In Victoria, Steve Bracks’s minority government transformed a knife-edge win into electoral longevity and parliamentary reform, write Brian Costar and David Hayward

Above: Steve Bracks, head of Victoria’s minority Labor government, 1999–2002. David Tomic/Flickr

EARLY 1999 was not an auspicious time to take on the leadership of the Labor Party in Victoria. Premier Jeff Kennett was riding high and most commentators gave Labor no chance of winning the next election. And, initially at least, Steve Bracks’s elevation had little impact on Labor’s poor performance in the opinion polls. Yet by the middle of the year his approval rating had reached 54 per cent, a considerable contrast to the poor performance of his predecessor, John Brumby, in 1997 and 1998.

One of Bracks’s advantages was that he didn’t have to contend with the destabilising dissent within the party that had beleaguered Brumby. Labor was unusually united because it was widely believed that Kennett would call an early election, at which the opposition risked a third big defeat. When he did so – the election was set for 18 September 1999 – the opinion polls indicated that Labor would lose seats. The actual result came as a complete surprise. An unprecedented revolt against Kennett in regional and rural Victoria produced a hung parliament, with the Liberal–National Coalition securing forty-three seats to Labor’s forty-one, and three rural independents holding the balance of power. Further drama was injected into the political equation by the death of a candidate on polling day; this necessitated a supplementary election in the former Liberal seat of Frankston East, scheduled for 14 October.

Minority government had returned to Victoria for the first time in fifty years. The three independents who would decide the complexion of the government were Russell Savage, a socially conservative former police officer who had won Mildura in 1996, Susan Davies, who had won the Gippsland West by-election in 1997 after standing as the Labor candidate in 1996, and Craig Ingram, a farmer and abalone fisherman who won Gippsland East in 1999. Led by Davies, the independents drafted a Charter of Good Governance and declared their support for whichever party would promise to legislate its contents.

Accountability of government, parliamentary reform and the social and economic rejuvenation of rural Victoria were the main themes of the Charter, which spelt out principles rather than fine details. In this sense, it echoed the themes pursued by earlier independents in several states when faced with the opportunity to influence the formation of a government, and foreshadowed the themes that have dominated discussions between Tony Windsor, Rob Oakeshott, Bob Katter and the party leaders.

In the month-long negotiations that followed, Bracks, who had been opposition leader for only six months, displayed considerable political skill and maturity in out-manoeuvring the previously dominant Kennett. Here was a straight contest between “agitator” Kennett and “negotiator” Bracks. Backed by large majorities in both houses of parliament, Kennett’s political style as premier was to be the “CEO of Victoria,” and he pursued his objectives with an at times breathtaking disregard for consultation and a dismissive attitude towards any opposition. These traits were to be his undoing. Kennett’s initial response to the independents was a combination of political bribery and bluster; he offered each of them the job of Speaker of the Legislative Assembly, and then announced (on radio station 3AW) that they had no choice but to support the Coalition because they represented “conservative”...
electorates. He also attempted to rewrite various clauses of the charter, much to the annoyance of the independents. When he did concede to some of their requirements he was repudiating policies that he had previously declared non-negotiable, and thus appeared opportunistic and insincere.

Bracks, by contrast, left the independents largely to their own devices. He had the advantage, denied to Kennett, of the fact that almost all of the contents of the charter were settled Labor policy. When the major parties formally responded to the independents, Bracks supported the charter “in its entirety,” whereas Kennett rejected calls to change the voting system in the upper house to one of proportional representation. Bracks then acted with uncharacteristic boldness, sending a memorandum of understanding to the independents seeking their formal support for a Labor government. Craig Ingram, who was going to be out of phone range over the weekend, signed the memo but gave it to Susan Davies with instructions to tear it up if Labor failed to win the next day’s Frankston East supplementary election. Labor won easily, and at a press conference on the following Monday, 16 October, the three independents announced their support for a minority Labor government.

Bracks’s achievement in negotiating this outcome should not be underestimated. It was never a foregone conclusion that the independents would back Labor. Kennett never fully comprehended this. Had he not vetoed upper house reform it would have been difficult for the independents not to have supported the Coalition, because only it had the numbers in the upper house to amend the constitution to change the voting system.

WINNING the peace is always more difficult than winning the war, and after Labor’s euphoria had abated the magnitude of the task facing Bracks was all too apparent. The party did not have a majority in either house of parliament and its cabinet was vastly inexperienced – six of its members were sworn in as ministers before they were sworn in as members of parliament. The party, not expecting victory, had developed only a rudimentary “transition to government” strategy; after the election it quietly engaged former Cain government ministers and public servants to tutor the new ministers in how to carry out their duties. Bracks recounted a story about the first month of government: “As I left my office a journalist called out, ‘Premier,’ and I just kept walking. He kept yelling out ‘Premier’ – [finally] he started yelling out ‘Bracksey,’ and I turned around.”

The new government had some lucky early successes that strengthened its position. Kennett announced his retirement from parliament, and at the subsequent by-election, in November 1999, Labor won his seat of Burwood – as it did the retiring National Party leader Pat McNamara’s seat of Benalla in early 2000. Bracks was a prominent campaigner in both by-elections and their results, which confirmed the trend of the 1999 election, strengthened Labor’s legitimacy. Although the party still lacked an absolute majority in the Legislative Assembly, it now held more seats than the combined Liberal and National parties.

Labor had a ready-made agenda in the contents of the Charter of Good Governance, all of which, save reform of the upper house, were accepted by the Coalition majority in the Legislative Council. The Coalition proved more intransigent towards other government legislation, however. For example, when Labor attempted to legislate to extend the entitlements of Victorian workers who were unable to transfer to the federal industrial relations system, the upper house rejected the Bill. The budget, and state finances more generally, were areas in which Labor moved quickly and decisively. In opposition the party had crafted a conservative financial policy, drawing readily on the advice of neoliberal economic think tanks. It had done so in the belief that Labor needed to distance itself as clearly as possible from the perception that the former Labor premiers, John Cain and Joan Kirner, headed big-spending and high-taxing governments that liked to borrow money to pay for their promises. The strategy seemed to be to emulate the Kennett government as much as possible on financial policy in order to highlight the significant differences between Labor and the Coalition on issues to do with democratic rights and social policy.

Bracks took government at a time when internal Labor Party relations were ominously volatile, but the discipline imposed by its minority status did act as a restraining influence, at least until late in the government’s first term. And even then the damage was subsumed by the 2002 election campaign.

For its part, and despite the fact that it had lost the 1999 election by only the narrowest of margins, the Coalition went into a steep political decline. It retained control of the upper house until October 2002, but was unable to exploit the inexperience of the government or to dent Bracks’s popularity and political dominance. Kennett had
been the driving force of the Coalition government from 1992 to 1999, and his unforeseen and rapid demise left the Liberal Party, which had over-invested its political capital in him, bereft. In fact the 1999 election saw the Liberals lose almost a generation of potential leaders. Unconcerned at the possibility of defeat, Kennett in July 1999 unilaterally announced the “retirement” of six senior ministers, in order to inject new blood into a post-election cabinet. The opposition was further weakened by the dissolution of the Coalition agreement between the Liberal and National parties in June 2000.

The very cautiousness of the Bracks minority government offered little opportunity for a dispirited opposition to gain political traction, and the Liberal Party descended into destructive factionalism reminiscent of the 1980s. In a manner typical of Australian state politics, the incumbent premier’s personal popularity soared and that of the hapless opposition leader languished. The new Liberal leader, Denis Napthine, was a solid performer but was dogged by a wooden media image, and after the usual rumours and leaks he was replaced by the allegedly more aggressive Robert Doyle in August 2002 – ten weeks before the election, which Labor won in a landslide.

Given his generally cautious and risk-averse leadership style, Steve Bracks seemed an unlikely constitutional warrior. Yet within his first three years in office he enacted the most sweeping changes to the Victorian constitution in 150 years.

Bracks’s place in Victorian Labor history, and indeed in the state’s constitutional history, was assured by his enacting significant changes to the Legislative Council and its relations with the government in the Legislative Assembly. Here Bracks succeeded where many of his predecessors over the previous 150 years had failed. Given that before the 2002 election the Labor Party had enjoyed a majority in the Legislative Council for a grand total of three months (in 1985), it is hardly surprising that the party has been less than enthusiastic about the Victorian version of bicameralism. Before the late 1970s, the ALP’s policy was to abolish the upper house; this policy was replaced in 1981 by a policy to introduce a proportional representation, or PR, voting system. The Cain and Kirner governments (1982–92) made no fewer than six attempts to change the Legislative Council’s voting system to PR, but all foundered.

Following its surprise victory, Bracks’s minority government moved on its promise to the independents and introduced a broad-ranging Constitution (Reform) Bill on 24 November 1999. The Bill encountered difficulties when some of the independents expressed reservations about removing the Legislative Council’s right to block supply, and about the geographical size of the proposed rural provinces (the upper house electorates). The Bill was formally withdrawn in June 2000 and replaced by a Constitution (Amendment) Bill, which dealt with parliamentary terms and supply, and a Constitution (Proportional Representation) Bill, which concentrated on electoral and related matters. Both Bills were rejected in the opposition-controlled Legislative Council in October 2000.

In response, Bracks established a constitution commission and empowered it to make such recommendations as would “enable the Legislative Council to operate as a genuine house of review.” The commission was chaired by a recently retired Supreme Court judge, George Hampel, who was to be assisted by former Liberal federal and state parliamentarians Ian McPhee and Alan Hunt; the latter had been president of the Legislative Council in the 1980s. While the appointment of the impartial Hampel and the former Liberal MPs (both of whom were seen as constitutional reformist Liberals) was politically adroit, the opposition still attacked the commission as “a blatant political con.”

The commission issued a discussion paper in August 2001, conducted seminars and regional consultations and invited submissions from the public. Its final report, A House for Our Future, appeared on 1 July 2002. The recommendations of the commission were to form the basis of the Bracks government’s new legislation, but few predicted that it would be presented to a parliament that, as a result of the November 2002 election, would have Labor majorities in both chambers (sixty-two of eighty-eight in the Legislative Assembly and twenty-five of forty-four in the Legislative Council).

The new legislation replaced the single-member, preferential voting system in the Legislative Council with Senate-style proportional representation, removed the power of the upper house to reject supply Bills, and introduced deadlock resolution provisions that constrained, but did not eliminate, the capacity of the Legislative
Council to impede a government’s legislative agenda. The Bill passed the Legislative Council and was proclaimed on 8 April. Given that numerous premiers of all political persuasions, dating back as far as Graham Berry (1875–77), had failed in attempts at upper house reform, Bracks was justified in describing the legislation as his “most satisfying achievement.” Most of Victoria’s media, however, remained unenthused; they were focused on the looming outbreak of war in Iraq.

When the Labor Party secured an outright majority in 2002 the independents naturally became less influential. But they had managed to lock in a number of important parliamentary and electoral reforms, the most noteworthy being the changes to the Legislative Council, which have now become accepted policy. Despite dire predictions, Victorian government and politics did not descend into instability or gridlock. Commenting on that period on Radio National’s *The National Interest* late last month, Steve Bracks said: “I rate that as one of the best periods of government that I had of the period right through the eight years, and the three terms. We had to be on our toes, there was a lot of accountability, but also we had to explain properly what legislation meant, and what it meant to the broader public.” •