



## Summary of Judgment

### *DIANA ASMAR & ORS v The Honourable ANTHONY ALBANESE & ORS*

[2022] VSCA 19

25 February 2022

In June 2020, after media reports of ‘branch stacking’ within the Victorian branch of the ALP, the leader of the Parliamentary Labor Party in Victoria requested the National Executive of the ALP to intervene in the Victorian branch.

Consequent upon that request, the National Executive of the ALP passed a series of resolutions. It appointed Steve Bracks and Jenny Macklin, and later an interim governance committee, to take over the conduct of the Victorian branch’s affairs. It amended the branch rules. By a resolution passed on 4 May 2021, the National Executive resolved that it would conduct the pre-selections for 22 federal seats in Victoria for the forthcoming federal election.

Certain Victorian ALP branch members and affiliated unions instituted this proceeding seeking to have the National Executive’s resolution concerning the pre-selections declared invalid. The proceeding was heard in the trial division by Ginnane J.

The trial judge dismissed the proceeding. He decided that, with the exception of one claim concerning the branch’s trust property, the court would not adjudicate upon internal disputes within a political party. He did so relying upon a 1934 decision of the High Court, which also concerned the Victorian ALP, *Cameron v Hogan*. The trial judge went on to find that the claims made would have failed in any event because the Victorian branch of the ALP is bound by the ALP’s National Constitution, and the National Executive had power under the National Constitution to act in the way it did.

Some of the Victorian ALP members and unions who brought the proceeding then sought leave to appeal to the Court of Appeal.

For the reasons published today, the Court of Appeal (T Forrest and Whelan JJA and Forbes AJA) dismissed the appeal.

The Court of Appeal determined that the trial judge was correct in his conclusion that the Victorian branch of the ALP is bound by the ALP’s National Constitution, and that the National Executive had power under the National Constitution to act in the way it did.

The Court of Appeal determined that the pre-selection dispute was one upon which the courts would adjudicate. It did so on the basis of legislative changes which have occurred since *Cameron v Hogan* was decided in relation to the recognition and public funding of political parties. In this respect, the Court of Appeal differed from the trial judge, but that difference did not alter the result.

The Court of Appeal granted the applicants leave to appeal, but the appeal was dismissed.

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**NOTE:** This summary is necessarily incomplete. It is not intended as a substitute for the Court's reasons or to be used in any later consideration of the Court's reasons. The only authoritative pronouncement of the Court's reasons and conclusions is that contained in the published reasons for judgment.