911.³⁴ Osborne sent his minute to Cosgrove at the end of the month, and explained there were to be a number of new sections to the Constitution. The new section 35A was to allow ministers to address, and take part in debates in either house, although he was not to be given voting rights, and it was to allow only one minister to sit in the other house at any one time; and sections 44A-44E came, *mutatis mutandis*, from the 1911 Act. Under the amendment, if the Legislative Council did not amend or pass a money bill³⁵ within one month, it could be sent to the Governor for Royal Assent. If any other public bill was passed in the House of Assembly, sent to the Legislative Council in three successive sessions, "whether of the same parliament or not", and not less than one month before the end of the session, it could be sent to the Governor to gain Royal Assent. The bill was not to be used for extending the

³⁴Memo from Cosgrove to Attorney-General, 21 January 1947. C.S.O. 107/7/47. AOT.

³⁵In the bill, 'money bill' is defined as legislation covering any of "the imposition, repeal, remission, alteration, or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on the Consolidated Revenue, or on money provided by Parliament, or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue, or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; or subordinate matters incidental to those subjects or any of them. In this subsection the expressions 'taxation,' 'public money,' and 'loan' respectively do not include any taxation, money, or loan raised by local authorities or bodies for local purposes."

parliamentary term beyond five years, nor for the abolition of the Legislative Council. The bill had to be endorsed by the Speaker "that the provisions of this section [ie section 44B] have been complied with." The certificate of the Speaker was to be conclusive, and could not be appealed against in a court of law. In the case of any Bills presented to the Governor under the provisions this Act, no mention was to be made of the Legislative Council in the wording of the enactment. Finally, the House of Assembly was not to lose any rights or privileges in the use of this Act.³⁶ Cosgrove introduced the Bill on 26 February, and it passed through all the other stages on 13 March. It was sent to the Legislative Council six days later. On 15 April, the Council decided, by a division of two to fourteen, against reading it a second time, and instead deferred it for six months.³⁷

The 1911 Parliament Act came about when the House of Lords rejected the 1909 budget of the Lloyd-George government. After initial opposition, the chamber passed the Bill after the Prime Minister threatened to have the necessary number of peers created to pass the legislation. The Act withdrew the power of the Lords to block supply. A money Bill becomes law one month after its passage through the House of Commons, even if it has not been passed by the Lords.³⁸

³⁶R.G. Osborne to Cosgrove, 31 January 1947. C.S.O. 107/7/47. AOT; A Bill to Amend the *Constitution Act* 1934.

³⁷*V&P*, vol cxxxvi, 1947, p. 57(LC).

³⁸Lord Longford, *A history of the House of Lords* (London, 1988), pp. 149-152; Harry Street and Rodney Brazier(eds), *Constitutional and administrative law*, 4th ed.(Harmondsworth, 1983), pp. 306-307; Kenneth

If this Bill had been passed by both houses, it is fair to believe the constitutional crisis which arose in 1948 would not have had the same effect. With the passage of this legislation, the Legislative Council would have lost the power it gained in 1924. The upper house was unlikely to hand over so much of its power. This would have been seen as a threat to their power of review.

In its 1946-47 annual report, the HEC made its first mention of the use of migrant labour, to augment the local people and to help construct their dams. At this stage, the HEC was only interested in migrants from Great Britain, but within twelve months this was to change.³⁹ The creation of future power schemes were facing difficulties by the lack of data, ranging from annual rainfall to ground surveys, and were further hampered by two floods. There was, however, the augmentation of Tarraleah, a 24.68 *per cent* increase in working costs, and an income for the year of £989,205, an increase of £59,230. The gross profit for the year was £635,170, which became a net profit of £54,197, a drop of £54,577 on the previous year. There were 3798 new customers connected, and again a majority, sixty-two *per cent*, were in the rural areas of Tasmania. This figure would have been higher except for a lack of material, a problem operating

Mackenzie, The English Parliament(Harmondsworth, 1962), pp. 185-186; W. Ivor Jennings, The British constitution(Cambridge, 1966), pp. 104-106.

³⁹The use of migrant labour by the HEC is covered in more detail in a thesis by Eileen O'Brien.

world-wide. Work on the extension into the Tasman municipality was proceeding well.⁴⁰

An issue the report covered but superficially was the lack of labour. In a memorandum to the Premier, A.W. Knight, recently appointed Commissioner, informed Cosgrove of the considerable turnover of staff.

Such a turn-over of labour cannot be attributed to unsatisfactory conditions of employment at the dam.

He believed they were leaving to work on new projects by the Hobart and Launceston City Councils, and the new Commonwealth Bank building at Hobart. The position, he believed, might improve with the introduction of a bonus system. This idea received cabinet approval. It cannot be coincidental that in the following January the commission announced prefabricated houses were being built in Devonport for the its work at Tarraleah and Butlers Gorge, for the use of staff officers and key men.⁴¹

In the commission's next annual report, "the first nearly normal post-war year", the organisation reported it was still having supply problems, due to a lack of rainfall. The issue of migrants emerged again, and Polish migrants had joined the British, although under different conditions. Many of the figures given showed increases on the previous year. The peak load reached 197,400 horse power, an increase of nearly

⁴⁰HEC annual report 1946-47. V&P, vol. cxxxvii, 1947, paper 27.

⁴¹A.W. Knight to Cosgrove (memo), 23 April 1947; Cosgrove to Knight, 30 April 1947. C.S.O. 135/34/47. AOT. 'Homes For H.E.C. Employees', M, 10 January 1948.

thirty-seven thousand; income was £1,116,259; there was a gross profit of £700,215; net profit was up by £23,821; working costs were £416,044, an improvement of 17.515 per cent; and there were 3939 new customers, 64.3 per cent in rural Tasmania. Whilst working costs had increased, the rate of interest to the Treasury had decreased, thereby allowing an addition of £42,000 to the contingency reserve fund.⁴²

In April 1948, two months after he had regained the leadership of the party, Cosgrove sought to have a Bill written which would lead to the introduction of universal suffrage in Legislative Council elections.⁴³ The Premier introduced the Bill into the House of Assembly on 29 June, it passed all stages on 13 July, and went to the Legislative Council on the following day.⁴⁴ This Bill was greeted with disapproval from a majority of members of the upper house, and the editor of the Mercury. In essence, their argument against the widening of the franchise was identical: it would lead to the chamber becoming a party house, a mere rubber stamp of the Assembly, the loss of its position as a house of review, and, in the long-term, its abolition as set out in the Labor Party platform.⁴⁵ This statement was made despite the failed attempt to have the party's platform changed the previous year. A motion was moved to have the wording of

⁴²HEC annual report 1947-48. V&P, 1948, paper 37.

⁴³Cosgrove to Attorney-General, 5 April 1948. C.S.O. 107/35/48. AOT.

⁴⁴V & P, vol. cxxxviii, 1948

⁴⁵'M.L.C. ATTACKS PREMIER ON FRANCHISE', 6 April 1948; 'THE HOUSE OF REVIEW'(Editorial), 7 April; 'REFERENDUM POSSIBLE ON FRANCHISE FOR STATE UPPER HOUSE', 'NO ACTION BY UPPER HOUSE TO THWART PEOPLE'S WILL', 'UPPER HOUSE FRANCHISE'(Editorial), 15 July 1948.

the party's policy changed from 'reform' to 'abolish'.⁴⁶ Universal suffrage was eventually passed, but not for twenty years, and a study of the attempt in 1948 to broaden the franchise, clearly illustrates why it took so long to achieve this goal.

In attempting to introduce a Bill to grant a wider franchise for the Legislative Council elections, Cosgrove sought to increase the democratisation of the chamber. He sought to allow all the people who voted in elections for the Assembly, to also be allowed to elect the members of the Council. In defending the opposition to the Bill, the Mercury suggested the franchise...is quite broad. Virtually all householders and servicemen have the vote.⁴⁷

In his speech for the Bill's second reading, Tom D'Alton, the Leader of the Government in the Council, stated women constituted only sixteen thousand of the one hundred thousand voters in Council elections. Of these, twelve thousand five hundred owned properties, and only three thousand were working-class wives. With more than a little sarcasm, D'Alton stated "We call that a liberal franchise."⁴⁸ The Bill was still in the chamber when the election for the Assembly was held.

The arguments against the Bill led to unsubstantiated conclusions. In suggesting such a Bill would lead to a

⁴⁶Minutes of meetings of annual conference March 1943-March 1946. NS 788/13. AOT.

⁴⁷THE HOUSE OF REVIEW(Editorial), M, 7 April 1948.

⁴⁸SEVERAL SPEAKERS IN LEGISLATIVE COUNCIL SUPPORT WIDER FRANCHISE FOR HOUSE', M, 21 July 1948.

clear-cut party system and review obviously would take place in caucus comprised of members of both Houses subscribing to the same party⁴⁹,

Alexander Lillico, MLC for Mersey, feared it would become a party chamber, rather than remaining a house of review. In other states, where a wider franchise was evident, the upper house was still a house of review.

Similarly, the editor of the Mercury suggested the extension of the franchise would lead it to becoming "another party Chamber"⁵⁰, although there is no indication of how this was to be achieved. The basis of this argument would appear to be based more on imagination and fear of change, than on any realistic basis of the theory of electoral re-distribution.

In their defence, H.S. Baker, the former leader of the Nationalist party, and by now entrenched in the Legislative Council seat of Queenborough, stated

Lowering of rental qualifications, for instance, had given the humblest householder a vote.⁵¹

If this was true, the question then needs to be put: why did it take twenty-one years for universal suffrage to be introduced into Legislative Council elections? It would seem the Tasmanian upper house was obstinate to the last.

The editor then went on to suggest the "proposal... strikes at the basis of Tasmania's parliamentary instrument."⁵² This

⁴⁹"M.L.C. ATTACKS PREMIER ON FRANCHISE", M, 6 April 1948.

⁵⁰"THE HOUSE OF REVIEW", M, 7 April 1948.

⁵¹"NO ACTION BY UPPER HOUSE TO THWART PEOPLE'S WILL", M, 15 July 1948.

⁵²"UPPER HOUSE FRANCHISE", M, 15 July 1948.

'basis' came from a limited franchise that allowed only a select element, usually male property owners, to cast a vote in Legislative Council elections. The Constitution Bill sought to do nothing more than to expand this base.

Finally, the Mercury suggested the passing of this Bill would automatically lead to a government having a majority in both houses.⁵³ This is possible, although not guaranteed. There are examples of a governing party having control of both chambers of a parliament. For example, during the Prime Ministerships of John Curtin and Ben Chifley, the Labor party controlled the Senate.⁵⁴ The problem behind the Mercury's argument is that if this had occurred, maybe it was the will of the people. This does not seem to have occurred to the editor at the time he was writing his editorial.

The fear of the Legislative Council ceasing to be a house of review can be understood, even though the arguments put forward are based on false premises. One reason for its existence is to review the legislation of the government. It is, in this sense, a safety valve, existing to ensure there is no legislation passed which might harm the people of Tasmania. Despite the broadening of its electoral base in 1969, the chamber remains a house of review.

⁵³'UPPER HOUSE FRANCHISE', M, 15 July 1948.

⁵⁴L.F. Crisp, The Australian Federal Labor party 1901-1951(Sydney, 1978), p.332.

CHAPTER FOUR

ROYAL COMMISSION, TRIAL, AND THE 1948 ELECTION

'AT no time has the Council sought to
make or unmake Governments, dictate
policy, or thwart the will of the people.'
H.S. Baker MLC for Queenborough
quoted in the Mercury, 15 July 1948

The year 1947 was to be a testing time for Robert Cosgrove, and to a lesser extent the Labour Government. In November, the Leader of the Opposition, Neil Campbell, informed the House of Assembly that a road operator had made certain allegations against the Premier. The operator, James Thomas Sullivan, alleged he and three other operators had paid Cosgrove £5,400 over a three year period, to ensure the government did not continue with their plan to nationalise road transport operations. It is significant that Sullivan, and the other three operators, believed the money was going into the funds of the A.L.P., whereas point 2(b) of the letters patent¹ suggested the possibility Cosgrove had kept the money for himself.² The result of this allegation was a Royal Commission, presided by Mr Justice Reed of the Supreme Court of South Australia, who found that Cosgrove had an answerable case. Cosgrove resigned the premiership on 19 December 1947, with the understanding he would regain the position immediately the jury had established his innocence. Subsequently there was a trial lasting nearly two weeks, at which the former Premier was found not guilty of all fourteen counts of bribery. Within six months of Cosgrove's acquittal, and subsequent re-election to the leadership of the Parliamentary Labour Party, his Government won the election caused by the Legislative Council's refusal to allow the Supply Bill to pass through the house.

¹"Grants by the Crown of lands, franchises, offices, etc., contained in the charters or instruments not sealed up but exposed to view with the Great Seal pendant at the bottom, and usually addressed to all the subjects of the realm." P.G. Osborn, A concise dictionary 5th ed. (London, 1964), p. 129

²Report of the..., V & P, vol cxxxix, 1948, p.iii.

Governments, both in Britain and Australia, have often made use of Royal Commissions. In the forty years since the end of the Second World War, there have been at least thirty-five Royal Commissions set up in Britain.³ This compares with the ninety-three in Australia during the period 1945-1980.⁴

According to KC Wheare, a Royal Commission is used when the matter being investigated is of great importance, is of the public interest, or there is no other body that is capable of investigating the issue. In essence, it is a committee of inquiry, set up to investigate a matter of great seriousness. Wheare also notes it is more important than a departmental enquiry since "its members are appointed by the Queen".⁵

A.P. Herbert has put up the contrary view that "a Royal Commission is generally appointed, not so much for digging

³Leon Brittain, Home Secretary, to Tim Eggar, MP, 25 January 1985, held in House of Commons Library. House of Commons Hansard, 22 April 1985, col. 350. In his letter, Brittain points out not all warrants setting up Royal Commissions were signed by the Home Secretary of the day; some commissions did not write up a report; and thirdly not all the records are held by the Home Office.

⁴Commonwealth 19
 Tasmania 6
 New South Wales 19
 Victoria 16
 Western Australia 40
 South Australia 19
 Queensland 14
 Total 93

Note: the figure for Western Australia is for the period 1945-70, and includes a number of Honorary Royal Commissions.

D.H. Borchardt, Checklist of Royal Commissions, Select Committees of parliament, and Boards of Inquiry (7 parts) (Sydney, 1960-86; Bundoora, 1975,78); Elmar Zalums, A bibliography of South Australian Royal Commissions, Select Committees of Parliament, and Boards of Inquiry 1857-1970 (Bedford Park, 1975); Elmar Zalums and Helen Stafford, A bibliography of Western Australian Royal Commissions, Select Committees of Parliament, and Boards of Inquiry 1870-1979 (Bedford Park, 1980).

⁵K.C. Wheare, Government by committee (London, 1955), p. 69.

up the truth, as for digging it in"⁶. Dibelius, among others, would agree with this proposition. In his book England, he suggested the originator of the commission may influence the direction it takes since he will know the views of the appointees.⁷ Similarly, Sidney and Beatrice Webb, possibly the two most famous of the Fabians, stated: "'impartial party'... means merely that the selector and the selected agree in their bias".⁸ It is possible to suggest Royal Commissions are effective since there have been so many this century. This argument may also be used to justify the opposite view-instantiate a Royal Commission if an unsightly mistake has been made.

A Royal Commission usually deals with a specific issue, and once the report is submitted to the Queen (or the Vice-Regal representative in the case of Australia⁹), it will be disbanded. There is, of course, the exception to every rule. Annual reports are submitted by the Royal Commissions on Environmental Pollution, Historical Monuments, Ancient Monuments, and Historical Manuscripts, as well as the Royal Fine Arts Commission in Britain.¹⁰ They can be equated to our standing committees.

⁶quoted in Peter Hennessy, Whitehall(London, 1989), p.576.

⁷W. Dibelius, England(London, 1930), p.254, quoted in Social research and Royal Commissions, edited by Martin Bulmer(London, 1980), p.3.

⁸Sidney and Beatrice Webb, quoted in Social research and Royal Commissions, edited by Martin Bulmer (London, 1980), p.3.

⁹Under section 1B of the Royal Commissions Act(Cwth) 1902-1933, only the King or the Governor-General may appoint a Royal Commissioner. In Tasmania, this can be done by the Governor.

¹⁰Hennessy, op. cit., p.575; Leon Brittain to Tim Eggar, 25 January 1985.

The next stage is to appoint the Royal Commissioner. Lords Benson and Rothschild, in their memorial to Royal Commissions, make the suggestion the appointee should have experience, a good intellect, integrity, capacity and "a moderate political outlook." Equally, the appointee must not have an intense and preconceived view, or membership of an organisation or pressure group, even if there is no connection with that group, directly or indirectly, with the commission.¹¹ These criteria are important, for without them, there is no guarantee the final report will possess the necessary impartiality.

Royal Commissions are partly covered by the Royal Commissions Act. This act includes: the power to send for witnesses and documents, the power to examine upon oath, a penalty for failing to attend or produce documents, a penalty for refusing to be sworn or to give evidence, the protection of the commissioner, and allowances for witnesses.¹² In Tasmania, the creation of a Royal Commission falls within the prerogative of the Governor representing the Crown, and the operating guidelines are found within the Evidence Act (Tas) 1910.

In the Royal Commission into certain allegations against Robert Cosgrove, a Bill was brought before the House of Assembly on 25 November 1947 by the Attorney-General,

¹¹Lord Benson and Lord Rothschild, "Royal Commissions: a memorial", Public Administration, Vol. 60, Autumn 1982, pp. 341-2.

¹²Royal Commissions Act(Cwth) 1902-1933

Roy Fagan.¹³ The main parts of this act were the allowance of legal representation¹⁴, and the sum of £5,000 out of consolidated revenue for the expenses that were to come out of the commission.¹⁵

Theoretically, it would have been possible to have appointed a Tasmanian Judge to oversee the running of the commission. As the majority of such investigations are presided over by people who are in, or have been, members of the legal profession (either judges or barristers), there were many people from which to choose a commissioner. One option, for example, might have been to choose the Chief Justice, Sir John Morris, who was to later hear the trial of Robert Cosgrove. Sir John, in a letter to the Attorney-General, gave two reasons for not recommending a local justice as Royal Commissioner. Firstly, to retain "the confidence of the people", he could not allow a local judge to oversee a commission that involved "political controversy". Secondly,

"proceedings by Royal Commission are quite inappropriate in cases where criminality is alleged. If any case exists upon which a jury might reasonably convict, a method prescribed by law for its investigation is a trial by jury conducted upon the well recognized principles of the criminal law."¹⁶

¹³The Royal Commission Expenses Act(Tas) was introduced into the House of Assembly on 25 November 1947, had passed all its stages in both houses by the following day (26 November), and received Royal Assent on 28 November, entering the statute books as 11Geo. VI c.66. V & P, vol. cxxxvi, pp.274, 280, 283, 300.

¹⁴s.3.

¹⁵s.4.

¹⁶V & P, (1947), p.239(HA).

The presiding position was granted to an interstate judge-Mr Justice Reed of the Supreme Court of South Australia. Geoffrey Sandford Reed(1892-1970) attended Prince Alfred College and Adelaide University, called to the bar in 1914, and made a KC in 1937. He held various legal and academic positions, until he became a Justice of the Supreme Court of South Australia in 1943. He gained a knighthood in 1953, and retired nine years later.¹⁷

Reed came to the position a very experienced legal practitioner. He had been a member of the legal fraternity for thirty-three years, a KC for a decade and a member of the Supreme Court of South Australia since 1943. As for his intellect, this can only be surmised. Having been a barrister for more than three decades, it may be presumed that he had some intellect. The same may be said for integrity and capacity. Without the assistance of an authorised biography, it is not possible to gain an insight into the past life of Geoffrey Reed, and as such it is equally impossible to fully measure him against the criteria suggested by Lords Benson and Rothschild. From the available information concerning his attributes, there is no reason why his appointment as Royal Commissioner should be questioned.

To ensure the careful operation of a Royal Commission was one matter; but when the government was forced to deal with allegations against its own leader, who declined to step down during the preparation and operation of the Royal

¹⁷ Who was who, volume 6, pp. xxxviii-xxxix.

Commission, it had to ensure justice was not only seen to be done, but was being carried out. For this reason, it was appropriate to appoint an interstate Justice.

Whilst the Royal Commission was not a trial in its strict meaning, the character of Robert Cosgrove was to be investigated throughout its duration. To have a Royal Commissioner who was not, or had not been a judge may have led to the possibility of the Royal Commission not fulfilling its terms of reference.

The Royal Commission began its sessions on 2 December 1947, with Mr Justice Reed in the chair. Interstate counsel were hired to represent Robert Cosgrove and James Sullivan-E.R.T Reynolds KC, and R.V. Monahan KC respectively, although the instructing solicitors (R.H. Cogswell and W.E. Cox) were Tasmanians. The Royal Commission lasted until 9 December when it was finished abruptly. The report was handed to the Governor, Sir Thomas Binney, two days later.¹⁸

The basis of the Royal Commission was whether Sullivan, representing himself and three other road transport operators, offered Cosgrove £5,400 to ensure the Labour Government did not continue with their policy of nationalising road transport; whether Cosgrove accepted this money; and if he did, whether it went into the Labour

¹⁸ 'Report of the Royal Commissioner upon certain allegations of improper payments to the Honourable the Premier in relation to State road transport policy', V&P vol. cxxxix, 1948, p.1.

Party funds as the four operators believed to be the case, or whether Cosgrove kept the money for himself. There is evidence to suggest Guy, Fry, and Cook gave Sullivan money.¹⁹ If Sullivan did not offer the money to Cosgrove, then did he keep it for himself; in which case, is this why he went to Neil Campbell? Would this have been a good way of making sure he was not prosecuted? If he did keep the money for himself, then he could claim he had given it to the Premier, and with the assistance of the opposition party, he may have succeeded. The final destination of the money is unknown, although Cosgrove's counsel suggested Sullivan spent it betting on horses.²⁰ On the other hand, if he had offered the money to Cosgrove, and the Premier had accepted it, there was still the question whether the money went into the party funds. If it had, then it may have been possible to justify it as a party donation, and as such, it would have been legitimate. If it affected the party's policies, then the issue entered the realm of corruption. Another option was that Robert Cosgrove may well have accepted the money from Sullivan, and kept it for his own use. If he had been caught doing this, it would not matter how popular he may have been, his political career would have come to an end, and he would have been sent to gaol.

The Royal Commission uncovered some evidence that damaged Cosgrove. The first of these was the destination of the payments. From the very beginning, the four operators

¹⁹"K.C. QUERIES DESTINATION OF GIFT MONEY", E, 4 December 1947 C.S.O. 164/2/47 AOT

²⁰Scott Bennett, "Labor under attack 1947-1948", THRAPP, Vol 33, No.2, June 1986, p.70.

maintained the view the money they were handing over to the Premier was going into the accounts of the A.L.P.²¹ This was significant since the location of the money would delineate between a bribe and a party donation. If the money went into the private account of Cosgrove, then it may be classified as a bribe. If, however, the money went into the coffers of the organisation, and it did not cause a change in the party's policies, then it was simply a legal donation. If it could be proven, without any doubts, Cosgrove not only accepted the money and retained it for his own purposes, then he would be guilty of the allegations brought by Sullivan.

There was evidence given on the method of the alleged payment to the Premier. Sullivan and Charles Guy were to pay £250 each, whilst both Harold Fry and Herbert Cook would pay £200, making a total of £900, to be paid half-yearly.²² There was no statement as to how long the payments were to be made; all that is known is they had allegedly begun in June 1944. From evidence given before the Royal Commission, it appears Sullivan believed donations to the A.L.P. would lead to a change in transport policy, and since all four operators would be affected by nationalisation, it would have been worth their while to attempt to have the policy changed.²³

²¹"ANSETT TOUR LICENCES 'SHOULD NOT HAVE BEEN GRANTED'", M, 3 December 1947 C.S.O. 164/1/47 AOT.

²²"COMMISSION TOLD PREMIER GIVEN MONEY FOR A.L.P.", M, 3 December 1947 C.S.O. 164/1/47 AOT.

²³"ALLEGED DISCUSSIONS ABOUT FUNDS OF POLITICAL PARTIES", E, 3 December 1947 C.S.O. 164/2/47; "COMMISSION'S POLICY", E, 5 December 1947 C.S.O. 164/1/47 AOT.

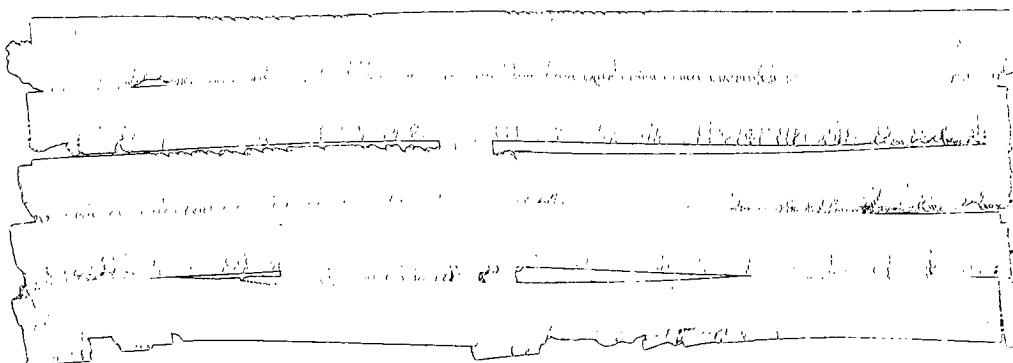
It appears unlikely that the payments were so large. It would have been far more sensible for Sullivan, had he paid Cosgrove the £5,400, to have arranged smaller and more regular instalments. This would have made it very easy to hide the payments; and it would have kept Robert Cosgrove on Sullivan's 'pay-roll', thereby not allowing the Premier to forget his obligation. For example, had Sullivan paid Cosgrove £70 per fortnight, the Premier would have gained the same amount of money in the end, and Sullivan would conceivably have gained more control over the Premier.

A further item that damaged Cosgrove was the matter of a special party account. Until its existence was disclosed at the Royal Commission, even the State Secretary, Ernest West, had no knowledge of its existence.²⁴ The secrecy of the fund's existence was damaging. The secretary of the party was a position of trust, and therefore, it would have been expected he should be informed how the money given to the party is spent and invested. The implication was Cosgrove, having kept the fund a secret from West, hid donations in it that he wanted kept secret. After the trial, the opposition moved a motion, calling on the government to table these books. The motion was defeated along party lines.

²⁴"A.L.P. OFFICERS SAY NO DONATIONS FROM ROAD OPERATORS", M. 6 December 1947 C.S.O. 164/1/47; "FORMER SECRETARY OF A.L.P. SPEAKS OF PARTY ACCOUNTS", E. 6 December 1947 C.S.O. 164/2/47 AOT.

Cosgrove's reaction to Sullivan's offer, in October 1947, of £3,000 also came under investigation. Under cross-examination by Cox, Brooker informed the court Cosgrove had told members of the Executive Council he had not thrown Sullivan out of his office.²⁵ It would seem unusual for a man of such high office not to have acted in a more insulted manner. At the trial, in recounting this episode, Cosgrove informed the Chief Justice he "went to the door and showed him out."²⁶

The evidence in Cosgrove's favour is substantial. First, there was a lack of any records of the alleged payments made by Sullivan. This lack could work either way, though Cosgrove was hardly likely to leave any traces of any bribes. It was left to an accountant, Allan Hewer, to search out any money that could not be easily accounted.²⁷ He failed to find any records of the alleged payments, even after looking into Cosgrove's savings accounts.²⁸



²⁵"KNOWLEDGE OF PARTY FUND", E, 9 December 1947 C.S.O. 164/2/47 AOT. In so doing, Cox was exercising his right, as a solicitor, to cross-examine a witness.

²⁶ transcript of the trial, 17 February 1948 S.G.D./27/39/221 AOT.

²⁷"NO RECORD OF GIFT TO PARTY", M, 5 December 1947 C.S.O. 164/1/47 AOT.

²⁸"STEADY FINANCIAL PROGRESS", M, 10 December 1947 PC.S. 164/1/47 AOT.

Secondly, there was Cosgrove's public support for nationalisation of transport. In evidence before the commission, Ernest West stated the Premier had come out in favour of nationalisation of main routes at party conferences held in March of 1943, 1944, 1945, and 1946.²⁹ It is hard to believe he would put in train circumstances repairing him to reverse clearly-stated opinions. Sullivan alleged the first payment was made in December 1944, which he also stated was his first meeting with Cosgrove. Sullivan must have been taking a risk in offering money to Cosgrove when the Premier was so much in favour of nationalisation. The idea behind the offer was to induce the Premier to help Sullivan and the other three operators by having the policy of nationalisation removed from the party's platform. Cosgrove had also been reported in the Mercury as supporting nationalising the major transport routes in Tasmania, thereby leaving little doubt as to his intentions. It is hard to believe Sullivan could have been so foolish as to expect the Premier to change his mind so quickly. If Sullivan had the money referred to in the charges, and if the other three operators gave him their shares, it is difficult to suggest who were the more foolish- Sullivan or the three other operators. It is hard to envisage anybody handing over so much money without any guarantee of success.

Thirdly, Fry stated he made payments of £200 to Sullivan in

²⁹"A.L.P. OFFICERS SAY NO DONATIONS FROM ROAD OPERATORS", M, 6 December 1947; "PURCHASED £672 CAR", M, 9 December 1947 C.S.O. 164/1/47 AOT.

and Fry's first instalment to Sullivan, unless Sullivan did not pay any money whatsoever to Cosgrove?

The commission rose on 9 December, having sat for only five days. There was no stipulation when the commission was to rise, provided the Governor received the report by 20 December.³⁰ The commissioner did not wish this decision to be seen as a sign of Cosgrove being guilty. He said if the Premier had been called to give evidence under the existing circumstances, it may have prejudiced him, and may have brought about a statement of innocence, or guilt, by methods other than his constitutional right of trial by jury. In accordance with this principle, an indictment was to be filed against the Premier, whilst the four road operators were to be given pardons so as not to incriminate themselves.³¹

Cosgrove was indicted under the 'ex officio' method. This came under the condition set out under section 310 of the Tasmanian Criminal Code. There was a difference in this indictment, in that there had not been a previous committal proceeding before a magistrate. In such cases, the magistrate would decide whether there was "a strong

³⁰Report of the Royal Commissioner..., p. iii.

³¹"INDICTMENT TO BE FILED AGAINST MR COSGROVE", M. 10 December 1947 C.S.O. 164/1/47; "PREMIER TO BE INDICTED", E. 10 December 1947 C.S.O. 164/2/47; C.S.O. 162/4/48 AOT. The right of witnesses not to incriminate themselves comes under section 6DD of the Royal Commissions Act(Cwth) 1902-1933

or probable presumption of guilt against the person, sufficient to commit him for trial.”³²

Robert Cosgrove resigned the office of Premier on 19 December 1947, and was replaced, as expected, by his deputy, Edward Brooker.³³ Following the conclusion of the commission, the precise timing of his resignation was the subject of much media speculation³⁴, and continued for the following week.³⁵

In January 1948, an indictment was processed, charging Robert Cosgrove with fourteen counts of bribery, corruption, and conspiracy.³⁶ The trial began at the Supreme Court before Chief Justice Morris on 10 February, and lasted for nearly two weeks. For the trial, Robert Cosgrove again sought counsel from interstate, this time in the form of Mr R.R. Sholl, KC, of Melbourne, whilst W.E. Cox of Hobart and G.H. Crawford of Launceston were instructing

³² This information was gained from a letter to the author from Mr F.M. Neasey, a former justice of the Supreme Court of Tasmania, 11 November 1992.

³³ V & P, Vol. cxxxviii, 1948, p.2(HA).

³⁴ “STATE CRISIS LOOMS”, M, 10 December 1947 C.S.O. 164/1/47 AOT.

³⁵ “POLITICAL CRISIS EXPECTED THIS MORNING”, M, 12 December 1947; “RESIGNATION OF PREMIER NOT TENDERED YET”, M, 13 December 1947; “MR BROOKER TO FOLLOW PREMIER AS STATE LEADER”, M, 16 December 1947; “REFUSES TO RETAIN LEADERSHIP”, “STOP-GAP GOVERNMENT LIKELY”, M, 17 December 1947, C.S.O. 164/1/47; “State Political Problem”, E, 15 December 1947 C.S.O. 164/2/47 AOT.

³⁶ Charge 1 came under s71 of Criminal Code for accepting £900 for himself from Sullivan in December 1944 to change transport policy; charges 2-6, also under s71 of Criminal Code, for payments of £900 in July and December 1945, June and December 1946, and June 1947; charges 7-12, the first 6 under s83 of the Criminal Code, for receiving £900 in December 1944, July and December 1945, June and December 1946, June 1947 for similar purposes; charge 13 for conspiring with Sullivan for the payment of £1800 per year; charge 14 for conspiring with Sullivan. The final two counts came under s297 of the Criminal Code. R. v. Cosgrove; S.G.D./27/221; “14 COUNTS IN COSGROVE INDICTMENT”, M, 22 January 1948 C.S.O. 164/1/48 AOT.

solicitors. The Crown case was led by the Solicitor-General, M.G. Gibson, KC, with H.J. Solomon. The Mercury made the unusual disclosure of naming the jury.³⁷

As with the case in the Royal Commission, the chief source of evidence was Sullivan, who retained his story as to the destination of the £5,400 allegedly given to Cosgrove. This should not be at all surprising, as any alteration to his story at this stage would have meant disaster. Any credibility he may have obtained during the Royal Commission would have been lost.

The case for Robert Cosgrove rested on the discrediting of the evidence of Sullivan, or the man himself. Before this was undertaken, Sholl attempted to have a separate trial called for the two conspiracy charges. He applied under section 326(3) of the Criminal Code. The Chief Justice replied that "the justice of the case as a whole, demanded that he should not grant the application."³⁸

After Cosgrove's plea of not guilty, Sholl sought an end to the trial due to the lack of a conspirator. He argued the pardon granted to Sullivan meant he could no longer be

³⁷ "PERSONALITIES IN THE CASE", M, 11 February 1948 C.S.O. 164/1/48 AOT. This is a curious act. It is possible the names were published by someone at the Mercury who feared Cosgrove was guilty as charged. By publishing the names of the members of the jury, the followers of Cosgrove could 'help' him be proven innocent. The publication of the names would have to be sanctioned by a senior member of the editorial committee, otherwise they would not have been in the finished copy of the newspaper. This would suggest the person who submitted them for publication must have been someone connected with the proprietor, the editor, or both of these people.

³⁸ "SEPARATE TRIAL IN COSGROVE CASE REFUSED", M, 7 February 1948 C.S.O. 164/1/48 AOT.

counted as a conspirator, therefore there could no longer be a conspiracy charge levelled at Cosgrove.³⁹ On dismissing this plea, the Chief Justice said

a pardon contained no statement of fact. The provisions for libel action by a pardoned person accused of a crime were made to prevent reproach to that person.⁴⁰

Sholl also sought to have the evidence brought out in the Royal Commission declared inadmissible as evidence in the trial. He argued it contravened section 21(4) of the Tasmanian Evidence Act on the ground it was inconsistent with sub-sections 2 and 3.⁴¹ Sholl argued against the admissability of any evidence brought before the commission being used at the trial. Marcus Gibson, for the Crown, argued against it, stating "The basic fallacy of the contention of the accused is that a pardon is equivalent to an acquittal."⁴² In this argument, the Crown was successful.

The basis of Cosgrove's defence was the matter of the interviews. In his opening remarks, Sholl informed the

³⁹Minutes pp. 165-6, Hay v. Justices of Tower of London, Queen's Bench Division, vol. 240, 561 at 564-5; Regina v. Alley Victorian Law Report Vol 12, 1886, pp.13- ; R v. Manning Queen's Bench Division, vol.12, pp. 241-; Rex v. Plummer King's Bench, Vol. 2, 1902, pp. 343, 347; Rex v. Cook 5 Bar Pr 538 (1820), sec 21(4) of the Evidence Act, sec 355 and 398 of Criminal Code, and sec 8 of Criminal Code Act. He also referred to Gatley on Libel and slander.

⁴⁰"Counsel Claims pardons Annul Charges", M, 11 February 1948 C.S.O. 164/1/48 AOT.

⁴¹"ACCOMPLICE HELD NECESSARY FOR BRIBE CHARGES", M, 11 February 1948 C.S.O. 164/1/48 AOT; R. v. Cosgrove, pp.102,104.

⁴²R. v. Cosgrove, p.104; Beachie v. Rex Cox's Criminal Cases (Privy Council), vol. 25, 1915, p.217, Regina v. Dean New South Wales Report, vol. 17, 1896, p35, R v. Daguid Cox's Criminal Cases, vol. 21, p.200 & Law Journal Reports (King's Bench), vol.75, p. 470. Regina v. Alley Victorian Law Report, vol.12, 1886, p. 13; ss 35 and 398 of the Criminal Code, s 8 of the Criminal Code Act, s 21(4) of the Evidence Act, Hales Pleas of the Crown 2nd vol. p.78; Prerogatives of the Crown, 1820, p.102.[repr.]

court the former Premier was going to state that no interview between himself and Sullivan occurred before the end of 1945. This threw into doubt Sullivan's claim of a first meeting in December 1944. Cosgrove did admit seeing Sullivan in March 1947, but this was over the matter of a general hire automobile licence; and again in the following May, this time over newspaper freight tax. Furthermore, the alleged meeting on 27 June 1947, the day the last of the alleged payments was made, did not occur. According to Cosgrove, the final meeting between himself and Sullivan was on 28 October 1947 when the latter offered him £3,000, a meeting Sullivan denied.⁴³

Before the trial began, Cosgrove's counsel informed the Solicitor-General they were willing to admit to four points. Firstly, Cosgrove was a member of parliament during the period 1939-47. Secondly, they accepted "The evidence of the following witnesses whose proofs you have supplied to us, provided that such evidence is submitted in written form by reading and putting in the proofs-" Nancy Young, Ada Dixon, Eric Balfe, Quentin McDougall, Arthur Connolly, Vivien McLean ("subject to the witness Hay identifying the document referred to in paragraph 3 of her proof"), Ernest Pretzman (so long as they may see his exhibit), and Charles

⁴³"Cosgrove To Deny Allegations", M, 17 February 1948 C.S.O. 164/1/48 AOT. Sullivan had alleged his final meeting with Cosgrove was in the latter's room at the Brisbane Hotel, Launceston. Cosgrove's denial of this interview is aided by the evidence brought before the Royal Commission by the hotel porter, who denied taking Sullivan up to the Premier's room. "DENIES HE TOOK SULLIVAN TO PREMIER'S ROOM", M, 6 December 1947 C.S.O. 164/1/47; "EVIDENCE CONCERNING HOTEL VISIT", E, 6 December 1947 C.S.O. 164/2/47 AOT.

Murphy.⁴⁴ This material was deemed non controversial, and dealt largely with the purchase, by Cosgrove, of a car for £675. Thirdly, Cosgrove placed a telephone call through to Sullivan's office in Launceston on 6 November 1947, at 8.56 a.m., without talking to Sullivan, and Sullivan had telephoned Cosgrove's Hobart home at 6.30 p.m. on 7 November 1947. Finally, the press statements in the Mercury on 21, 24, and 27 July 1947 were accurate "in so far as they purport to report statements made by Mr. Cosgrove for publication."⁴⁵ Clearly his counsel was not going to admit to too many points, or else they would be handing over to the prosecuting counsel ammunition that would be returned once the trial began.

The trial concluded on 21 February 1948; with Cosgrove being found not guilty on all fourteen counts. In his summing up, Sir John placed significant emphasis on the reliability of Sullivan's evidence. He cautioned the members of the jury not to deliberate solely on the evidence of Sullivan. He noted the testimony of one accomplice was dubious; and that if the other three operators were his

⁴⁴Balfe was a journalist on the literary staff at the Mercury, and government roundsman; Murphy had been Clerk of the House of Assembly since 1941; Pretzman was an accountant with the Hobart Savings Bank; Young had been, during October 1946, a cashier in the office of Perpetual Insurance and Securities Ltd, which was associated with City Motors, where Cosgrove had purchased a car; Dixon was an employee of City Motors Pty. Ltd.; Arthur Hay was State Secretary of the General Division of the Tasmanian Transport Association; McDougall was a public accountant, and Secretary of the Tasmanian Road Transport Association; and, Connolly was secretary and manager of the Swansea and East Coast Motor Co. Pty. Ltd.

⁴⁵Dobson, Mitchell, and Allport to Solicitor-General, 11 February 1948. S.G.D./27/39/221 AOT. In the copy held with the papers from the trial, a single line is drawn through the names Eric Balfe, Quentin McDougall, and Arthur Connolly.

associates, then the jury should carefully consider the statements of Cosgrove's accusers.⁴⁶

Immediately following the trial, Robert Cosgrove resumed his position of Premier of Tasmania. Rumours to the effect there was to be a forced election were heard even before the trial had begun. A story to this effect was published in the Mercury in December 1947⁴⁷, and a similar article appeared in the Voice, the Labor Party weekly, in the following March.⁴⁸ The Legislative Council had found a possible reason to use their prerogative power of blocking supply, thereby sending the government to the people.

John Madden introduced the 1948-49 budget into the House of Assembly on 6 July 1948⁴⁹. It passed all three readings, and was sent to the Legislative Council. As expected, they refused supply, and despite attempts to find a compromise, the House of Assembly was dissolved⁵⁰, and the government went to the people. In a statement to the House of Assembly, the President of the Legislative Council, Sir Rupert Shoobridge, justified his chamber's decision not to pass the budget, in its form as presented, on three grounds. First, the Members of the Legislative Council suggested allowing only "two months supply with a view to an election" based on the government's lack of moral

⁴⁶"COSGROVE APPLAUDED BY CROWD AFTER JURY RETURNS NOT GUILTY VERDICT ON CRIMINAL CHARGES", "Acceptance Of Money Would Be Wrong", M, 23 February 1948 C.S.O. 164/1/48 AOT.

⁴⁷ "DISSOLUTION NOT PROBABLE BEFORE FEBRUARY", M, 1-1 December 1947 C.S.O. 164/1/47 AOT.

⁴⁸"The Plain Truth", V, 20 March 1948.

⁴⁹ V & P vol. cxxxviii, 1948, p.81(HA)

⁵⁰ V & P, vol. cxxxviii, 1948, p.133(HA)

integrity. Secondly, the council suggested the government no longer had the confidence of the people, and therefore the government should return to gain another mandate. Thirdly, the council believed it had the right to reject money bills under sections 44-45 of the Constitution Act of 1926.⁵¹ In making this statement, Sir Rupert had the support of the Mercury.⁵²

The Speaker of the House of Assembly, Peter Pike, refuted these arguments. First, the Legislative Council did not have the power to amend money bills. Secondly, the amendments suggested would force the government to the people, whereas the "Government holds the confidence of the House of Assembly." Thirdly, the actions of the Legislative Council were unconstitutional. Pike reminded Shoobridge upper houses had not, by tradition, the power to reject "a pure money Bill."⁵³ As such, it is not written down in the statute books, but in a place where traditions are kept alive, it would be nearly as powerful.⁵⁴ There was an attempt to compromise via a Managers' Conference⁵⁵, as is the usual practice when problems arise over supply legislation, but this failed.

⁵¹ V & P, vol. cxxxviii, 1948, p.111(HA).

⁵² 'THE PEOPLE SHOULD SAY'(Editorial), 1 July 1948; 'PARLIAMENTARY CRISIS'(Editorial), 9 July 1948.

⁵³ This was true insofar as it covered the House of Lords. However under section 53 of the Commonwealth Constitution, the Senate can reject supply. David Lidderdale(ed), Erskine May's treatise on the law, privilege, proceedings and usage of parliament, 19th edition(London, 1976), pp.567-8, 806-10; Commonwealth Constitution, section 53; J.R. Odgers, Australian Senate practice(Canberra, 1991), p.565.

⁵⁴ V & P, vol.cxxxviii, 1948, p.101(HA)

⁵⁵ V & P, vol. cxxxviii, 1948, p. 115(HA), Royal Commission into the Constitution Act 1934 Tasmania, p. 13.

The house in possession of the Bill may convene a Managers' conference, and it has also the right to set the objectives. There will be an equal number of representatives from each chamber, although this is not to be greater than four. Both houses nominate the managers, or they are elected by a ballot.⁵⁶ The other house fixes the time and place of the meeting, it is to be held when either or both houses are sitting, and any business being undertaken at the time is to be suspended for the duration of the conference. If the conference is held during an adjournment, they may sit on any day, except Sunday, and for a duration of no more than ten days. The conference may adjourn from time to time, so long as the day it resumes its proceedings is not a sitting day of either house.⁵⁷ The chairman of the house that called the conference only has deliberative powers, and may not have a casting vote.⁵⁸ The managers are to confer freely, and are encouraged to compromise.⁵⁹ The recommendations of the conference go back to both houses through the chairman of the house that called the meeting, who informs the other house the conference's position⁶⁰, or the managers inform their houses no compromise was possible.

In viewing the constitutional crisis of 1948, what can be seen is a case of what should happen as against what occurred. Under ideal conditions, the Legislative Council

⁵⁶HASO 410-12, LCSO 300-2

⁵⁷HASO 413-4, LCSO 303-4

⁵⁸HASO 415, LCSO 305

⁵⁹HASO 416, LCSO 306

⁶⁰HASO 417-8, LCSO 307-8

should have passed the supply bill. Under section 42(2) of the Tasmanian Constitution, the Legislative Council has the power to amend non-money bills, whilst section 43 allows the upper house to return bills, and request amendments be made. Under section 42(1), "The Council may not amend a Bill for an Appropriation Act, a Bill for an Income Tax rating Act, or a Bill for a Land Tax Rating Act." The Legislative Council could not amend the Bill, to do so would be to act contrary to the provisions of this sub-section. Section 44 allowed them to reject all Bills that are tabled.

The power of the Legislative Council in blocking supply, can be clearly shown, by comparing its power with the other five upper houses in Australia. In New South Wales, if a money Bill is not passed within one month, or if an unacceptable amendment is offered, it can be sent to the Governor for Royal Assent. In Victoria, if the Legislative Council rejects a Bill within two months, the Governor may dissolve the Legislative Assembly, but only if it is not within six months of the end of its normal life. If, nine months later, the Bill is rejected again, the Legislative Council is dissolved, but only if one month has passed since the rejection or amendment was offered, and it is nine months after a normal election has occurred. If the Legislative Council rejects the Bill for a third time, the Governor can call a joint sitting of parliament. So long as there is an absolute majority, the Bill may gain Royal Assent. In South Australia, if the Legislative Council rejects the Bill, or offers an unacceptable amendment, the House of Assembly is

dissolved. If the Legislative Council does this for a second time, the Governor can either dissolve both houses, or call two extra writs for each council division, thereby creating thirty vacancies, rather than the normal twenty. As there is no provision for a joint sitting, a majority in the Legislative Council is needed to pass the Bill. At the Commonwealth level, there is provision for a double dissolution, so long as it is not within six months of the end of the House of Representative's normal life. If the Senate again offers an unacceptable amendment, or rejects the Bill, the Governor-General may call a joint sitting, and so long as an absolute majority is gained, the Bill may gain Royal Assent. In Western Australia, as in Tasmania, there is no procedure, however the Council may be dissolved.⁶¹

In an election held under these circumstances, the two most likely topics had to be the right of the Legislative Council to send the government to the people without going itself, and the character of the Premier. The first of these was covered in the policy of Cosgrove. In his election speech, Cosgrove spent the first five pages either extolling the virtues of his own government, or attacking the actions of the Legislative Council. In the opening paragraph, he argued the main issue at the election was whether the government should be allowed to continue to govern

⁶¹Constitution Act 1902 (N.S.W.), s.5A; Constitution Act 1975 (Vic.), ss. 62-65; Constitution Act 1934-1980 (S.A.), ss.60-63; Constitution Acts Amendment Act 1889 (W.A.), s.46; Commonwealth of Australia Act 1901, ss.53-56; Royal Commission into the Constitution Act 1934 Tasmania, pp 174-176.

Tasmania, or the Legislative Council should be allowed adopt these powers for themselves.⁶²

A number of reasons have been suggested why the government was returned. Richard Davis, quoting Cyril Pearl, has suggested the Australian electorate is not repelled by politicians connected with financial scandals.⁶³ Peter Hay has suggested the Liberal Party criterion of honest government was insufficient to change the voting habits of a large number of people⁶⁴, an opinion echoed by the Mercury.⁶⁵ All three of these are correct, in as far as there is the interconnected theme of guilt. The people of Tasmania had been given the option of electing a new government into power. The fact they did not suggests an acceptance of the outcome of the trial.

The more likely reason for the return of the Cosgrove government was the electoral system. The Hare-Clark system of proportional representation, allowed the government to gain less than half of the vote, yet retain office. In 1948, Labor polled 49.38 *per cent* of the total vote, whereas the Liberals managed 37.84 *per cent*, an increase of 3.59 *per cent* from their efforts in 1946. Translating this into seats, it meant the government lost one member in Bass, finishing with fifteen seats statewide, whilst the opposition retained the same number as they

⁶² Policy Speech of the Premier of Tasmania 1948, p.1.

⁶³ R. Davis, Eighty years Labor (Hobart, 1983), p. 47.

⁶⁴ P.R. Hay, 'Problems in the analysis of political corruption', unpublished PhD thesis, University of Tasmania, 1976, pp. 196-197.

⁶⁵ M, 23 August 1948; quoted in Hay, p.198.

possessed in the last parliament.⁶⁶ The Hare-Clark system did allow for the increase in the number of independent members in the legislature, with the inclusion of a new member, Bill Wedd, formerly a Member of the Legislative Council.⁶⁷

The outcome of the election was a return of the Cosgrove Government, but at a cost. The fourth Cosgrove Government came about due to the good will of three independents, the largest number to sit in the house until the election of the Field Labor Government in 1989.

During the nine month period of November 1947-August 1948, Robert Cosgrove survived a Royal Commission, the first Premier of Tasmania to be so investigated; was found not guilty in a trial; and managed to lead his party into an election that was not only close, but was also called early by the Legislative Council, not allowing a Supply Bill through its chamber. At the 31 August election, the people of Tasmania were offered the choice of picking a new leader for Tasmania. But they did not. This may be put down to a willingness to keep with a familiar figure, no matter what his critics had said.

⁶⁶ They picked up one of Labor's seats in Bass, but lost one in Denison to Wedd.

⁶⁷ Scott Bennett, 'Labor under attack, 1947-1948', THRAPP, Vol. 33, No. 2, 1986, pp.78-79.

CONCLUSION

“Unless attending in an official capacity, the Premier goes to football matches and other sporting events just as one of the crowd. He usually chats to the men nearest him. Only by keeping in touch with the people can a leader know what the people are thinking and how they are expressing themselves.”

John Reynolds, ‘Premiers and political leaders’ in A century of responsible government 1856-1956, p. 238.

The first nine years of the premiership of Robert Cosgrove saw the further strengthening of the Labor party in government, two members of the original cabinet investigated by Royal Commissions, the premier tried, and the continued advancement of the HEC. It demonstrated Robert Cosgrove's ability to govern Tasmania under the pressure of a major military conflict.

Cosgrove's work during World War II illustrated his capacity to govern Tasmania during a major conflict. From December 1939 to August 1945, he successfully managed the mixture of war-time and civil work. For this six year period, he helped ensure the safety of the Tasmanian people, particularly in the possible scenarios of enemy attack and invasion. By delegating most of the responsibility of civil defence to successive Directors of the CDL, he was left with more time to carry out the remaining duties. His ability to procure for Tasmania munitions production work shows Cosgrove to have had at least some influence with the government in Canberra.

The introduction of uniform taxation could so easily have been a disaster for Cosgrove. The centralisation of taxation in Canberra, and the government's decision not to appeal to the High Court, could have resulted in a significant decrease in the popularity of the government. By not appealing to the High Court, Cosgrove saved the Tasmanian tax-payers the expense which would have been incurred. It is hard to believe one more State would have made any significant difference.

The period 1942-48 witnessed a sizeable increase in the work and importance of the HEC. All but one of the areas covered came out with an increase over the six years covered.¹ Ranging from 23.96 *per cent* in gross profit, to three hundred and sixty-seven *per cent* for new consumers, the only overall fall, net profit, came about due to the recent removal of subsidised labour, and had already begun to increase in 1947-48.

During the first half of Cosgrove's period as Premier, eight hundred and fourteen Bills were introduced into the House of Assembly, of which five hundred and fifty-three gained Royal Assent, and four hundred and seventeen passed through the Legislative Council without amendment.² A study of the passage of legislation through the parliament illustrates an overall trend in the passage of Bills. With the exception of a slight dip of 0.3 *per cent* in 1941, the rate showed a continual increase until 1945, after which there was a decrease. The increase takes place throughout the duration of the war, and once that is over, there was less of a feeling of urgency. The decrease in passage of legislation in the post-1945 period was due, at least in part, to the two Royal Commissions. The significant drop in 1948 correlates with the view of the Council the government ought to go to the people.

The significant point to come out of the Bills mentioned within this work, which failed to be passed by the Legislative

¹see appendices 1-4.

²see appendices 5-6

Council, is their connection with the Tasmanian Constitution. The upper house, on successive occasions, refused to pass these Bills. When they did, as occurred with the extension of the franchise to returned soldiers, it was only after numerous attempts to do so by the government. This is more remarkable since the study of the statistics shows a general trend towards allowing an increasing *percentage* of Bills to gain Royal Assent during the war. The obvious reason for the actions of the Legislative Council was their view on their place within the Tasmanian Parliament. They saw themselves as the house of review, and any attempt to alter the constitution was seen to be a threat to their authority. Their actions in 1948 can be seen to be a variation on this theme. As a house of review, it was their duty to protect the people of Tasmania from a government which was clearly lacking morality.

The period covered also contained three elections for the House of Assembly. The 1941 election victory was clearly due, in part, to the memory of Ogilvie. He had died two years earlier, and having led the State for almost five years, it would be hard to believe the people of Tasmania would have forgotten him so quickly. The Japanese attack on Pearl Harbour on 8 December certainly did not harm the Labor party's chances of retaining government. By cancelling any further electioneering, Cosgrove was showing concern for the people of Hawaii, an action which illustrates his concern for other people. The outcome-a very comfortable victory for the government-clearly showed the confidence the voters had in

Cosgrove and the other members of the Tasmanian Parliamentary Labor party.

The same cannot be said for the result of the 1946 election. The return of the government with a significantly reduced majority was due, in part, to the recent Royal Commission on Forestry administration. Having a former deputy leader, and one of Cosgrove's original cabinet colleagues, sent to the courts to be tried on two counts of corruption, cast doubt on the government as a whole. Curiously, it helped D'Alton gain a seat in the Legislative Council twelve months later.

This collapse in the polls was extended two years later, when the Legislative Council forced the government to seek re-election. Whilst the actions of the Legislative Council were technically legal, it was a case of using powers which were granted to them, but not expected to be used. The 1948 Tasmanian election stands out as the one occasion when the upper house used such powers, thereby illustrating the enormity of its powers. It is the only chamber in a western democracy to have such powers.

For the most part, the two Royal Commissions which occurred during this eight year period possessed similar attributes. There were only two main differences, these being D'Alton was interstate during the proceedings of the Forestry Royal Commission, and the trial at which his innocence or guilt was to be proven, did not eventuate, and only due to a majority decision made in Victoria.

When the two Royal Commissions in question are looked at in detail, at least five major similarities are evident. The first, and probably the most obvious, is they dealt with money going to members of the cabinet. For D'Alton, this had been Minister for Forests, whilst Cosgrove had been *primus inter pares*. Secondly, both had been sent to stand trial, and neither had set foot in the witness box at their respective Royal Commissions. D'Alton, until recently the inaugural Australian High Commissioner in Wellington, was interstate; whilst Mr Justice Reed decided against having Cosgrove cross-examined for his own good. Thirdly, both were subsequently re-elected to parliament, D'Alton to the Legislative Council, and Cosgrove to the House of Assembly. In both cases, there was an increase in popularity, although this is not as easy to measure in the case of D'Alton, as it is for Cosgrove. They both attest to the notion Australian voters do not take too much notice of the idea of members of parliament being seen to be corrupt, when they decide to whom they are to grant their number one vote. In the case of D'Alton, after contesting the seat of Gordon in 1947, his subsequent unopposed re-elections in 1952, 1958, and 1964 were testament to the voters' acceptance of him, and their noncommittal views on the outcome of the Forestry Royal Commission. Fourthly, both men were charged with corruption. Finally, in both cases, the money was allegedly paid by people employed in private enterprise. This is not surprising, since there is few other groups within society who could make such payments. Today, with the increasing use of lobby groups, there are more

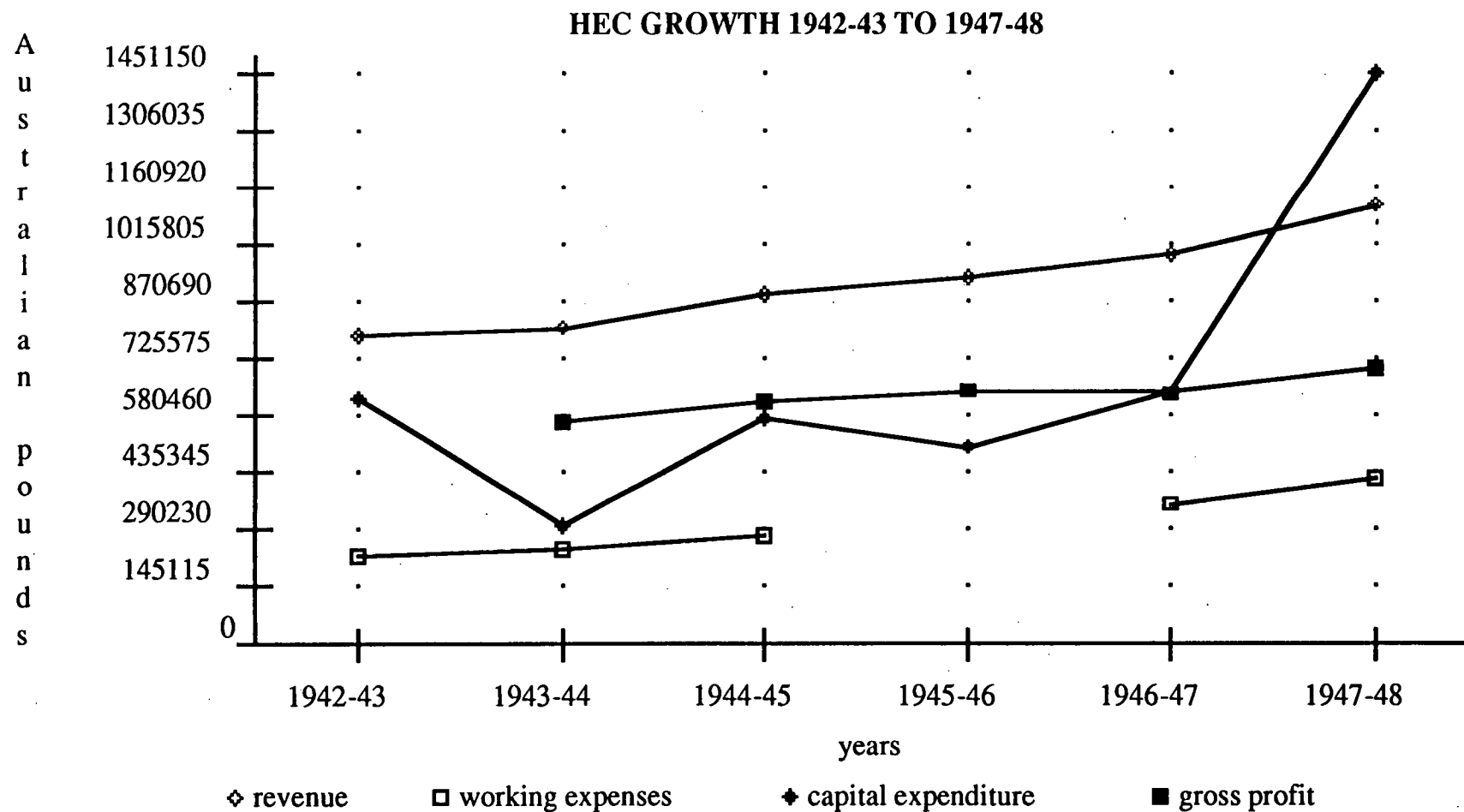
possible sources, although most, if not all of these are private groups.

By being tried, Cosgrove has set a precedent in Tasmania, presuming it was ever required. He was, and still remains the only Premier of Tasmania ever to be tried before a judge and jury. Secondly, as is mentioned earlier, being tried on fourteen counts of bribery, corruption, and conspiracy did not do Cosgrove any harm. A cynic might suggest it is a good way of increasing a member's popularity. Thirdly, and possibly the most important, it illustrated, beyond doubt, the notion no one is above the law. If the head of Government can be tried, so can anybody else.

In Cosgrove, the Tasmanian people had a hard working and accessible premier. A man of the people, he was not afraid to seek out their views. A product of the working class, he was able to gauge the feelings of the people of Tasmania. He showed an ability to govern this state during both war- and peace-time periods, particularly during the former when, after December 1941, there was the ever present danger of Japanese invasion.

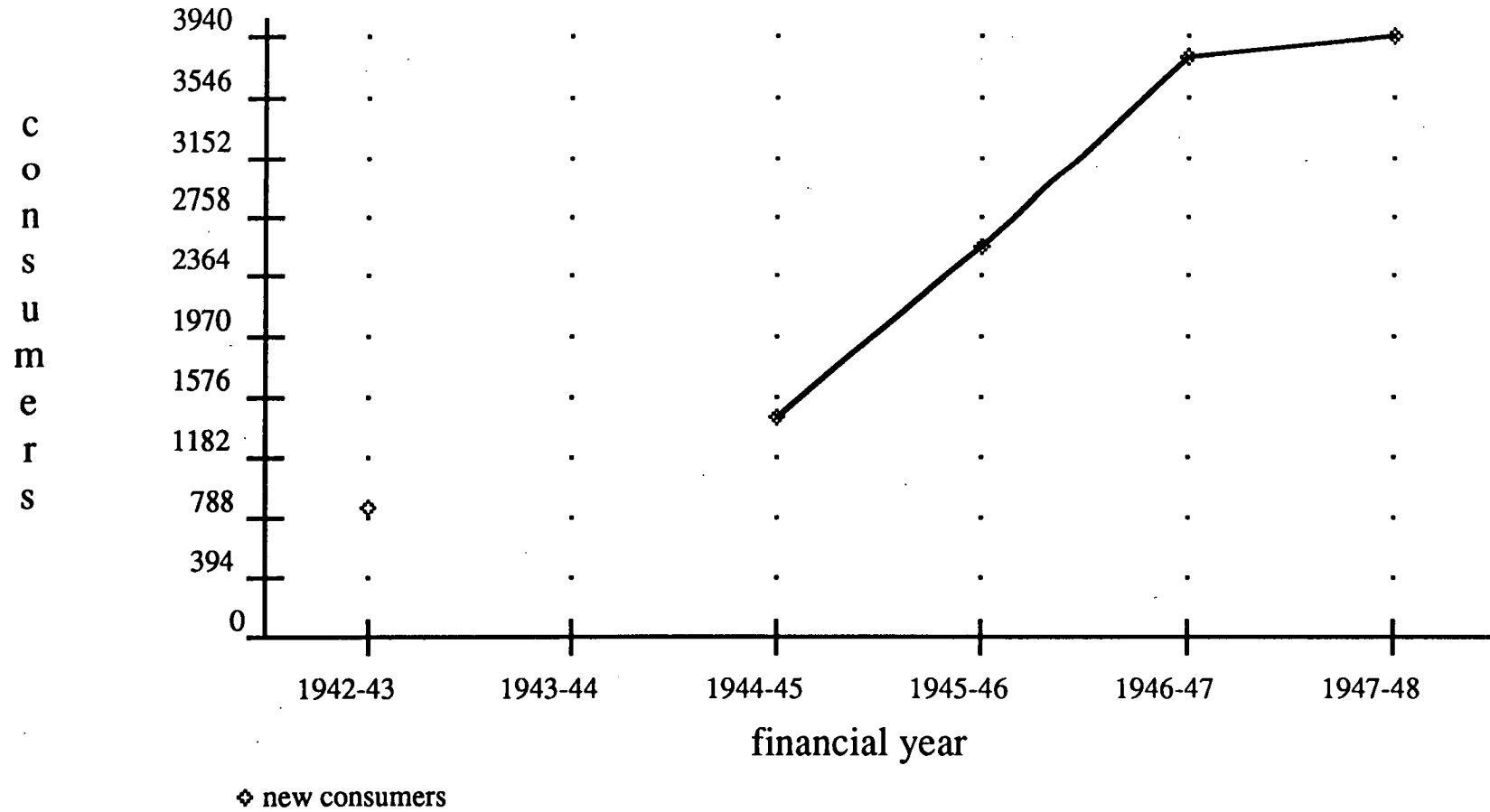
APPENDICES

1. H.E.C. GROWTH 1942/43 TO 1947/48
2. GROWTH IN CONSUMERS 1942-48
3. WORKING AND CAPITAL EXPENSES 1942-48
4. REVENUE, EXPENSES, AND PROFIT 1942-48
5. PASSAGE OF BILLS 1940-48
6. AMENDMENT OF BILLS BY LEGISLATIVE COUNCIL



sources: HEC annual reports 1942-43 to 1947-48

GROWTH IN CONSUMERS 1942-48

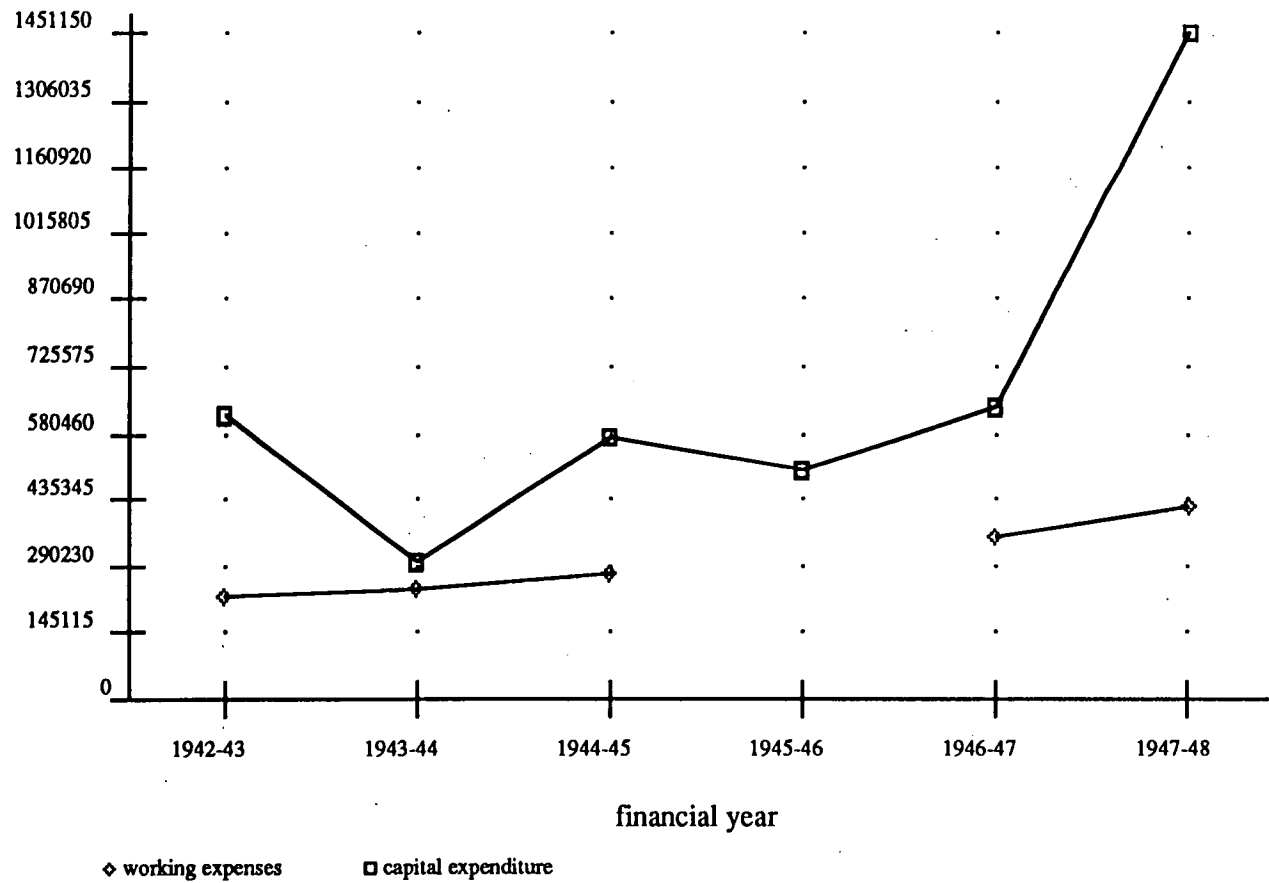


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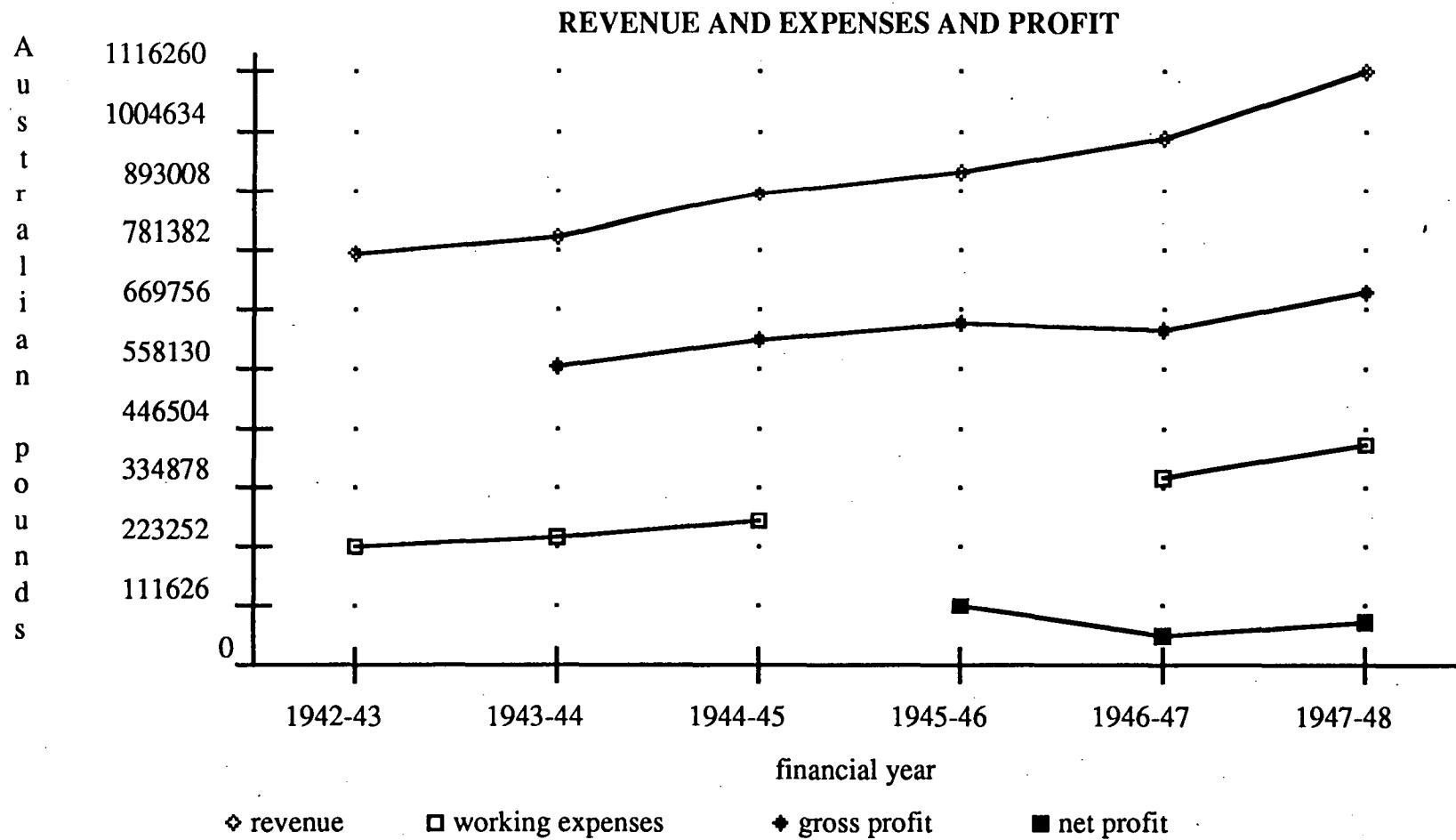
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WORKING AND CAPITAL EXPENSES 1942-48

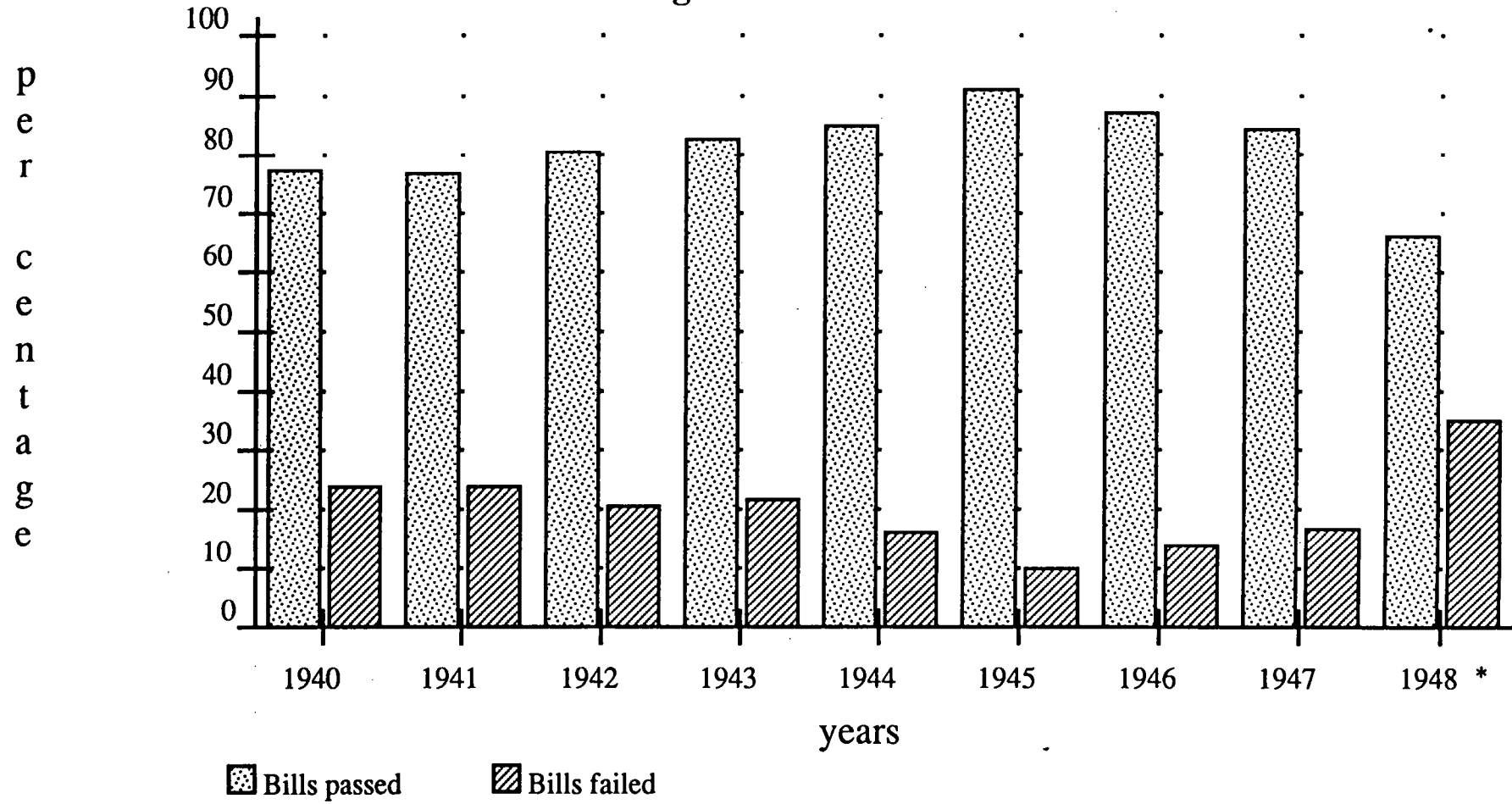


sources: HEC annual reports, 1942-43 to 1947-48



sources: HEC annual reports, 1942-43 to 1947-48.

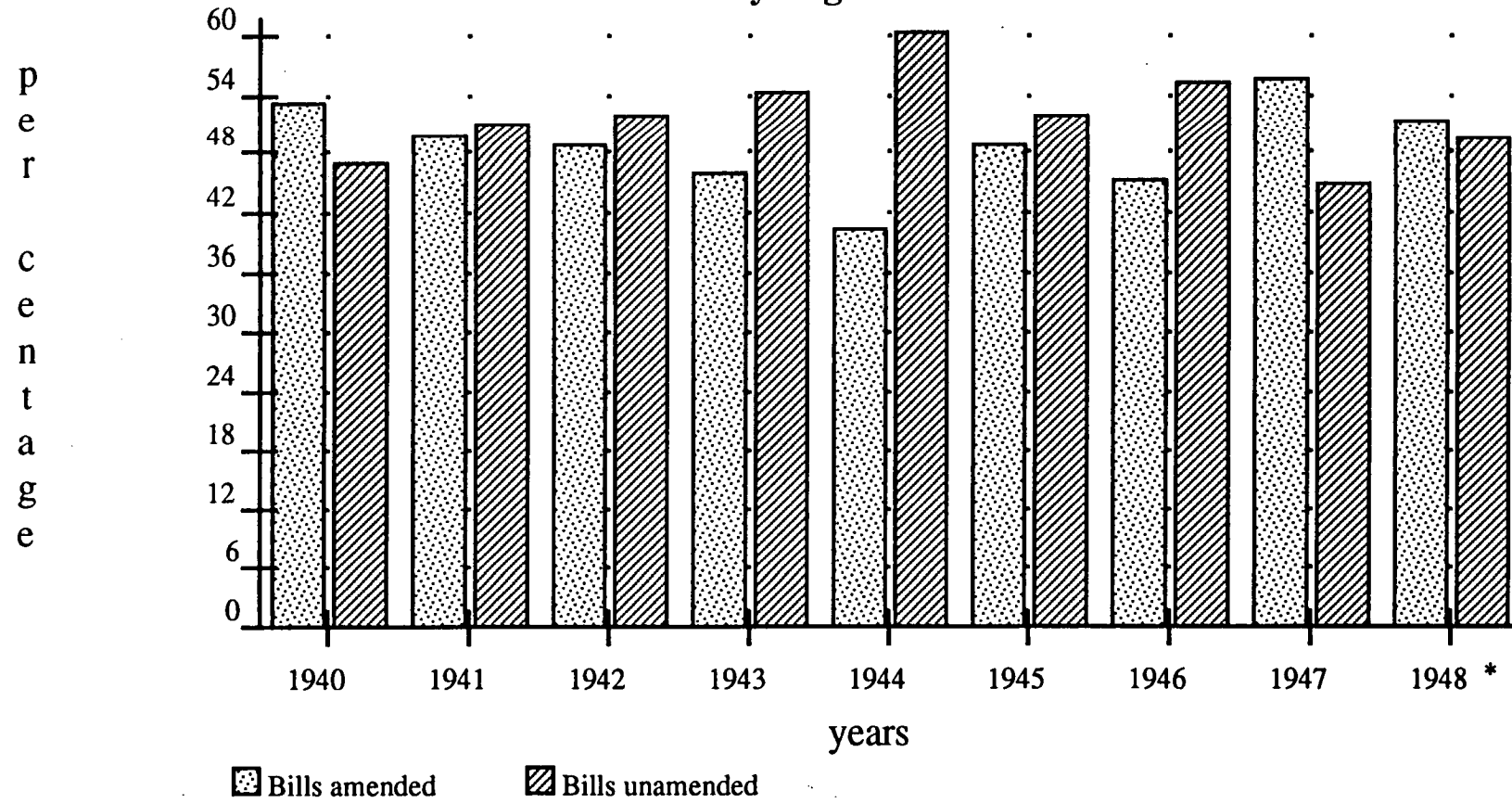
Passage of Bills 1940-48



*to July

sources: V&P, vols cxxii-cxxxviii, 1940-48.

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