

## PROPORTIONAL REPRESENTATION SOCIETY OF AUSTRALIA (VICTORIA-TASMANIA) INC.



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To members of the Parliament of Victoria

### Filling of a Victorian Upper House Casual Vacancy by a Nominee of the ALP National Executive

The failure of [Section 27A](#) of Victoria's *Constitution Act 1975* to provide for the impartial and efficient filling of casual vacancies in Victoria's Legislative Council has been revealed by the hasty, makeshift expedient that the Labor Party is [reported to be resorting to](#) in deciding that its [National Executive](#) will nominate the [party member that will fill the seat](#).

The Proportional Representation Society in 2003 [had drawn to the attention of](#) the Bracks ALP Government, and to the then Liberal Opposition, that the only fair and [direct](#) way for the voters to be the people that make the decision on who the replacement MLC will be was to provide for the [countback](#) system long used in Tasmanian proportional representation elections and since adopted in the Australian Capital Territory and even for PR municipal elections in Victoria. A similar direct election system fills WA Upper House casual vacancies as a result of that State's constitutional requirement for the direct election of all its MPs.

Unfortunately in Victoria when the present system was enacted, the Liberals, despite their recent reported claim that "Southern Metropolitan voters will be shocked to be denied a by-election", [agreed with Labor](#) in preferring a system where the parties - rather than the voters - decide who the replacement MLC will be.

The dangerous looseness of the present provision for filling Upper House casual vacancies has been starkly revealed. For the first time in Australia, a State MP will owe his or her position not to the voters that elected the vacating MP, or even to the State Branch of the relevant political party, but to a party's **National Executive**, which should have no such control or influence on the composition of either house of a State Parliament. A similar provision for the Senate has also revealed [serious weaknesses](#).

It is a shameful event for Victoria that this new appointment will be the first time since 1856 that a person not elected by the people of Victoria will sit in either house of Victoria's Parliament.

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