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**PREFERENTIAL VOTING AND STATE  
ELECTIONS IN SOUTH AUSTRALIA**

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# PREFERENTIAL VOTING AND STATE ELECTIONS IN SOUTH AUSTRALIA

## Overview

There will be state elections in Victoria, New South Wales and Queensland over the coming few months and in each of these states there is public discussion of whether their preferential voting systems would cope with an election at which there could be three, rather than two, major parties. In Victoria, where a full preferential count is used, voters must mark a preference for every candidate and the Liberal Party has been internally divided over whether to direct its supporters to out Labor or the Greens last on their ballot papers. Optional preferential voting would allow the parties to avoid that question, but in New South Wales and Queensland where optional preferential is used, the state Labor Parties are worried that they will lose seats if Greens voters Just Vote One and do not pass on their preferences. So optional preferential voting is being reviewed in Queensland and may be examined in New South Wales too.

Like Victoria (and the Commonwealth) South Australia uses full preferential voting, but an optional preferential system is suggested here from time to time. So this paper looks at why preferential voting was introduced into South Australia's electoral system, as one of a series of electoral changes that took place during the first half of the twentieth century. The paper considers the way that preferential voting has operated with other components of the electoral system, including single-member electorates, to shape politics in this State into a two party contest and to maintain it in that form.

Then the paper uses the current election preparations in Victoria to look at the stresses on full preferential voting systems that arise when a political system seems to be moving from a two-party to a three-party system. Around Australia, the Labor and Liberal Parties' traditional position has been to preference each other last. Adherence to that position leaves the major parties vulnerable to Independent or minor party challengers who can rely on receiving a large number of preferences - from either of the major parties - if the challenger wins more votes than a candidate from one of the major parties. There have been times when the parties have overturned this traditional position: for example in South Australia Liberals preferred to the ALP before One Nation at the 2001 federal and 2002 state elections<sup>1</sup> and in Victoria Liberal How To Vote cards for their coming state election will preference to Labor before the Greens<sup>2</sup> in every seat. Overturning those traditional preferencing arrangements, and directing supporters to preference their major opponents before Independents or minor party candidates extracts a high price of party organisations as they are forced to deal with internal party conflict, so these preference decisions are not made lightly.

The paper's final section looks at optional preferential voting, which could be viewed as a solution to the parties' problem of deciding where to direct their preferences in a three-way contest. New South Wales and Queensland both use optional preferential voting at state elections, and voters in those states can vote for just one candidate or can show preferences. At least in Queensland, optional preferential voting has not collapsed into a first-past-the-post system, and between 30% and half of all voters across Queensland do still complete a full ballot, especially in marginal seats. While optional preferential voting might solve the major parties' preferencing dilemma, it carries its own problems: it is less successful than full preferential voting at amalgamating support, so Labor governments in both Queensland and New South Wales are currently worried that Greens candidates could reduce Labor's first preference vote and then refuse to send their preferences back again. From time to time an optional preferential ballot is advocated in South Australia. Introducing it here would require a bigger change than was needed interstate, because South Australia's electoral districts boundary redistribution process incorporates a fairness requirement which effectively requires a full preferential ballot.

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<sup>1</sup> Phillip Coorey, "One Nation last on Liberal card", *The Advertiser*, 18 July 2001: 1.

<sup>2</sup> Paul Austin and David Rood, "Libs' preference bombshell: coalition favours ALP, Greens shut out" *The Age*, 15 November 2010: 1.

## 1.1 Party politics in South Australia prior to preferential voting: consolidating factions and smaller parties

Campaigning for election to the first responsibly-elected parliament in South Australia in 1857, candidates identified themselves to the electors as being supportive of particular policies or as supporters of liberal or conservative views, but none of the candidates stood as endorsed representatives of parties. Parliamentary alliances were originally based on personal ability as well as philosophical orientation, and these alliances were known as factions.<sup>3</sup>

By 1887 there was a growing division within the parliament between groups of members who were described as 'conservative' and 'radical' by the press. The 'conservatives' found their leaders in John Cox Bray and John William Downer, while the 'radicals' were led by John Colton, Thomas Playford and John Cockburn. These were not parties but loose alliances, and the leaders often contested government against their reported allies. But the alliances did produce an element of political 'structure' within the parliament and in the electorate, and continued the trend to more government stability.<sup>4</sup>

When alliances based on policy orientation became more common, they were known as parties, even though they were often much less formalised than our current political parties. In South Australia the change from faction to party seems to have begun with the formation of the first two formal political parties, the United Labor Party (1890) and the National Defence League (1902). While 18 NDL Members were elected to the South Australian Parliament at the 1893 election, it was probably the election of 10 Labor Party members who were pledged to vote as a bloc that changed the way governments were formed. These Labor Members held the balance of power in the Assembly and could, as part of a coalition, make it possible for another party or faction to form government. But the Labor Members were pledged to vote together, so they could not be split away from their faction to make up the numbers to support the formation of a new government. On the first day of sitting after the 1893 election the government was changed via a no-confidence vote on the floor of the House and Charles Cameron Kingston formed a new government that united all of the factions that were neither Labor nor conservative (this new government grouping called itself Liberal).

The main reasons for the acceptance of Charles Cameron Kingston as a leader were, firstly, his open support of the Unions and, secondly, his ability to unite all sections of the Liberal Party. ....In the sense that the new Ministry brought together the leaders of the different sections of the Liberal Party which had not always worked together in harmony, it was undoubtedly a coalition. If a member of the extreme wing – the new Labor Party – had been included in the Government the representation of South Australian Liberalism in all its aspects in contrast with Conservatism, would have been complete.<sup>5</sup>

While Kingston maintained his government in office until 1899 - for a record term of six and a half years – several subsequent governments were based on factions and all had short lives. Stability returned in 1905 when South Australia's first Labor government was formed by Hon. Tom Price (Labor) in coalition with members of the Liberal Party; that government lasted for over four years.

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<sup>3</sup> For the operation of factions as opposed to parties, see Loveday P, and Martin A, 1966, *Parliament, factions and parties*, Melbourne University Press, Melbourne.

<sup>4</sup> Jaensch, D, 2007, *History of South Australian Elections 1857-2006, House of Assembly volume 1*, History Trust and State Electoral Office, Adelaide, p. 95.

<sup>5</sup> Combe, G, 2009, *Responsible Government in South Australia*, revised edition, Parliament of South Australia, Adelaide, p. 125.

None of the Members elected to the House of Assembly at the 1890 election represented parties, but at the 1893 election candidates were endorsed as party representatives, and since then a majority of Members elected at each House of Assembly election have been endorsed party candidates.<sup>6</sup>

When Premier Tom Price died in 1909 no-one else could maintain his Labor-Liberal coalition government. The Liberal and Democratic Union Members of Price's coalition government formed an alliance with Independents and conservatives, and the alliance was formalised in late 1909 with the formation of the Liberal Union. The next election, in 1910, was the first election at which the two major parties won all of the seats in the House of Assembly, and Jaensch points to that 1910 election as the one which "entrenched a two-party system in the State".<sup>7</sup> From 1910, it was possible that either of the two major parties could have enough members elected to the House of Assembly to form government in its own right, without needing the support of Independents or Members representing other parties, so who formed government could be determined on the day of the election rather than in negotiations afterwards. This not only changed *when* a government could be formed; it also changed who would be instrumental in forming it: from 1910 it became possible for the voters – not the elected Members - to determine who formed government. So from 1910 the parties have understood the electoral system (including the voting system) to be a mechanism for allocating government, not just seats.

At the same time, the consistent danger for both Labor and non-Labor parties, has been fragmentation.<sup>8</sup> Jaensch points out that this has often been a greater difficulty for the non-Labor parties because (unlike Labor support which has traditionally been concentrated in urban areas) non-Labor parties have needed to balance the often-competing interests of urban and country areas.

## 1.2 Preferential voting and the consolidation of the two party system

The two major Labor and non-Labor parties have survived the century from 1910 until today, although they have split, reformed and formed alliances with minor parties along the way. In 1917 for example, the ALP split over conscription, and the breakaway Labor group formed the Nationalist Labor Party, which then went into the 1918 election in coalition with the Liberal Party. At that 1918 election the Labor vote was split between the ALP and the NLP, and the non-Labor vote was split between the Liberal Party, the Farmers and Settlers' Party and the Farmers and Producers Country Party. A Single Tax Party also contested the election.

With a first past the post count, splits in the Labor party reduced an individual Labor candidate's vote enough to make it possible for Liberals to win Labor seats, and splits in the non-Labor side made it possible for Labor candidates to win Liberal seats. At the 1924 election, for example, three Labor candidates in Burra Burra defeated the three Liberal sitting Members largely because the non-Labor vote was split between Country Party and Liberal candidates. Something similar occurred in Wooroora. Before the next election the Liberals and Country Party began negotiations to form a coalition but no agreement could be reached, so for the 1927 election the non-Labor parties simply agreed not to oppose each other in particular seats.<sup>9</sup>

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<sup>6</sup> Jaensch, D, 2007, *History of South Australian Elections 1857-2006, House of Assembly volume 1*, History Trust and State Electoral Office, Adelaide, p105. 28 of the 54 Members elected to the House of Assembly in 1893 represented parties; 30 of 54 elected in 1896 represented parties; 28 of 54 in 1899; 22 of 42 in 1902; 35 of 42 in 1905; 39 of 42 in 1906.

<sup>7</sup> Jaensch, D, 2007, *History of South Australian Elections 1857-2006, House of Assembly volume 1*, History Trust and State Electoral Office, Adelaide, p. 187.

<sup>8</sup> Jaensch, D, 1986, "Stability and Change, 1910-1938", p. 229-230. In *The Flinders History of South Australia: Political History*, Wakefield Press, Adelaide.

<sup>9</sup> Jaensch, D, 2007, *History of South Australian Elections 1857-2006, House of Assembly volume 1*, History Trust and State Electoral Office, Adelaide, p. 237.

That was a successful move: Jaensch notes that in 1927 the Country Party did well and Labor “lost heavily in the country areas where it had benefitted from the Liberal-Country contests in 1924”.<sup>10</sup>

There are three avenues to address a situation of split support: through party structures (formally mending or re-aligning the split parties through coalition arrangements); through campaign practices (quarantining key seats from the effect of the splits through formal agreements not to engage in three-cornered contests); and through the electoral system (re-integrating the vote by allowing voters to express preferences for both of the split parties). All three avenues were used by the non-Labor parties between the elections of 1924 and 1930. The failure of the Liberal Party and the Country Party to amalgamate (the first option) before the 1927 election resulted in those parties making agreements not to compete (the second option). After they won government in 1927 the non-Labor parties did form a formal alliance but it was short-lived, and the third option - preferential voting - was introduced. That re-integrated the non-Labor vote wherever it was split between Country Party and Liberal Party candidates.

Until the 1930 election electors voted for a candidate by marking a cross against the candidate’s name, and could only vote for as many candidates as there were vacancies, and in fact voters could choose to mark just one cross even in a multi-member district.<sup>11</sup> The candidates with the most votes were elected on the basis of a plurality (first past the post) count.<sup>12</sup> Partial preferential voting was introduced by the *Electoral Act 1929*, which required voters to mark a preference against at least twice the number of Members to be elected plus one.<sup>13</sup> For the two-Member Legislative Council districts this required voters to express a preference for at least five candidates, and for the House of Assembly’s two-Member or three-Member districts, this meant expressing a preference for at least five or seven candidates. A separate provision which may have been inserted to cover by-elections specified that if only one candidate was to be elected then a full preferential ballot was required.<sup>14</sup>

Jaensch states that the change to preferential voting was “designed to overcome the problems of Liberal-Country contests. .... If electors gave preferences within the party group, then the disadvantages of the ‘split’ votes between the Liberal and the National Parties could be overcome.”<sup>15</sup>

The contingent vote count reduced the threat of internal competition within the non-Labor side of politics, but it achieved more: it amplified the winning party’s vote in any given district, and “virtually guaranteed that the party with the highest proportion of votes, especially if an absolute majority, was all but ensured of winning both seats.”<sup>16</sup> This meant that in country districts the non-Labor parties won all the seats and in city districts the Labor party won all of the seats. When the Butler Liberal government used malapportionment to allocate more seats to country voters than to city voters, the combination of preferential ballot, contingent vote count and malapportionment leveraged the votes that could be gained by the parties which could win a majority of the seats in country areas.<sup>17</sup>

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<sup>10</sup> Jaensch, D, 1986, “Stability and Change, 1910-1938”, p. 234. In *The Flinders History of South Australia: Political History*, Wakefield Press, Adelaide.

<sup>11</sup> These voters were known as ‘plumpers’.

<sup>12</sup> Under a plurality count the candidate with the highest number of votes is elected. It is not necessary for him or her to have the support of a majority of voters.

<sup>13</sup> *Electoral Act 1929* (SA) s113 (1).

<sup>14</sup> *Electoral Act 1929* (SA) s113 (2).

<sup>15</sup> Jaensch, D, 1986, “Stability and Change, 1910-1938”, p. 234. In *The Flinders History of South Australia: Political History*, Wakefield Press, Adelaide.

<sup>16</sup> Jaensch, D, 2002, Community Access to the Parliamentary Electoral Process in South Australia since 1850, State Electoral Office, Adelaide, p. 75.

<sup>17</sup> The Playford LCL government increased this advantage to the LCL when single member districts replaced multimember districts from 1938.

## 1.3 Preferential voting and the parties' competition against Independents

Difficult economic times reduced voters' support for both the major parties in 1933. The newly formed LCL lost 35% of its (Country Party and Liberal Party) 1930 level of support, to Independents or other parties. The ALP lost 19% to other parties or Independents, but it lost another 15% of its 1930 level of support to a Labor split party, Lang Labour, and another 27% to the Premiers' Plan Labor Party.

At the election later in 1933, 32 Labor candidates from the Australian Labor Party, the Lang Labor Party and the Premiers' Plan Labor Party contested just 13 seats. While the preferential count could have re-integrated Labor's support, in fact Labor voters preferenced within their party (e.g only to other Lang Labor candidates) and then chose to support Independents rather than to support other Labor groups. When this change in the pattern of support was translated into seats, the effect was profound. The ALP lost 24 of its 30 seats. Lang Labor candidates won three of them and Premiers' Plan Labor candidates won another four, but 14 of them went to the LCL<sup>18</sup> and government changed hands from Labor to the LCL. This was the beginning of thirty-years of LCL government.

Despite the fact that there were only 19 multi-member electoral districts for the House of Assembly, the major parties had never contested them all. In 1933 ALP candidates were elected unopposed in Port Pirie, LCL candidates were elected unopposed in Alexandra and Stanley, and either Labor or non-Labor candidates were absent from the contest in another five districts. The parties' decision to (or ability to) field candidates only where they stood a good chance of winning left some districts without a real choice of representatives: for example the district of Yorke Peninsula did not see an ALP candidate from the 1915 by-election to the general election of 1941.

In 1936 the LCL government changed the House of Assembly's electoral system to single-Member districts (*Constitution Act Amendment Act 1936*). The Electoral Act needed no change: applied to single member districts the Contingent count simply reverted to an Alternative Vote count and, as noted above, the Act already required a full preferential ballot for single member districts. What did change was that the number of votes that a candidate would need in order to win a seat dropped dramatically. At the same time, malapportionment was built into the electoral system when the new districts were drawn; many more seats were allocated to country areas than to city areas with similar elector numbers. For example, the city seat of Torrens held over 18,000 enrolled voters whereas many country seats held under 5,000. By giving more seats to areas where LCL support was strong, malapportionment continued the advantage which the non-Labor parties gained from the electoral system even after the contingent vote count was discontinued.

The change did make the LCL vulnerable to Independents in these new country seats because the small enrolments made it possible for unendorsed candidates to win, especially if they could combine a high personal vote, a protest vote and preferences from any Labor candidates. And indeed at the first election after these changes (1938), an unusually large contingent of 64 Independents contested all but one of these new seats - and won 14 of them.<sup>19</sup> Together these 64 Independent candidates won more first preference votes than the LCL candidates, and more than the Labor candidates. The outcome of the election was that Labor won just 9 seats in the

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<sup>18</sup> Another three were won by Independents.

<sup>19</sup> IND candidates contested and won Alexandra, Gouger, Ridley, Stirling and Yorke Peninsula against just the LCL (but lost in Albert, Eyre and Young). IND candidates contested Hindmarsh, Port Adelaide, Semaphore, Thebarton and Wallaroo against just the ALP but only won Thebarton.

new parliament, the LCL won 15 seats and the LCL formed government with the support several rural Independents.<sup>20</sup>

While the fact that the major parties did not contest all of the seats certainly made it easier for Independents to win seats, the drop in support for the major parties (including via fragmentation in Labor's case) was a more important factor. In fact the 14 Independents who did win seats were so well-supported that 10 of the 14 would have won their seats with a first past the post count. Some of the Independents polled well because they had previously been elected as party representatives (Bardolph had been an ALP and later Lang Labor Member, and Robinson had been elected four times as a Liberal) but most had never contested seats before.

In many cases, Independent candidates won seats from LCL candidates in a straight two-candidate fight, where the preferential ballot could not have changed the result. But in seven seats the preferential count did help these Independents - the major parties could have won if they had been prepared to exchange preferences. It seems that they weren't: LCL advertisements published in *The Advertiser* just before the 1938 election show that the LCL recommended its supporters put ALP candidates below an Independent candidate in every case.<sup>21</sup> Perhaps the major parties did not expect the Independent candidates to be so popular, or perhaps they regarded Independent candidates as the lesser of two evils.

Attendance to vote was still voluntary, and in an era before high-spending campaigns a major difficulty for candidates had always been ensuring that supporters would actually turn out to vote, so two candidates representing similar views could potentially invigorate a campaign and encourage higher levels of turnout. Then the preferential voting system could re-integrate the votes. In 1938 this could not help to increase Labor's turnout - no Lang or Premier's Party candidates contested seats - but in Chaffey and Stanley the LCL endorsed two candidates (against Independent candidates in both seats). The tactic worked in Stanley, but not in Chaffey because the LCL candidates only controlled a third of the votes. When it was tried again in 1941 against the sitting Independent MP in Ridley it failed badly because the Independent candidate was too popular and won on first preferences.

While voluntary voting helped Independents more than major party candidates, the main reason why so many Independent candidates won seats in the 1938 election (and why most held them in 1941), was that the change to small single member districts in country areas meant that the number of votes required to win a seat was relatively small. But malapportionment not only made it possible for Independents to win these smaller country seats, it also gave the LCL such an advantage over the ALP that the LCL could win a majority of seats and form government in its own right. That made the Independents seem increasingly irrelevant, and as the economy improved the major parties regained voter confidence and were able to marginalise the Independents.

While 14 Independents were elected in 1938, and 10 in 1941, only three were elected in 1944. Malapportionment reduced the appeal of Independents but it was compulsory turnout that defeated most of them. In 1942 the *Electoral Act* was changed to make it compulsory for anyone enrolled to vote for the House of Assembly, to attend to vote.<sup>22</sup> So long as attendance to vote was voluntary, Independent candidates with a strong reputation in the district had an advantage in that their supporters could often be encouraged to turn out at greater rates than supporters of the major parties. When attendance to vote became compulsory, from the time of the 1944 election, the effect was immediate. Comparing the 1944 results with those for 1941, the number of votes received by ALP candidates across South Australia increased by 79%, while the number of votes for LCL candidates increased by 87%, and votes for Independents declined by 54%. Even if the vote for the Independents had not declined at all, the higher

<sup>20</sup> Jaensch notes that the Independents were "mostly rural and conservative." Jaensch, D, 2007, *History of South Australian Elections 1857-2006, House of Assembly volume 1*, History Trust and State Electoral Office, Adelaide, p. 255.

<sup>21</sup> *The Advertiser* 18 March 1938: 32; 19 March 1938: 27.

<sup>22</sup> *Electoral Act Amendment Act* 1942; postal and absentee voting were of course allowed, but it became compulsory to lodge a ballot.

numbers of major party supporters who registered formal votes in 1944 would have won back the seats of all of the Independents except two – Tom Stott in Ridley and MacGillivray in Chaffey.

The major parties remain vulnerable in districts contested by both parties if Independents have enough support to come second on first preferences, because the Independents can rely on receiving preferences from the major parties. That has become relevant again more recently, but the next challenge for the Labor Party was The Split.

## 1.4 Preferential voting and the Labor Split of 1954

From the time of the 1944 state elections, Communist party candidates contested seats on 32 occasions – 2 Assembly seats in 1944; 4 seats in 1947, 1950, 1953; 3 seats in 1956, 5 in 1959, 3 in 1962, 4 in 1965, 2 in 1968 and 1 in 1970. The highest vote achieved by any of these Communist candidates was 19.4% of first preferences, won in 1944 in the safe Labor seat of Adelaide. After 1950 most candidates won less than 10% of the vote in the seats they contested and after 1962 most won under 5%. The Communist Party candidates generally contested safe Labor seats and it seems clear that they took votes from Labor, but it is not possible to see how the transfer of their preferences would have affected the Labor vote because their preferences were never distributed.

In 1955 the Labor party was shaken when ALP sitting Members in the federal parliament and several state parliaments were expelled from the ALP on the grounds of action taken in support of their strong anti-communist beliefs. These Members and many ALP branch members joined the Australian Labor Party (Anti-Communist) which in 1957 became the Democratic Labor Party.<sup>23</sup> Most of these sitting members were defeated at subsequent elections but DLP candidates were elected to the Senate from Victoria and Queensland. This became known as “The Split.” In South Australia none of the sitting ALP Members split from the Party and South Australian voters did not elect any of the Anti-Communist Labor Party candidates who contested seats at the South Australian state election in 1956 nor the DLP candidates who contested seats from 1959 to 1970.

Like the Communist Party, the ACLP and DLP drew their support substantially from Labor but they ran more candidates and had a wider support base than the Communists. The ACLP ran 10 candidates in 1956 and then the DLP ran 14 or 15 candidates at the 4 elections from 1959 until 1968, ending with just 10 candidates in 1970 – 78 contests in all. In a few safe seats which were not contested by the LCL or (less often) were not contested by the ALP, these ACLP and DLP candidates won respectable levels of support (15 to 30%), but that should be seen as essentially a protest vote because the DLP candidate was often the only challenger to the sitting Member. In every one of these contests the major party candidate won more than half the formal first preferences, so DLP preferences were never distributed in these contests.

In contests where the DLP ran against candidates from both the ALP and the LCL, the DLP vote struggled to reach 10%, and again in the vast majority of these contests DLP preferences were not distributed. Of the 78 contests that involved ACLP and DLP candidates, there were just four where DLP preferences were distributed and in each case they could have swung the seat. In Glenelg and Torrens in 1962 the DLP candidates only won 6% and 4.8% of the first preference vote respectively but support for the ALP and LCL candidates was so close that preferences needed to be transferred: both LCL sitting Members were returned when DLP preferences went 56% in Glenelg and 83% in Torrens. Something similar happened in Murray in 1968 – the DLP candidate only won 178 votes but support for the ALP and LCL candidates was very even and when the 63% of DLP preferences went to the LCL, Labor lost the seat. That contest in Murray in 1968 is the only House of Assembly contest where DLP preferences changed a seat from Labor to LCL.

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<sup>23</sup> Costar, B, 2005, *The Great Labor Schism: A Retrospective*, Scribe, Carlton North.

There was one other remarkable DLP preference transfer, but it was remarkable because DLP voters refused to follow the DLP How To Vote card and gave their preferences (and the seat) to the ALP. In 1965 the DLP candidate in Chaffey won just 124 votes (1.8% of first preferences), an Independent candidate won another 2.4% and the two major parties split the majority of votes fairly evenly between them. When the DLP preferences were transferred, they went 69% to Labor, even though the official DLP order of preferences<sup>24</sup> recommended second preferences go to the LCL candidate. The DLP distribution enabled the sitting Labor MP Mr Curren to retain the seat.<sup>25</sup> It also helped to return Labor to government in 1965 for the first time since 1930: with Chaffey, Labor won 21 seats in the 39 seat House of Assembly and held a clear (three-seat) majority in the House.

## 1.5 The re-emergence of Independents

As noted earlier, single member districts in country areas had very small numbers of electors and were attractive to Independent candidates, and a few Independents continued to be elected. At the 1962 elections the LCL government came close to defeat when only 18 LCL members were re-elected to the 39-seat House of Assembly, and Sir Thomas Playford retained government only with the support of two Independents, Tom Stott and Percy Quirke, both long-time Members representing small country districts.<sup>26</sup>

Labor won government in 1965.

The LCL won government again in 1968, under Steele Hall, but again with only 19 seats and the agreement of Tom Stott. Nonetheless Hall introduced a series of electoral changes that included increasing the number of Assembly seats from 39 members to 47 and reducing malapportionment.

Labor won government again in 1970 and 1973 but in 1975 had to form a minority government too, with the support of another country Independent, Ted Connelly, who had been elected as an Independent after failing to win ALP endorsement.<sup>27</sup> Under Dunstan, Labor completed the reform of malapportionment. The change to seats with equal numbers of electors raised the barrier for Independents, because the small country seats disappeared.<sup>28</sup>

But a change to the way that parties campaigned lowered the barrier again. As long as the major parties refrained from contesting each others' safe seats, an Independent challenger in safe seats needed to win on first preference votes alone. But by 1973 both of the major parties contested almost every seat, which meant that preferences were available to any Independent candidate who could win more votes than one of the major party candidates. The combination two policies - the major parties' policy of preferencing towards Independents before endorsed candidates from the opposing major party, and the major parties policy of contesting every seat - has helped Independent candidates win seats since the early 1970s.

In safe seats successful Independent candidates have generally split a major party's vote, and candidates who are strongly identified with a major party are at an advantage. Popular local

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<sup>24</sup> "How To Vote DLP" *The Advertiser*, 5 March 1965: 4.

<sup>25</sup> There were also 180 votes from the IND candidate; these transferred to the LCL candidate at a rate of 64% and that rate would have had to rise to an unlikely level of 93% for the LCL candidate to have won the seat.

<sup>26</sup> Stott was first elected in 1933, and had always stood as an Independent, whereas Quirke was first elected in 1941 as an ALP candidate, and had been re-elected twice as an ALP candidate and 5 times as an Independent. Stott became Speaker and Quirke joined the LCL later in 1962

<sup>27</sup> Connelly was readmitted to the ALP in 1976.

<sup>28</sup> At the 1968 election the State's smallest seat was Frome which had just under 5,000 electors; at the 1977 elections the smallest seat was Victoria with 15,482.

candidates who failed to gain Labor endorsement can nonetheless campaign as an Independent Labor or Independent Liberal candidate (Norm Peterson in Semaphore; Martyn Evans in Elizabeth) or Liberal endorsement (Stan Evans in Davenport; Mitch Williams in Mackillop). In tighter contests Independents have needed to attract voters from both of the major parties (Rory McEwen in Mt Gambier).

Often, Independent candidates have won initially with the assistance of preferences, and have subsequently won without the need for preferences at all.

## 1.6 Preferential voting and the Liberal split of 1975

When the Country Party re-emerged in South Australia in 1965 and ran candidates separately from the LCL, these two non-Labor parties used the preferential system to re-integrate their vote. The preferential ballot was also used to help with campaigning in the very large country districts. From 1965 to 1970 and again in 1975, both the LCL and the Country Party ran candidates in the very large country seat of Eyre, and in 1973 and 1975 there were also competing CP and LCL candidates in the large country seat of Flinders. This allowed the townships scattered across the huge geography of these districts to be managed between two candidates who could then exchange preferences. Their ability to ensure that supporters' preferences did actually transfer, was only tested once, in the Eyre contest in 1968, when 29% of Country Party votes were transferred to the ALP candidate, 39% to the sitting LCL Member and 32% to the Independent candidate. This level of transfers may have been a warning to the parties, and running two candidates was discontinued as a campaign tool in these large seats.

Three-corner contests continued in a few rural seats, but these competitions created tensions between the two non-Labor parties, because when Country Party and LCL candidates won roughly the same share of votes these contests allowed Labor voters to decide who would win the seat. This problem was illustrated in Rocky River in 1973 when the LCL sitting member won 48% of first preferences, a Country Party candidate won another 23% and the Labor preferences could have given the seat to the Country Party challenger. Although in this case the Country Party candidate would have needed 90% of ALP preferences to win, the danger was obvious and the old agreement from the 1927 election not to run against each other seems to have been re-examined by both of the non-Labor parties after 1973.

By 1975 there was another reason why voters in many seats could choose between two non-Labor candidates. The LCL version of Labor's split erupted after the LCL lost the 1973 election, and resulted in the formation of the Liberal Movement (LM). At the subsequent election in 1975 the Liberal Party (having changed its name from LCL) contested every seat and the LM contested all except two.<sup>29</sup>

Like Labor's split of twenty years earlier the two groups differentiated themselves on ideological, rather than geographic, lines, but in contrast to the DLP's decision to preference away from the Labor Party, the LM preferred towards the Liberal party in both Houses<sup>30</sup> and in return the official Liberal How To Vote material preferred to the LM ahead of the ALP.<sup>31</sup> Meanwhile Labor treated the two non-Labor parties equally: Labor's How To Vote cards published for the 1975 election did not consistently preference one before the other.<sup>32</sup>

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<sup>29</sup> Eyre, the LCLs second safest seat, and Pirie, held by an Independent, Connelly.

<sup>30</sup> LM House of Assembly How To Vote card, *The Advertiser* 10 July 1975:10. LM Legislative Council How To Vote card, *The Advertiser*, 10 July 1975: 21.

<sup>31</sup> Liberal House of Assembly How To Vote card, *The Advertiser*, 11 July 1975: 25. Liberal Legislative Council How To Vote card, *The Advertiser*, 10 July 1975: 2.

<sup>32</sup> In the 23 seats where the ALP candidate was either at the top or the bottom of the ballot paper Labor recommended a donkey or reverse donkey vote. In the other seats Labor recommended that the voter continue down the ballot paper after giving the Labor candidate a first preference. In just five seats the pattern was obviously different. In Gilles the order was changed so as to not give the LM candidate a

While Independents might win seats with the support of a relatively small number of supporters, their support is geographically concentrated. LM support was respectable at 18% of the first preference vote but it was diffuse, so that it was not strong enough to seriously challenge the LCL in many districts. The LM candidates won more first preference votes than their LCL counterparts in just 4 seats – two of which they won (Goyder and Mitcham). Even if the ALP official How To Vote cards had preferred to the LM before the LCL, the LM would not have benefitted.

The *geographic concentration* of LM support was not strong enough to take advantage of the single member district system, and in most seats the *level* of LM support was not high enough to give the LM candidates more votes than one of the major party candidates, so they could not take advantage of the preferential count. This illustrates the fate of small parties: to win seats they must have strong support across the state or they must concentrate their support in particular districts. In 1976 many LM members joined the Australian Democrats, and experienced the same disadvantage in that party.

## 2 Preferential voting and a three-party system?

One effect of full preferential voting has been to shape South Australia's political system as a two-party system. Preferential voting has integrated the support of disparate groups into two major opposing parties and then re-integrated major party support when fragmentation would otherwise have handed seats to the opposing party. In this way, preferential voting has helped the two major parties, and can be expected to work against the development of a three party system so long as any third party has only limited voter support or so long as that support is geographically dispersed. But full preferential voting does also mean that when the two major parties preference against each other they will necessarily contribute preference votes to Independents and minor party candidates, so those candidates can rely on receiving a large number of preferences - from either of the major parties - if they win more votes than a major party candidate.<sup>33</sup> That means there is a tipping point at which a minor party can win enough first preferences in its own right to challenge the major party Members in several seats, and can then rely on preferences from the opposing party to win some of those seats. At that point, the preferential system facilitates a change in the political system, to a three party system.

The major parties can delay that day, by refusing to direct their preferences to the minor party candidates, and directing their preferences to the opposing major party instead. That is a choice which is not made lightly as it inevitably generates internal party disagreement.

On several previous occasions minor parties have appeared to have enough support leading into an election that one or both of the major parties have not only re-considered, but overturned, their traditional preferencing position. At the federal and state elections of 2001, for example, South Australian Liberal How To vote cards preferred to Labor before One Nation.<sup>34</sup> A more current example is that at the state election in Victoria later this month, the Greens seem likely to have enough support to challenge Labor sitting members in several seats. This rise in Greens support is expected to make inroads into Labor's first preference vote, so Labor has appealed to voters not to "flirt with the Greens,"<sup>35</sup> but the most important response came from the Liberal Party. Liberal How To Vote cards will preference to Labor

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second preference; in the remaining seats the order was changed so as to give the sitting MP Labor's second preferences (Country Party in Flinders, LM in Goyder and LCL in Kavel and Light).

<sup>33</sup> Gerard Henderson, "Coalition generals plan to fight them on the outskirts", *The Age* online edition, 16 November 2010, at <http://www.theage.com.au/opinion/politics/coalition-generals-plan-to-fight-them-on-the-outskirts-20101115-17uam.html>

<sup>34</sup> Phillip Coorey, "One Nation last on Liberal card", *The Advertiser*, 18 July 2001: 1.

<sup>35</sup> Milanda Rout, "PM Tells voters to avoid the Greens" *The Australian*, 17 November 2010: 1.

before the Greens<sup>36</sup> in every seat, and Liberal voters are expected to comply, with the result that Greens candidates are now not expected to receive the preference boost they would need to challenge Labor. In Victoria, those Liberal preferences are expected to decide whether Greens or Labor candidates will win four Labor inner-city seats (two held by Ministers in the current Labor government), and perhaps whether Labor will be returned to government in its own right or with the support of newly-elected Greens Members.<sup>37</sup>

Labor does not share the problem of deciding whether to put the Liberals or the Greens last on their How To Vote cards, because there are no seats where Labor preferences could be the deciding factor between a Greens or a Liberal member. Labor will continue its traditional policy of preferencing to the Greens before Liberals in all Lower House seats.<sup>38</sup>

The decision to overturn the traditional preferencing arrangement and to preference the opposing major party before an Independent or minor party candidate is made only rarely because it is internally divisive for the parties.<sup>39</sup> Some party members will feel that preferencing against anyone other than the opposing major party is “taking your eye off the ball” and others will see it as pragmatic. In Victoria both parties are currently internally divided over support for the Greens. Within the Labor Party some see the Greens as a *de facto* left-wing<sup>40</sup> while others argue that the Victorian ALP should do all it can to avoid being reliant on a power-sharing agreement with any party, even the Greens, as it currently does both federally and in Tasmania. Graham Richardson has urged the Prime Minister to “expose the Greens”<sup>41</sup> and Victoria’s Labor Premier Brumby has encouraged Liberal voters to preference to Labor before the Greens.<sup>42</sup>

The Liberals have had to make the biggest decision. They could choose to abide by the traditional practice of preferencing Labor last, at a cost of possibly helping to elect several Greens Members in Labor seats. Alternatively they could overturn the traditional practice and preference the Greens last - and perhaps help Labor retain government.<sup>43</sup> John Howard has advocated putting the Greens last on the grounds that a Greens-Labor coalition would be more damaging to Victoria than a Labor government.<sup>44</sup> On the other hand, preferencing against the Greens, rather than against Labor, has been seen as an attack on the Greens’ viability as a third force in government,<sup>45</sup> and as variously suicidal and naïve.<sup>46</sup> Jeff Kennett reminded *The Australian’s* readers that “John’s comments were interesting but that’s not actually what he

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<sup>36</sup> Paul Austin and David Rood, “Libs’ preference bombshell: coalition favours ALP, Greens shut out” *The Age*, 15 November 2010: 1.

<sup>37</sup> “Hung house on way as poll reflects federal battle,” *The Weekend Australian*, 13-14 November 2010: 10.

<sup>38</sup> Milanda Rout, “Baillieu defends preference deal”, *The Australian*, 16 November 2010: 7

<sup>39</sup> See, for example, Patricia Karvelas and Milanda Rout, “Liberals split on Greens preference snub” *The Australian*, 16 November 2010: 11; Matthew Dunckley, “Greens row divides Vic Libs”, *Australian Financial Review*, 29 October 2010: 13; or Peter Van Onselen, “The Green fix is on in Victoria”, *The Australian*, 16 November 2010: 12.

<sup>40</sup> Paul Kelly, “The Greens mess with Labor’s mind”, *The Weekend Australian*, 13-14 November 2010: 11.

<sup>41</sup> Graham Richardson, “For heaven’s sake Prime Minister, expose the Greens,” *The Australian*, 12 November 2010: 16.

<sup>42</sup> Paul Kelly, “Labor’s dangerous alliance”, *The Weekend Australian*, 16-17 October 2010: 11; also *ABC radio news* “Brumby woos Lib vote as Greens support surges” 28 October 2010, at <http://www.abc.net.au/news/stories/2010/10/28/3050317.htm>; Paul Kelly, “Labor’s dangerous alliance”, *The Weekend Australian*, 16-17 October 2010: 11.

<sup>43</sup> Christian Kerr, “Liberals’ preferential dilemma”, *The Australian* online edition, 5 October 2010, at <http://www.theaustralian.com.au/news/features/liberals-preferential-dilemma/story-e6frg6z6-1225934030015>

<sup>44</sup> Patricia Karvelas, “ALP ‘must stem’ the greenslide”, *The Australian*, 28 October 2010: 4, and *ABC Lateline*, 28 October 2010, “Labor haemorrhages support to the Greens”, at <http://www.abc.net.au/lateline/content/2010/s3051326.htm>.

<sup>45</sup> Paul Austin and David Rood, “Libs’ preference bombshell: coalition favours ALP, Greens shut out” *The Age*, 15 November 2010: 1; Patricia Karvelas, “Libs vote to gain in country from deal”, *The Australian*, 17 November 2010: 9.

<sup>46</sup> Patricia Karvelas and Milanda Rout, “Liberals split on Greens preference snub,” *The Australian*, 16 November 2010: 11; Peter Van Onselen, “Risking defeat via politics of purity,” *The Australian*, 16 November 2010: 7

did”<sup>47</sup>, and Peter Costello sees preferencing against the Greens rather than Labor as lining up Liberals to “give their main opponents a free kick”.<sup>48</sup> The Victorian Liberal Party seemed at risk of an ideological split over the issue, to the extent that the Victorian Liberal state director eventually imposed a gag on the issue.<sup>49</sup> Since then the party decision is that Liberal How To Vote Cards will put the Greens last and Labor second-last in every Legislative Assembly seat.<sup>50</sup>

Prior to the Victorian decision, the most-recent example of a party going against the traditional preferencing arrangement was the decision of the Liberal Party to preference One Nation last at the federal election of 2001. That decision also caused internal conflict within the Liberal Party, and between the federal Liberal and National coalition partners.<sup>51</sup> No similar conflict was caused by the major parties’ stance towards the Democrats, partly because the Democrats did not direct their preferences to either of the major parties<sup>52</sup> and partly because they never looked likely to win many seats in the Lower House.

### 3.1 Optional preferential voting

Preferential voting serves little apparent purpose when support for the major parties is not fragmented, and in South Australia major party supporters have rarely had their preferences distributed, so it is sometimes argued that an optional preferential voting system or even a first-past-the-post count where voters could vote for just one candidate, might be more democratic, or simpler or a way to reduce the informality rate without affecting election outcomes. If parties could recommend to their supporters that they just preference the candidates they favoured, and leave the rest of the ballot paper blank, they would not have the problem of deciding how to preference to their opponents.

Optional preferential voting is in place at state elections in New South Wales and Queensland, and the arguments made at the time that these states changed were couched in terms of recognising voters’ rights to refuse to preference to candidates they disliked, and reducing the informality rate by making it simpler for voters to complete a valid ballot.<sup>53</sup>

In Queensland optional preferential voting was introduced as part of a package of measures recommended by the Electoral and Administrative Review Commission,<sup>54</sup> to increase the democratic responsiveness of the electoral system. It operated for nearly ten years before Labor’s “Just Vote One” campaign in 2001, which was a response to the election of 11 One Nation candidates to the Queensland Parliament at the previous Queensland state election in 1998, all 11 of them on the basis of preferences from the major parties.<sup>55</sup> None of the major

<sup>47</sup> Patricia Karvelas, “Kennett hits back at Howard over deals,” *The Australian*, 4 November 2010: 2

<sup>48</sup> Peter Costello, “Libs toying with a gift for Labor,” *Sydney Morning Herald online edition* 10 November 2010, available at <http://www.smh.com.au/opinion/politics/lib-toying-with-a-gift-for-labor-20101109-17lyx.html?comments=52>

<sup>49</sup> Milanda Rout, “Victorian Liberal MPs gagged on preference swaps” *The Australian* online edition, 29 October 2010, at <http://www.theaustralian.com.au/national-affairs/victorian-liberal-mps-gagged-on-preference-swaps/story-fn59niix-1225944893227>

<sup>50</sup> Paul Austin and David Rood, “Libs’ preference bombshell: coalition favours ALP, Greens shut out” *The Age*, 15 November 2010: 1.

<sup>51</sup> Phillip Coorey, “One Nation last on Liberal card,” *The Advertiser*, 18 July 2001: 2; also “National Party split over One Nation preference deal”, *ABC The World Today*, 8 February 2001, at <http://www.abc.net.au/worldtoday/stories/s243947.htm>

<sup>52</sup> They ran split tickets on almost every occasion.

<sup>53</sup> See for example Premier Carr’s second reading speech on introducing the Parliamentary Electorates and Elections Amendment (Method of Voting) Bill, NSW LA *Hansard*, 19 September 1995: 1101.

<sup>54</sup> Electoral and Administrative Review Commission, 1991, *Public registration of political donations, public funding of election campaigns and related issues*, The Commission, Brisbane.

<sup>55</sup> Baramba, Lockyer and Tablelands on ALP preferences, Burdekin, Caboolture, Hervey Bay, Ipswich West, Maryborough, Mulgrave and Whitsunday on NAT preferences and Thuringowa on both LIB and NAT preferences.

parties (Labor, Liberal or National) wanted their preferences to elect One Nation candidates in 2001, but neither would they have found it easy to abandon tradition and preference to each other before One Nation, so preferencing to no-one at all was an attractive and simple option. Labor urged its supporters to Just Vote One, and the non-Labor parties did not contradict the ALP message.

In Queensland, parties cannot rely on the preferential ballot to consolidate or re-integrate their support, so they have needed to negotiate campaign agreements and coalitions. In 1994 the Liberal and National Parties formally agreed “not to run three-cornered contests in seats held by sitting members without the approval of both parties,”<sup>56</sup> and in 2008 these parties formally amalgamated. Labor seemed immune from these considerations until recently, when the Greens vote increased considerably, usually at the expense of Labor. Now Labor Premiers in New South Wales and Queensland are reportedly concerned that their optional preferential voting system will not return Greens votes to Labor at their next state elections<sup>57</sup>, and Malcolm Mackerras has predicted that Greens voters who refuse to specify a further preference will cost Labor government at the next state elections in both states.<sup>58</sup>

Voters' behaviour has also changed. When Queensland first changed to an optional preferential vote in 1992, the major parties continued to recommend that voters complete the full ballot, and continued to issue full How To Vote cards. About 23% of voters took advantage of the new system and showed a preference for just one candidate, 4% of voters marked preferences for several (but not all) candidates, and the vast majority of voters (78% of voters) still showed a preference for every candidate.<sup>59</sup> Similar proportions were recorded for the next election in 1995. There is no information on the proportion of voters who chose each option at the 1998 election, but a major change seems to have occurred when, leading into the 2001 Queensland State election, the Labor Party ran a campaign to encourage its supporters to “Just Vote One”. The proportions changed completely. In 2001 60% of ballot papers were completed with just one preference, 8% of ballot papers showed more than one preference but stopped short of being a complete list, and 32% of ballot papers showed a preference for every candidate. The Just Vote One campaign changed the behaviour of non-Labor as well as Labor voters, and that change seems to have been permanent, so that instead of the vast majority of voters choosing to specify a preference for every candidate, now the vast majority choose to specify just one candidate. The 2001 pattern has been repeated at each state election since then, and at the most recent Queensland state election, in 2009, 63% of formal ballot papers were marked with just one preference, 7% with a partial preferential vote and 30% with a full preferential vote.

This pattern of mostly full preferential or mostly single preference votes, and very few partial preferential votes, has also been observed in South Australia in relation to local government and industrial ballots, where optional preferential voting is in place.<sup>60</sup>

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<sup>56</sup> Electoral Commission Queensland, 1995, *Queensland Election 1995 Statistical Returns*, ECQ Brisbane, at p.12. In fact this agreement stopped 3-corner contests in any seat; in 1992 there had been 60 (of the total of 89) seats in which both LIB and NAT candidates stood for election, but in 1995 there was only one seat - held by *any* party - in which both LIB and NAT candidates stood for election.

<sup>57</sup> Rosanne Barrett and Imre Saluzinsky, “Labor cools on just-vote-1 strategy”, *The Australian*, 28 October 2010: 4.

<sup>58</sup> Daniel Hurst, “The No.1 reason for Labor to worry” *Brisbane Times online*, 10 September 2010 available at <http://www.brisbanetimes.com.au/queensland/the-no1-reason-for-labor-to-worry-20100909-1532r.html>  
<http://www.brisbanetimes.com.au/queensland/the-no1-reason-for-labor-to-worry-20100909-1532r.html>

<sup>59</sup> Electoral Commission of Queensland, 1993, *Queensland Election 1992 Ballot Paper Survey; Report on Informal and Optional Preferential Voting*, ECQ Research Report No 1/1993.

Electoral Commission of Queensland, 1996, *Queensland Election 1995 Ballot Paper Survey*, ECQ Brisbane.

Results of the 1998 survey have not been published.

Electoral Commission of Queensland, 2002, *Queensland Election 2001 Ballot Paper Survey*, ECQ Brisbane.

<sup>60</sup> Alderman, J, 2004, *Report on optional preferential voting*, Research Series, State Electoral Commission, Adelaide.

While most Queensland voters now only show one preference on their ballot papers, the voting system has not collapsed completely into a first past the post count. Preferences do still have an effect and voters do still appear to value them. In 2009 three seats were won by candidates who had not won the most first preference votes. In Barron River the level of first preference support for the NLP candidates was only marginally higher than for the ALP candidate and Labor won the seat on Greens preferences; the same thing happened in Chatsworth and in Nanango an Independent candidate won from an LNP candidate after Greens and ALP preferences were distributed.

The most recent ballot paper survey<sup>61</sup> looked at each of the ballot papers lodged in 11 seats at the 2009 Queensland state election, and across the eleven seats, 63% of formal ballot papers showed just one preference. Roughly 75% of LNP supporters just specified one preference,<sup>62</sup> making them the group most likely to Just Vote One in 2009. Supporters of smaller parties, and Labor voters living in city seats, were much less likely to specify just one preference (48% of Labor supporters in metropolitan seats; 46% of Greens voters across the state and 56% of supporters of Independent candidates across the state marked just one preference).

While the Just Vote One campaign of 2001 seems to have permanently changed the behaviour of about 30% of Queensland voters, it remains true that many voters value their preferences. For example, prior to the 2009 Queensland state election the Greens' state council "voted unanimously to recommend to its branches that they should advocate a 'just vote 1' strategy to voters at the next state election."<sup>63</sup> Closer to the election the Greens recommended that their supporters in 14 marginal seats preference Labor, in return for a Labor recommendation that ALP supporters in Indooroopilly give their second preferences to the Greens sitting MP (a former Labor Member). While the ballot paper survey only tells us what happened in 11 seats across Queensland it does show that in those seats about half of all Greens supporters still filled in a full ballot paper.

That may not be assurance enough major party candidates in marginal seats, or for Premiers facing the loss of several seats (including their own). Queensland Premier Anna Bligh is reported to be concerned about Queensland's relatively high rate of informal voting at the most recent federal election, which has been attributed to Queensland voters' being confused by the different requirements of the federal (full preferential) and state (optional preferential) voting systems.<sup>64</sup> She has asked her Attorney-General to report on changing Queensland's voting system back from optional preferential voting.<sup>65</sup> Similarly in New South Wales, Premier Kennelly has recently stated that "there are strong arguments for consistency between the state and federal voting systems".<sup>66</sup> But just a few weeks before, former Queensland Premier Peter Beattie argued that it is the federal voting system that should be changed "...to better represent the wishes of Australians. ...Optional preferential voting works successfully in

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<sup>61</sup> Electoral Commission of Queensland, 2009, *Ballot Paper Survey Report, State General Election 2009*, ECQ Brisbane. Note that in 2009 the ALP, the LNP and the Greens contested all 89 seats.

<sup>62</sup> Despite the fact that it was Labor that ran the Just Vote One campaign in 2001, since amalgamation the LNP supporters have been the most likely to show just one preference.

<sup>63</sup> Media release 22 September 2008, [www.qld.greens.org.au](http://www.qld.greens.org.au)

<sup>64</sup> Rosanne Barrett, "Bligh floats voting changes to boost polling chances", *The Australian* online edition, 10 October 2010, at <http://www.theaustralian.com.au/national-affairs/bligh-floats-voting-changes-to-boost-poll-chances/story-fn59niix-1225916747512>; Tony Moore, "'I won't let you cheat', Bligh warned", *Brisbane Times* online edition, 27 October 2010, at <http://www.brisbanetimes.com.au/queensland/i-wont-let-you-cheat-bligh-warned-20101026-172e6.html>; Daniel Hurst, "Bligh vote rigging claims 'premature'", *Brisbane Times* online edition, 27 October 2010, at <http://www.brisbanetimes.com.au/queensland/bligh-vote-rigging-claims-premature-20101027-173il.html>

<sup>65</sup> Steven Wardill, "Anna Bligh may dump optional preferential system as LNP accuses her of trying to rig poll", *Courier Mail* online edition, October 27 2010, at <http://www.couriermail.com.au/news/queensland/anna-bligh-may-dump-optional-preferential-system-as-lnp-accuses-her-of-trying-to-rig-poll/story-e6freoof-1225943913346>

<sup>66</sup> Rosanne Barrett and Imre Saluzinsky, "Labor cools on just-vote-1 strategy", *The Australian*, 28 October 2010: 4.

Queensland and NSW, where voters get the choice to just vote one for the candidate of their choosing or fully preferential.”<sup>67</sup>

If optional preferential voting remains in place in New South Wales and Queensland at their coming state elections then the parties can be expected to run a campaign just the opposite of Premier Beattie’s Just Vote One campaign that targeted Labor voters in 1998 – this time the Labor Premiers would seem likely to target Greens voters, asking them to specify a Labor second preference.

## 3.2 Optional preferential voting in South Australia?

One argument in favour of optional preferential voting is that it reduces the informal vote by making incomplete ballot papers admissible in the count. At state elections in Queensland the informality rate has consistently been about 2% since the introduction of optional preferential voting. South Australia uses a different mechanism to lower informality by re-including votes into the count if they just show one preference. That mechanism is the ticket vote, and the informality rate at the House of Assembly elections in 2010 was just 3.3%, so it is unlikely that a reduction in the informality rate would be an effective argument for optional preferential voting in South Australia.

At state elections fewer than 40% of Queensland voters submit a formal ballot paper that has more than one preference. But the Queensland experience shows that an optional preferential system does not necessarily collapse into a first past the post count: in that state between a third and a half of voters still lodge ballot papers with a full list of preferences, and in marginal seats these preferences continue to be effective through the whole count. How much do these remaining preferences affect election outcomes? If this system were applied in South Australia would a half or a third of the current levels of preferences be enough to keep the South Australian system essentially a full preferential system or would the system change to a *de facto* first-past-the-post system?

My calculations show that if only half (or only a third) of *all* South Australians had completed a full preferential ballot in 2010, Liberal candidates would have won Bright (actually won by the ALP) and Mt Gambier (IND, Pegler). And at the 2009 Frome by-election one of the major parties would have won that seat (though it is not clear which party would have won). That is, the full preferential count would have collapsed into a first past the post count and seat outcomes would have been determined entirely by first preferences. But the Queensland experience shows that this need not happen: in 2009 three Queensland seats were won by candidates who did not win the largest number of first preference votes. *In Queensland’s marginal seats, preferences do still make a difference to outcomes.* For this to happen it must be the case that voters in marginal seats are much more likely than voters in other seats, to lodge partial or full preferential ballot papers. That indicates, in turn, that parties remain able to influence not only which candidate a voter will prefer but also, at least in closely competitive districts, how many preferences the voter will choose to register on the ballot paper.

There is one aspect of a change to optional preferential voting that would be much more complex for South Australia than for other jurisdictions. South Australia’s Electoral Districts Boundaries Commissioners are required to draw electoral districts in such a way that

“...if candidates of a particular group attract more than 50 per cent of the popular vote (determined by aggregating votes cast throughout the State and allocating them to the necessary extent), they will be elected in sufficient numbers to enable a government to be formed.”<sup>68</sup>

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<sup>67</sup> Peter Beattie, “Hung parliament a chance to overhaul whole system,” *The Weekend Australian*, 11-12 September 2010: Inquirer 2.

<sup>68</sup> *Constitution Act 1934* (SA) s. 83(1).

The reference to votes “cast throughout the state” and then to a process of allocating them, is interpreted in the redistribution context as the statewide two party preferred vote. That is a statistical construct which requires that every vote be regarded as showing a preference for either Labor or Liberal, and finding the two party preferred vote relies on the fact that in a full preferential ballot each voter has to specify a preference for Labor and Liberal candidates.<sup>69</sup> However, with an optional preferential system many ballot papers would not show a preference for either of the major parties. Given the existence of the fairness requirement, legislation to change South Australia’s full preferential voting to optional preferential voting would require fundamental changes to the Assembly’s electoral districts redistribution system.

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<sup>69</sup> It also assumes that the Labor and Liberal Parties contest each seat – or candidates they allow

## Summary

In summary, preferential voting first operated for House of Assembly elections from the 1930 election, and at that time it operated as optional preferential voting, within multi-member districts. When single member districts were introduced at the 1938 election, full preferential voting was required, and this has remained the case.

There are three avenues to address a situation of split support: through party structures (formally mending or re-aligning the split parties through coalition arrangements); through campaign practices (quarantining key seats from the effect of the splits through formal agreements not to engage in three-cornered contests); and through the electoral system (re-integrating the vote by allowing voters to express preferences for both of the split parties). All three of these avenues have been used to consolidate party support and to shape politics in South Australia into a two-party competition.

Both of the major parties have benefited from the way that preferential voting re-integrates split party support. Preferential voting has helped Labor to integrate its vote when Independent candidates opposed endorsed party candidates. However, when the Labor Party has split over ideological issues the level of antagonism has been so high that it has usually been impossible to reach agreement to exchange preferences across the divide. Labor is currently losing first preference votes to the Greens but preferential voting may be one way for Labor to re-integrate its support.

The non-Labor parties benefited from preferential voting in the 1930s when formal coalition agreements seemed fragile, and more recently in the 1970s when the Liberal Movement split the non-Labor party support base. Despite obvious antagonism, the LCL and the LM did exchange preferences and the preferential system reintegrated the Liberal vote.

Preferential voting has been used - in conjunction with other electoral mechanisms – for party advantage alone. In particular, during the 1930s when the preferential vote was used with a contingent vote count and malapportionment, it amplified the number of Assembly seats the LCL could win, even with the same share of the vote as Labor. When single-member districts were introduced this effect would have been lost but the LCL government increased the degree of malapportionment to compensate.

The parties' traditional position has been to preference each other last. Adherence to that position leaves the major parties vulnerable to Independent (or, in the past, Democrat) challengers who can rely on receiving a large number of preferences - from either of the major parties - if the challenger wins more votes than a candidate from one of the major parties.

In Queensland this same vulnerability led to the election in 1998 of eleven One Nation candidates to the Legislative Assembly; at the next election voters were encouraged to use the optional preferential character of their system to refuse to allocate any preferences at all, and the One Nation candidates were not re-elected.

Growing Greens support is currently challenging Labor governments in Victoria where a full preferential system operates, and in Queensland and New South Wales where an optional preferential system operates. In Victoria the major parties have reviewed their traditional position of preferencing their major opponent last, and the Liberals will preference to Labor before the Greens, at the price of real internal party conflict. In Queensland and New South Wales no such internal conflict would be required: Liberal Party divisions in those states could recommend at this coming election that Liberal supporters simply refrain from showing preferences to Labor or the Greens. But the Labor Premiers in New South Wales and Queensland dislike optional preferential voting for another reason: optional preferential voting disadvantages parties when they need to receive preferences and in both states the optional preferential system is expected to deliver Labor fewer preferences than would a full preferential count. This is likely to be the underlying reason that the optional preferential system is under

review in Queensland and that the New South Wales Premier is sympathetic to a review. If optional preferential voting remains in place in New South Wales and Queensland at their coming state elections then the parties can be expected to run a campaign just the opposite of Premier Beattie's Just Vote One campaign that targeted Labor voters in 1998 – this time the Labor Premiers seem likely to target Greens voters, asking them to specify a Labor second preference.

An optional preferential ballot allows voters to allocate preferences if they choose to, and the Queensland ballot has not collapsed into a straight first past the post count. Between 30% and half of all voters across Queensland do normally still complete a full ballot. While voters in safe seats have little incentive to allocate preferences, voters in Queensland's marginal seats do seem to value their preferences, and three seats were won at the most recent election by candidates who had not won the largest number of first preference votes.

The strongest arguments in favour of optional preferential voting lie with a concern that voters don't want to comply with a requirement to specify a full list of preferences when they may not approve of a particular candidate at all, and a concern that voters may be unable to comply with more-demanding systems which thereby waste too many votes as informals. Both of these arguments are made in terms of democratic values. There are also clear party political advantages - if optional preferential voting moves towards a first past the post count, a party which is not unified or which relies on the support of another similar party, will lose seats. In South Australia it is unlikely that an argument to introduce optional preferential voting could be supported by a concern that informality is too high. More importantly, introducing an optional preferential ballot would arguably be more complex in South Australia than in other jurisdictions because it would require a parallel change to another component of our electoral system: the electoral districts boundary redistribution process. South Australia's redistribution system effectively requires a Statewide two-party-preferred count, which can only be complete with a full preferential ballot.

## ***Preferential voting systems***

Any preferential voting system allows voters to choose more than one candidate, and to specify an order of preference for those chosen candidates. A full preferential count (also known as a compulsory preferential count) requires the voter to specify a preference for every candidate; a partial preferential count requires the voter to mark a preference for a specified minimum number of candidates, and an optional preferential count requires the voter to mark one preference but then allows him to specify as many subsequent preferences as he chooses.

In South Australia, voting originally required an elector to write the name of his favoured candidate on the ballot paper. That was difficult for people who were functionally illiterate, so South Australia introduced a ballot paper printed with the names of the candidates standing in each seat, and voters could use a tick or cross to show which candidate they wanted to support. A partial preferential ballot which required voters to show a preference for several candidates was introduced for the House of Assembly elections of 1930, and since the 1938 elections voters have been required to complete a full preferential ballot.

Ballot papers showing a preference for more than one candidate need a different count from ballot papers that just show one, and there are several systems for counting preferential votes. South Australia currently uses the Single Transferrable Vote (STV) for the Legislative Council ballot and the Alternative Vote (AV) for the House of Assembly ballot. A third method of counting preferential votes is the Contingent Vote (CV), which was used for House of Assembly elections during the 1930s. These systems differ according to the number of preferences a voter needs to specify and the way that the count operates (the order in which the preferences from unsuccessful candidates are transferred and the proportion of votes a candidate needs to have in order to win a seat).

South Australia's Legislative Council ballot is a full preferential ballot, counted using a single transferrable vote count that requires each successful candidate to win the same number of votes (a quota).<sup>70</sup> This count ensures that a party wins a number of seats that is roughly proportional to voter support for that party's endorsed candidates.<sup>71</sup> The count proceeds in two stages: in the first stage candidates with a quota of votes are declared elected and are thereafter excluded from the count; their excess votes are transferred to continuing candidates<sup>72</sup> according to the second or subsequent preferences on the elected candidates' ballot papers. In the second stage of the count, candidates with the *fewest* votes are excluded and their votes are transferred to continuing candidates according to the order specified on each of the excluded candidates' ballot papers. This "top-down, bottom-up" count proceeds until all of the vacant positions are filled.

Because voters are required to specify a preference for every candidate on the Legislative Council ballot paper, the transfer of ballot papers should follow the order of preferences that each voter has specified. But in fact in about 95% of cases the votes are transferred according to an order of preferences that has been specified by parties. The mechanism that introduced this change is Above The Line (ATL) voting. When the count was changed to the STV PR<sup>73</sup> count (at the 1982 election), the Legislative Council electoral system was changed from multi-member districts to a single statewide district and voters needed to elect eleven candidates

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<sup>70</sup> Because the LC election is for 11 members, the quota is calculated as one more than the number which is arrived at by dividing the number of formal votes by 12.

<sup>71</sup> Australian STV ballots are often called STV PR.

<sup>72</sup> In fact *all* of their votes are transferred but at a proportional rate, to recognise that a quota of those votes have already been used.

<sup>73</sup> An electoral system that aims for proportional representation using a Single Transferrable Vote count.

rather than just two or three.<sup>74</sup> At that election, voters were suddenly required to choose between (and correctly specify a preference for) 40 candidates.<sup>75</sup> Many voters found this too big a challenge, and the informality rate recorded at that election was 10.1% compared with just 4.3% at the previous election,<sup>76</sup> a level that was considered to be unacceptably high. Above The Line voting was introduced in time for the next election, to allow voters to choose just one group (party) and to relinquish decisions about the flow of preferences to that party; in this way ATL voting retains the full preferential character of the Legislative Council count but reduces the informality rate.<sup>77</sup> While ATL voting is characteristic of Closed List PR<sup>78</sup> systems, South Australia's Legislative Council ballot is still seen as an Open, rather than Closed, List because voters do retain the right to specify their own complete order of preference distribution by voting Below The Line.

For the House of Assembly, South Australia currently uses a full preferential Alternative Vote (AV) ballot. The AV count is essentially an STV count used to elect just one Member: in this situation the quota of votes that the candidate requires in order to be elected becomes a simple majority of the formal votes in the district. As for the Legislative Council ballot, the current rules for the House of Assembly ballot require each voter to specify a preference for each candidate on the ballot paper. Again, as for the Legislative Council count, when the ballot papers are counted a candidate with a quota (in this case 50% plus 1) is declared elected. If no candidate has won enough votes to win outright, the candidate who has won the fewest votes is excluded from the count, his or her votes are transferred to the continuing candidates, and the process is continued until one candidate can claim a majority of the votes, and the seat.<sup>79</sup>

South Australia currently requires voters to specify a preference for all of the candidates on the Council ballot paper and also on the Assembly ballot paper, and this is known as a full preferential ballot. In other parts of Australia, both AV and STV counts are used without the need to specify a preference for every candidate. In some jurisdictions a ballot paper with just one number is formal (this is known as an optional preferential ballot) and in other jurisdictions a ballot paper only needs to specify a minimum number of preferences – for example, twice the number of positions to be filled plus one (this is known as a partial preferential ballot). In fact, when South Australia replaced the first past the post count with preferential voting in time for the state elections of 1930 it was this *partial* preferential form that was introduced, and the full preferential requirement was only required from the time of the 1938 general election.

When the partial preferential ballot was first introduced for the 1930 and 1933 elections, 46 House of Assembly Members were elected in 19 multi-Member districts. The partial preferential ballot required that voters specify a preference for twice the number of candidates to be elected plus one (5 candidates in the 2-member districts and 7 candidates in the 3-member districts). A Contingent Vote count was used. To elect the first Member in each district the count was conducted in the same way as our current Alternative Vote count, declaring a candidate elected if he had won a majority of votes in his own right but more usually excluding the least-popular candidate and allocating his preferences, continuing until a candidate had a majority of the

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<sup>74</sup> While the Legislative Council has 22 Members they are elected for staggered eight-year terms. Half of the MLCs are elected every four years.

<sup>75</sup> This number has increased steadily - in 2010 there were 74 Legislative Council candidates.

<sup>11</sup> State Electoral Commission, 1980, Periodical and General Elections 1979: Statistical Returns for the Legislative Council Election and the House of Assembly Elections held on 15 September 1979, Government Printer, Adelaide. State Electoral Commission, 1983, Periodical and General Elections 1982: Statistical Returns for the Legislative Council Election and the House of Assembly Elections held on 6 November 1982, Government Printer, Adelaide.

<sup>77</sup> In fact the introduction of ATL voting in the Legislative Council in 1985 saw a rise in informality in the House of Assembly ballot, because voters thought they could just specify one candidate in the Assembly ballot as well, but that has since subsided.

<sup>78</sup> With Closed List proportional representation electoral systems voters show which party they prefer, and the parties choose the order in which their candidates are elected. This differs from our "Open List" system where voters can show an order of preference for each candidate.

<sup>79</sup> In practice, since 1985 the count is continued until just two candidates remain, whether or not that is required in order to determine a winner for the seat.

formal votes and could be declared elected. To elect the second member in each district the count was started afresh, showing the first preference votes of each of the candidates except those of the elected candidate, and returning *all* of the ballot papers to the count. Ballot papers that had shown a first preference or subsequent preference for the elected candidate were distributed to the continuing candidates according to those ballot papers' second or subsequent preferences. The ballot papers of the least successful candidates were distributed again as far as required to give the second candidate a full majority of the votes (according to each ballot paper's second preference). A third round, re-including the ballot papers of both elected Members, was required to elect a third Member in many seats.<sup>80</sup> By re-including the ballot papers that had been used to elect the first candidate, this CV count ensured that the voters who had supported the most-popular candidate (who won the first seat in the district) could also determine which candidates won the second and third seats.

The *Electoral Act 1929* which introduced the CV count also introduced another change: it allowed candidates to be grouped on the ballot paper according to their party affiliations (although the parties were identified by a letter, and were not specifically named). Once voters could identify candidates on the ballot paper according to their party, most ballot papers for the candidate who won a majority of votes also showed a second preference for a candidate in the same group. So the combination of a changed ballot paper and a CV count had the effect that each district generally elected two (or three) Members of the same party, rather than a Member from each of the major parties.

Like STV, CV collapses into AV when used to elect just one candidate in a district. So when single-member districts replaced multi-member districts for the Assembly at the 1938 election, the count changed to the alternative vote count that is still used today.

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<sup>80</sup> *Electoral Act 1929* (SA) s.25.