



**The South Australian election:
Implications for democracy in the
Festival State**

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Discussion Paper 12/06 (April 2006)

Eight more years?

By most measures the result of the South Australian election on 18 March 2006 represented a decisive victory for Mike Rann's Labor government, and one that provides a foundation from which the party can govern for at least the next eight years. Labor stormed out from the shadows of minority government to win 28 of the 47 seats in the House of Assembly, a net gain of six seats, and saw many of its own marginal seats move firmly into the 'safe' category with 21 of the 28 seats being won with a two-party preferred vote in excess of 60 per cent.¹ Across all House of Assembly seats Labor received 45.2 per cent of first preference votes and 56.8 per cent on a two-party preferred basis, in both instances a significant shift compared with the result in 2002. (See table below)

Table 1. House of Assembly Vote and seats won 2002 and 2006

	2002			2006		
	1 st Pref.	2PP	Seats	1 st Pref.	2PP	Seats
ALP	36.3	49.5	23*	45.2	56.8	28
Liberal	40	50.5	20	34.0	43.2	15
Democrat	7.5		0	2.9		0
Greens	2.4		0	6.5		0
Family First	2.6		0	5.9		0
Other**	11.2		4	5.5		4

* Includes the Member for Mitchell Kris Hanna, who left Labor in 2003 to join the Greens. He then stood successfully as an Independent in 2006

** Includes Independents and National Party

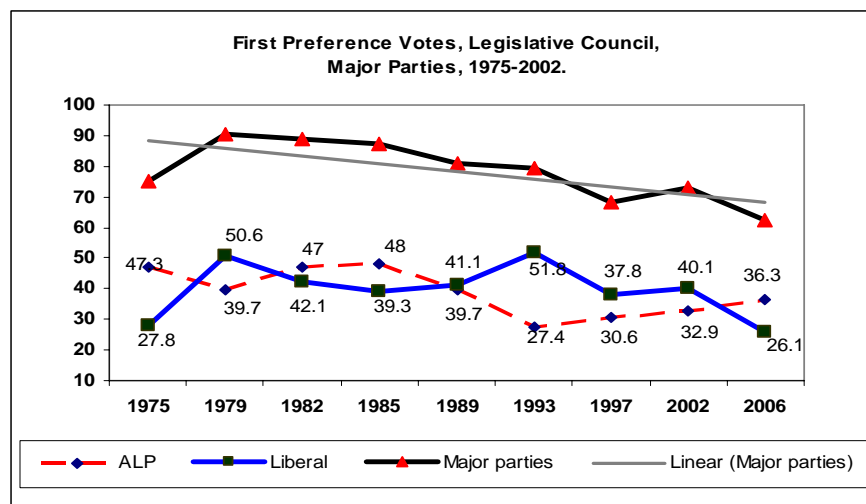
However, whether this vote translates into an eight-year term may depend on the independent Electoral Districts Boundaries Commission. South Australia has a unique electoral system that requires electorate boundaries to be redrawn after each election to ensure that the party winning more than 50 per cent of the state wide two party preferred vote will also win more than 50 per cent of the seats and thus form government. In practical terms the independent Commission that undertakes the redistribution has no alternative but to take the results of the past election as the basis for determining what is likely to produce a 'fair' result in four years time. However the Commission has also determined that 'the major party not elected to

¹ See State Electoral Office South Australia 'House of Assembly successful candidates, affiliation, seat status, votes after distribution of preferences'. Available at <http://www.seo.sa.gov.au/apps/uploadedFiles/news/281/elected.pdf> accessed 7 April 2006

government should hold 12–15 seats with a safe margin’. This is based on the adoption of the ‘6 per cent to lose figure’ as a cut-off point and meant that the recent election 18 seats were regarded as ‘marginal’.² If the Commission retains this approach we can expect the electoral map to be redrawn. The Commission will also be required to deal with the question of how to treat the votes of Labor’s Independent Liberal and National Party coalition partners when they come to set the basis for a ‘fair result’ in 2010.

A Split vote, or the ‘X’ factor?

The decisiveness of Labor’s victory in the House of Assembly was, however, matched by the decisiveness with which voters moved away from the major parties in the Legislative Council. There has been a clear, if slow trend to minor parties and Independents since the end of the 1970s which suggests that voters are prepared to hedge their bets, or at least their votes, to in effect apply some restraint to governments through the upper house. This trend is shown in the graph below.



On March 18 almost 40 per cent of South Australian voters turned their backs on the major parties to give four of the eleven seats contested in the Council to minor parties and Independents. The dramatic acceleration in the move away from the two major parties in this election can of course be explained by the size of the vote for ‘No Pokies’ independent Nick Xenophon which made up half of the this total and two of the seats.

In the lead up to the election it appeared that preference deals would see Xenophon stranded, however, and somewhat ironically, they may have helped push him towards his record vote.

² 2003 Report of the Electoral Districts Boundaries Commission 20 March 2003 available at <http://www.seo.sa.gov.au/apps/uploadedFiles/news/205/Report.pdf> accessed 30 March 2006

In common with other State upper houses and the Australian Senate, South Australia has a system of ‘above the line voting’ or ‘ticket voting’ which allows the parties to lodge a how-to-vote card which becomes the template for the distribution of preferences of those voters who choose to simply place a ‘1’ in the square opposite the party they wish to support. Ticket voting has the virtue of reducing the high level of informal voting that might occur when a requirement to number every square is combined with a large number of candidates.

However, what was a reform which was introduced with the best of intentions has created a process of barter and exchange of preferences between the parties that, at best, resembles the official trading period prior to the AFL draft and, at its worst, the less savoury excesses of number crunching machine politics. As over 90 per cent of voters take the easier above the line option, ticket voting has become fertile ground for the budding Machiavellis in the party head offices as it delivers the certainty that they can precisely direct preferences.³ And they do so quite ruthlessly, either to gain advantage in key House of Assembly seats, to reward minor parties who have supported them, or to punish others that have made life difficult.

On 18 March, Labor preferred the Greens and, somewhat controversially, Family First ahead of the Democrats. Given the expectation that the Greens would be elected to the last available seat, Family First did not receive any great favour but they certainly offered Labor a large bonus in return. In four Liberal marginal House of Assembly electorates Family First surprised the parties, and commentators, by offering split tickets – something once commonly the choice of the Australian Democrats. The move confounds opinion which readily associates Family First with the right and signalled to the Liberal Party that this party’s preference allocations in both house cannot be taken for granted. This was interesting given the Liberal Party’s decision to preference Family First ahead of the Democrats. However, in light of the Liberal’s poor showing in the Legislative Council vote, it is unlikely that even had they preferred the Democrats this would have made any difference to the ultimate outcome.

The preference deals also starkly drew attention to the question of whether the Australian Democrats are in terminal decline. Labor’s rejection of the Democrats was, in part, a result of growing animosity between the parliamentary leaders, but also a hard-headed assessment that their dwindling support in the polls meant that they had little to offer. Similarly, despite polls that suggested that Xenophon’s relentless publicity seeking and championing of

³ In 2002 91.8 per cent of voters chose to mark their ballot papers ‘above the line’. However, these votes represented 97.1 of total formal votes which both demonstrates the ‘problem’ that the system seeks to address, and the certainty it provides to those negotiating the allocation of party preferences. See State Electoral Office South Australia *Statistical Returns for the South Australian Election 9 February 2002*. Available at http://www.seo.sa.gov.au/archive/2002/statistical_returns.phtml (accessed 7 April 2006)

underdog causes might see him home, both the major parties took the view that he also had nothing to offer. There was no ‘Xenophon Party’ that could deliver preferences in Assembly seats, so he was well down the list on both their tickets, a fact that he used to great effect during the campaign to reinforce his claim to the role of the ‘honest broker’ of South Australian politics. Clearly a large number of voters (20.6 per cent) agreed with him. He not only became the first Independent to be returned to the Legislative Council for more than half a century, but also won more than enough votes to take a running mate in with him.

The Legislative Council takes centre stage

Labor’s comfortable majority in the Assembly was balanced by its remaining in a minority in the Legislative Council. The vote for the Council also saw significant realignments among the minor parties, as well as Xenophon’s astonishing win. The decline of the Australian Democrats as a ‘third force’ continued, with the Greens replacing them on the left of politics with their first South Australian electoral success. Family First confirmed that, in retrospect, their surprise result in 2002 represented the advent of a significant minor party occupying ground to the right of centre, winning a further seat in the Council and driving hard bargains for their preferences in the Assembly.

The ‘Xenophon Phenomenon’ also saw his running mate Ann Bressington elected to Parliament. Xenophon later said that he had convinced her to join his ticket after assuring her that she need not worry about winning.⁴ Bressington managed to garner a mere 32 primary votes and, with an eight year term, the first four as a key player in the balance of power, attention turned to what political values she holds. Here little is known except for her work as an anti-drugs campaigner and some association with the Festival of Light which, in 2000, saw her appear before the House of Representatives Standing Committee on Family and Community Affairs.⁵ Nevertheless, the democratic process saw elected to an eight year term a person entirely unknown to the South Australian electorate. It might be argued that this is little different to any of the candidates chosen by their party to occupy a place on ‘the ticket’ However, the established policies, known attitudes and disciplines of political parties do at least provide votes with guideposts, and some certainty, as to how candidates might perform. On the other hand Xenophon stated that he is ‘no party’ and that Bressington was free to vote as she feels fit.

⁴ *The Australian* 31 March 2006

⁵ Christian Kerr, ‘One Family First, one No-Pokies – and one Fred Nile MLC’?, *Crikey.com.au*, 22 March 2006

The first preference votes received by these parties, the indicative quota this vote represented, the result in terms of seats, and representation in the ‘new’ council are shown in the table below.

Table 2. Legislative Council vote and seats won 2002 and 2006

Party	First Preference vote (per cent)	Indicative Quota	Seats Won	Seats Held
ALP	36.6	4.39	4	8
Liberal	26.0	3.12	3	8
Ind. No Pokies	20.5	2.46	2	2
Family First	5.0	0.6	1	2
Green	4.3	0.51	1	1
Democrats	1.8	0.21	0*	1
Other Parties and Independents	5.8			

*Democrats held 3 seats in the ‘old’ Council, 2 of which were being contested at the March 18 election. This means that the Democrats result effectively means a loss of 2 seats.

The new chamber indicates that while Labor was triumphant in the lower house race the make up of the upper house presents some difficulties ahead. With eight members Labor falls well short of a majority. The electoral preference deals with the Greens suggests a basis for parliamentary cooperation, however, with his extraordinary vote Xenophon might be expected to demand more for his support. The government’s relationship with the Democrats has become increasingly acrimonious and Bressington is a totally unknown quantity.

On the other hand, Family First’s two members, the newly elected Dennis Hood and continuing member, Andrew Evans, are not hostile to much of what is, after all, a conservative Labor Government. Predicting where difficulties may lie for the Government at this juncture is difficult but whatever transpires it is sure to frustrate Ministers keen to press on with their legislative programs.

Reform or abolition: future uncertain for the state’s upper house

These results alone would have been enough to ensure that the Legislative Council would move to the centre stage of South Australian politics during the next four years. It is even more likely now as it comes against the backdrop of a pre-election pledge by the Premier to make the future role, structure, even continued existence of the Council a matter for debate,

and ultimately a referendum. The announcement of the Premier's plan for the Council came after a period of frustration for the government at the end of 2005. As well as the usual delays to legislation that come with being in a minority, Labor also faced a number of inquiries by Select Committees dominated by members from the Opposition and the minor parties. In particular, the Council insisted on its own investigation into the Government's handling of allegations that the Attorney General and a senior advisor to the Premier were implicated in offering government board positions to a former deputy leader of the Labor Party, in return for his settling a defamation action. Other inquiries covered the Attorney's role in (flawed) financial management processes within his department, and the government's handling of electricity pricing.

For the Premier the upper house was 'dysfunctional' and was being 'used and abused for base politicking at its worst'.⁶ His solution was a referendum to be held in conjunction with the 2010 election at which voters would be asked whether they favoured total abolition, significant reform, including cutting the number of legislative councillors and reducing their terms, or no change. Speaking at the declaration of the Legislative Council poll Premier Rann opined that the result polls suggested 'overwhelming support for the reform of the upper house' and that a referendum would 'give people a choice of keeping the upper house as it is, substantially reforming the upper house with a reduction in the number of MPs and also four-year terms rather than eight-year terms'. He also again canvassed the idea of abolishing the upper house.⁷

There had already been a process of examination of the role of the Council by way of the deliberative democracy-style Constitution Convention held in 2003.⁸ That exercise called for the retention of the system of checks and balances provided by the upper house, although with the terms of members reduced to four years. The likely outcome is, at this stage uncertain, although there appears to be a consensus developing for some degree of change. The minor parties and Nick Xenophon have, unsurprisingly, ruled out abolition, although they have left open the question of reform and a shorter term. Xenophon, arguing that one

⁶ *The Advertiser*, 24 November 2005

⁷ *The Australian*, 4 April 2006

⁸ See Clement Macintyre and John Williams, 'Lost Opportunities and Political Barriers on the Road to Constitutional Reform in South Australia', *Australasian Parliamentary Review*, vol 20(1) 2005, pp. 103-116 and Clement Macintyre and J. Williams (eds), *Peace Order and Good Government: Constitutional and Parliamentary Reform*, Wakefield, Adelaide, 2003. Also *Constitution Convention South Australia Deliberates: the future of our Parliament*. Final Report to Parliament October 29 2003 pp 41-43 available at http://www.constitutionalconvention.sa.gov.au/pdf/finalreport/final_report.pdf accessed 7 April 2006

⁹ See Section 10A Constitution Act 1934 available at <http://www.parliament.sa.gov.au/Catalog/legislation/Acts/c/1934.2151.htm>

referendum deserves another, has suggested that voters might also be asked their views on poker machines.

A further uncertainty may arise from the provisions of the Constitution Act regarding the requirement for a referendum should legislation be introduced to abolish the Legislative Council, or amend its powers. The relevant section implies that the voters would be required to decide on a single question, namely whether the 'Bill' should be approved and receive Royal Assent.⁹ If the government is in fact considering a plebiscite any decision involving change would then require a further referendum.

Will the 'experiment' continue?

The re-election of the Rann government will see the continuation of a strangely constructed, but hitherto stable and effective coalition of Labor, an Independent Liberal, and the parliament's only member elected under the banner of the National Party. The Premier has honoured the commitment he gave when they entered Cabinet, that they would retain their places if the government was returned, regardless of the balance of seats in the parliament.

Re-election may also mean the continuation of the 'experiment' of the appointment of unelected members from outside parliament to sit on committees within the cabinet system. During its first term Rann brought Robert Champion de Crespigny and Monsignor David Cappo into the Executive Committee of Cabinet which has charge of implementing the government Strategic Plan. Both had earlier been appointed to chair key government boards, de Crespigny Economic development, and Cappo, Social Inclusion, and both exercised considerable *de facto* executive authority, often to the discomfort of public servants. However de Crespigny has left Adelaide to pursue business opportunities in the UK and Cappo has been criticised by Catholic members of the Opposition for being too close to Labor. The appointment of these influential individuals, and the prospect of Tim Flannery, who chairs the Premier's Roundtable on Sustainability, also taking up a similar role, points to a definite experimentation with governance in South Australia. The extent that it embeds a presidential modification to Westminster tradition will become clear in this term. To date, bringing in 'outsiders' to push specific agendas, challenge the public sector, and help convince the voters that action is being taken and 'results' achieved, has been a feature of Premier Rann's approach to public policy. The personnel may change over the next four years, but the approach will almost certainly remain the same.