



Rethinking Westminster: South Australia's cabinet experiment

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Australia's political culture is intensely adversarial. Historically, a winner-takes-all approach is the dominant characteristic usually displayed by parties that win elections.

This paper explores a rare departure from this: the appointment of two non-Labor members to a Labor cabinet in South Australia, and the events leading up to it, based primarily on a series of interviews with the leading players. The significance of the move is not so much in its occurrence, however unusual, as in the terms and conditions of the appointments which represent an effective rewriting of the Westminster model.

The 2002 election in South Australia left neither major party with a majority in the 47-seat House of Assembly – the ALP winning 23, the Liberals 20, three independents and a National. The Liberal Party had been in office since 1993, but since the 1997 election, defections from the party had forced the government to rely on three independents and the lone National. Stability was elusive and minority government was becoming the norm. In the previous decade and a half there had been only four years when the government was able to command a clear majority on the floor of parliament.¹

Despite their losses, the Liberals had expected to retain office with continued independent support, but this expectation was shattered when former Liberal Peter Lewis announced his support for Labor, signing a compact that pledged progress towards significant changes to government as well as addressing 'the urgent needs of rural South Australia'. Strangely, the Liberals had earlier signed the same compact with Lewis.

Notwithstanding this unexpected defection, Liberal premier Rob Kerin sought to retain government, opting to test the numbers on the floor of parliament only to lose a confidence vote which saw a former Liberal minister turned independent, Dr Bob Such, abstain, presumably to enable a clear vote rather than have the Speaker use his casting

¹ Haydon Manning, 2002, 'South Australia, January to June 2002', Political Chronicles, *Australian Journal of Politics and History*, Vol 48, No 4, December, p. 576.

vote. Labor took office with Lewis as Speaker. Both Such and Lewis said their actions were motivated by the need for stable government.²

Lewis proved to be highly erratic, and the government explored other ways of shoring up its numbers, opening talks with the independents. In December 2002, premier Mike Rann announced that he had created a new portfolio, trade and regional development, which had been accepted by the independent member for Mount Gambier, Rory McEwen, a former member of the Liberal Party who had stood for the seat and won it in 1997 after missing out on party pre-selection. It not only took the Liberals by surprise, especially since McEwen had supported Kerin in the confidence vote, but also cabinet and the ALP caucus, which apparently had not been consulted.³ A senior figure in the South Australian ALP explained the move to the author this way: ‘From the party’s point of view, it was most important to secure government. There was no debate about that. If anyone was unhappy, they kept it to themselves’.⁴

The government for the time being was not wholly reliant on the unpredictable Speaker for support, but its survival was still far from guaranteed. Just over 18 months later, Rann again moved with unexpected boldness by appointing to cabinet the lone National in the parliament, Karlene Maywald⁵, member for Chaffey in a new portfolio of the Murray River—an astute move as the economic lifeblood of this rural Riverland electorate is highly dependent on the Murray. Like McEwen, Maywald had also voted for the Kerin government in the confidence motion in 2002. Andrew Parkin has described her joining the government as ‘a surprising and even shocking step’.⁶

² *The Australian*, 2002, 16 February; *The Advertiser*, 2002, 13 April.

³ Haydon Manning, 2005, ‘Mike Rann: A Fortunate King of Spin’, in John Wanna and Paul Williams, *Yes, Premier: Labor Leadership in Australia’s States and Territories*, Sydney: UNSW Press, p. 212.

⁴ It was a measure of Rann’s growing authority in the party that he was able to execute the move without criticism. It was emphasised to Caucus that these were new portfolios created for the purpose.

⁵ Alliance between the ALP and the Nationals (formerly Country Party) is not entirely unknown, the ALP having supported minority Country Party governments in Victoria in 1935-43 and again 1950-52, in return for concessions. A member of that government was former Labor Premier, Ned Hogan, who had been expelled from the ALP over the Premiers’ Plan controversy. He was returned as an independent Labor candidate and invited into the Cabinet, subsequently joining the Country Party.

⁶ Andrew Parkin, 2005, ‘South Australia, July to December 2004’, *Political Chronicles, Australian Journal of History and Politics*, Vol 51, No 2, June, p. 303.

It was a political masterstroke by the premier, but one that was driven entirely by the imperative of political survival. Maywald, elected in 1997, was a highly popular local member in a conservative rural electorate which she had taken from the Liberals, and speculation was rife that she would quit State politics to run for the Liberal-held federal seat of Barker at the 2004 election, where she was seen as having an excellent chance of winning.⁷ The very real danger for the Rann government if this scenario unfolded was the likelihood that Chaffey would return a Liberal member at a by-election, making the numbers in the House of Assembly tighter and taking the Liberals one seat closer to office at the next election.

The inclusion of the two non-Labor ministers was the first time the ALP had brought ‘outsiders’ into a Cabinet since Labor prime minister Chris Watson made Henry Bournes Higgins attorney-general in his short-lived 1904 Commonwealth government. To clinch the deal, premier Rann provided agreements that enabled them to opt out of the principle of collective responsibility and Cabinet solidarity on certain issues, and not be required always to vote with the government. This is quite different from the convention of collective responsibility associated with the Westminster system. The privileged position of the non-Labor ministers was further underlined by the premier's promise that, should Labor retain office in 2006, they would be guaranteed places in the cabinet, no matter if Labor had a majority or not. In effect, this gave them security of tenure that not even the premier himself had, having to be re-elected, like his other ALP ministers, by caucus.

As it turned out, Labor won a comfortable majority in its own right at the 2006 election, gaining 28 seats against 15 for the Liberals, one National and three independents. The agreement with the two non-Labor ministers was honoured.

The agreements signed represent some of the most significant departures—‘remarkable and possibly unprecedented’⁸—from the Westminster system yet enacted anywhere, and are contained in an extraordinary document drawn up by the late Bradley Selway, then

⁷ *The Age*, 2004, 23 May.

⁸ Parkin, ‘South Australia, July to December 2004’, p. 304. The agreement with Karlene Maywald may be seen at <http://www.sa.nationals.org.au/pdf/KMRannagreementAug2004.pdf>

South Australia's Solicitor-General, later a Federal Court judge.⁹ Clause (E), for example, states:

The Premier and the Minister agree that the Minister will have a special position in Cabinet in that, by reason of his/her non-affiliation with the Labor Party, there is a class of issues in respect of which it will not always be possible for the Minister to be bound by a Cabinet decision...

Clause 2.7 exempts the minister from having to comply with Labor policies in relation to:

- significant matters affecting the business community; and
- issues believed to be matters of conscience.

Further, clause 4.1 prevents each minister from giving advice directly to the Governor except with prior approval of the premier, while 5.2 absolves each from having to support the government in parliament on matters over which they have absented themselves from cabinet and votes on issues about which they have previously advised the premier.

The inclusion of non-Labor members in the cabinet is not the only experiment under way in South Australian governance. Mike Rann has also departed from tradition with the appointment of unelected members from outside parliament to sit on committees within the cabinet system, something aptly described as 'a presidential modification to Westminster tradition'.¹⁰

Maywald's decision to accept a portfolio, which she did after careful consultation with both McEwen and her South Australian Nationals officials, provoked a storm of indignation elsewhere in conservative ranks, with Federal Liberal MP Patrick Secker branding her a 'traitor' and calling for a corruption inquiry into the appointment,¹¹ strong

⁹ Also author of *The Constitution of South Australia*, 1997, Annandale, NSW: The Federation Press.

¹⁰ See Geoff Anderson and Haydon Manning, 2006, *The South Australian election: Implications for democracy in the Festival State*, Discussion Paper 12/06 (April), Democratic Audit of Australia, <http://democratic.audit.anu.edu.au/>

¹¹ ABC radio, 2004, 'PM', 23 July.

pressure from the Nationals' federal organisation and even moves to seek to have her disaffiliated.¹² For a short time, the South Australian party removed itself from the Nationals' fold but subsequently returned.¹³ A planned conference in Adelaide of all Nationals' MPs was cancelled without explanation.

The issue of non-Labor ministers in the government has never been one of any real significance to the electorate at large, as both the ministers and Labor MPs attest. Karlene Maywald suggests people are more interested in seeing a good job done in government than caring very much about which badge it wears; issues take precedence over ideology. 'I represent a conservative electorate and support conservative government, but believe that for the stability of the State we should work with the government of the day if we want to get anything done', she says on her website.¹⁴

Her electorate appears to have sided with her emphatically, as she increased her margin significantly at the 2006 election with her primary vote climbing from 49 per cent to 53 per cent¹⁵. McEwen, however, suffered a reduced vote in Mount Gambier, which he attributes to a hostile local media and a 'dirt campaign' mounted against him by the Liberal Party, even calling him a paedophile. He has announced that this will be his final term in parliament.

Both ministers have exercised their right of dissent on a number of issues, most notably over industrial relations; both say this had not affected their positions in any way and that the agreements have been honoured in the spirit as well as the letter. They pay tribute to Rann's consensual style, noting that cabinet has not taken a vote since they joined. It is interesting to speculate on the extent to which the move has 'de-politicised' cabinet as the supreme political decision-making body. One senior Labor figure shrugged this off with the comment: 'State politics is not about ideology any more; it's about managerialism'.

¹² The author interviewed both Mr McEwen and Ms Maywald for this paper as well as a number of other political figures. Most of those interviewed spoke on a background basis and not for attribution.

¹³ Parkin, 'South Australia, July to December 2004', p. 303.

¹⁴ <http://www.sa.nationals.org.au/member.asp>

¹⁵ The result blunted earlier criticism by the Liberals of Maywald's appointment. Federal Liberal MP Chris Pyne said at the time that he expected her electorate to be 'outraged'. (ABC radio, 'PM', 23 July 2004).

The unusual appointments in the usually tribal Labor Party not only brought breathing space for Labor in the previous parliament, but they given the Rann government a broader community base than it would otherwise have, with senior Labor figures conceding that Maywald and McEwen often contribute a different perspective to cabinet discussion. However, few political insiders are prepared to acknowledge any high-mindedness in the move, describing it as a ‘desperate gamble for survival’ when the numbers were tight, and a subsequent guarantee of the two ministers’ retention to conceal that initial desperation and not open the door to the Liberals picking up another seat. One ALP member described it as ‘nothing to do with virtue and everything to do with opportunism’.

Yet the political payoff for Rann in his second term is immense. First, he has protected his flank from the right in an already conservative Labor government with (most) Cabinet decisions being endorsed by two known conservatives, virtually shutting off any criticism from the Opposition that left-wing or trade union influences are at work. Secondly, Rann has secured a priceless third-party endorsement from the two non-Labor ministers, each publicly averring to the fact that the premier is an honest man and a man of his word who has not only honoured his promise to retain them in Cabinet but has also honoured their agreements to the very letter.

Thirdly, although as stridently adversarial and politically tribal as any political leader, Rann has taken the edge off public disillusionment about politicians always squabbling among themselves over petty issues and seeking to score points at the other side’s expense; he has been seen increasingly as a statesman rather than a politician. There is little doubt that the government’s standing was strengthened in terms of voter satisfaction with the premier. On the eve of the 2006 election, Newspoll indicated that two-thirds of those surveyed approved of Rann’s performance. Another poll put him at over 80 per cent, with Opposition leader Rob Kerin’s rating at 40 per cent.¹⁶ Finally, he has wisely tapped into a wider talent pool than would usually be available if confined solely to

¹⁶ Scott Bennett, 2006, *Understanding State Elections: Tasmania and South Australia 2006*, Research Brief No 17, 2005-6, Parliamentary Library, Parliament of Australia; *The Advertiser*, 2006, 17 February.

members of his own party; by all accounts both 'outsider' ministers are highly competent and well regarded.

However, despite all the apparent advantages of this unusual and highly pragmatic exercise in composite government, it is an experiment unlikely to be repeated elsewhere in the foreseeable future, owing its genesis almost entirely to the peculiarities of South Australian politics and a premier prepared to think laterally.

