

PART B

9. Towards a More Representative Electoral System

Victoria is divided into fourteen metropolitan and eight non-metropolitan electoral Provinces. Under the Constitution Act, the boundaries of the Provinces are established by combining four contiguous Lower House electoral districts. The independent Electoral Boundaries Commission, principally on the basis of population, determines this structure. Each Province returns two members by a system of preferential voting, resulting in a total of 44 members of the Legislative Council. As a result of this structure a nexus exists between the numbers of Parliamentarians in the Upper and Lower Houses : 44 to 88.

What are the Effects of the Present System?

The structure of the present system means that no Independent Member or minor party representative has been elected to the Legislative Council in the past 50 years. Over the same period, it has been common for the Government of the day not to have a majority in the Victorian Upper House. Over the decade-long incumbency of the Cain-Kirner Labor Governments, there was a period of only two weeks where the Government had a majority in both the Legislative Assembly and the Council. The long-running Bolte Liberal Government rarely had a majority in the Upper House. The absence of Independent or smaller party representation has occurred in spite of the modern trend for the community to elect Independents and minor Parties in the Victorian Lower House, and in the Upper Houses of other States and Federally.

Electoral Provinces in Victoria are set out on the democratic basis of approximately one vote one value by the independent Electoral Boundaries Commission. The size of electorates can be varied by up to plus or minus ten per cent from the average figure to accommodate population changes and other community-related factors. Small Parties and Independents are effectively “locked out” from the chance of election to the Upper House because of the size of the Provinces and the need for the candidate to attract 50 per cent of the final vote to succeed. Similarly, where one party or another has a huge majority in one Province, that vote excess cannot be transferred out of that Province. Where a party records less than 50 per cent of the final vote after distribution of preferences in a Province, its supporters are deprived of preferred party representation in the Upper House for that Province. These results are all driven by the current preferential voting system and lead to a perception that the Upper House is undemocratic.

**WD Blackburn,
Footscray,**
The electoral system should not be a simple majoritarian rule, it should reflect the diversity of society and regions within the State

The electoral system itself deprives electors of the opportunity to be represented by parliamentarians who are not members of mainstream political Parties and thus fails to provide the Upper House with variety and diversity in its membership.

The current connection between the Upper and Lower Houses is a product of history. There is a clear electoral convenience in the maintenance of a nexus. The arrangement ensures that all electors in a given Legislative Assembly seat will vote for the same Upper House seat. If there were no such nexus there would be a risk of electors receiving ballot papers for the wrong Upper House Province. However, multi-member (more than two members per Region) Upper House electorates would do away with the need for a direct

link between numbers of Parliamentarians in the Upper and Lower Houses.

During its consultation process, the Commission encountered strong concern from non-metropolitan Victoria that its representation in the Legislative Council should be maintained and should continue to be separate from city representation. The Commission understands and accepts these views.

Should we change to Proportional Representation?

To give a greater and more effective voice to the electors, and to have an Upper House different from the Lower House, it is the Commission's view that there should be a change of election method. The most obvious way this can be achieved is by moving from the current preferential system to proportional representation. This would allow for a broader electoral outcome.

The effectiveness of the proportional system depends upon:

- The model adopted
- Its fairness to all parties and to the public
- Quotas for election
- Practicability
- The culture of the community.

Under a proportional system, electors return Members of Parliament in approximately the same proportion as the votes received. If a particular party received 45 per cent of the vote, that party would gain 45 per cent of the Members of the Parliament. The accuracy of the allocation is determined by the number of Members to be elected in a given electorate. Where the number is large, as in New South Wales, the proportion of votes to Members elected is relatively close because of its "whole of State" electorate. Proportional representation systems are also characterised by multi-member electorates. A consequence of this arrangement is that less dominant Parties and individuals have an increased chance of being elected because the greater the number of candidates the smaller the proportional "quota" for election.

Proportional representation is used for election to the Australian Senate and the Upper Houses of all other Australian States except Tasmania, where it is used for election to the Lower House. It is the Commission's view that a change to the proportional representation system in Victoria will result in a more representative Upper House and will enhance both its review and accountability functions.

Sareh Aminian, Melbourne
Proportional Representation reflects more closely the various voting strands of community opinion and is less amenable to being used as a rubber stamp by the government of the day.

Country Women's Association of Victoria
The role of the Legislative Council as a House of Review could be strengthened by election by proportional representation giving minor parties and independents more opportunity of election.

As John Stuart Mill said in his *Considerations on Representative Government* (1861):

In a really equal democracy, every or any section would be represented, not disproportionately, but proportionately. A majority of voters would always have a majority of the representatives; but a minority of the electors would always have a minority of the representatives. Man for man, they would be as fully represented as the majority.¹⁴

Modern writers on the subject are virtually unanimous in supporting that principle, which remains as true today as it was then.

¹⁴ John Stuart Mill, *Considerations on Representative Government*, Oxford World Classics, page 303