

History of Electoral Provisions for Local Government in South Australia

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Introduction

This paper examines the development of an electoral framework for a representative local government structure in South Australia. It is based on provisions in local government legislation passed by the South Australian Parliament from 1840-2003. The three main parts of the report focus on: 1) council boundaries, particularly internal boundaries, and the composition of council; 2) the franchise and the voters' roll; and 3) local government election processes. Each part covers major changes to electoral governance that, in the majority of instances, mirrored legislation for SA Province, later State, elections. It does not investigate why legislation was enacted or consider any bills that may have been debated but were not assented to.

A pioneering form of local government in South Australia was prescribed for the City of Adelaide in the formative years of the Province in 1840. Though the City of Adelaide was dissolved, circa 1843, an 1849 Ordinance provided for the re-establishment of the City. The conditions of the 1849 Ordinance were carried out in 1852 and were followed, that same year, with *An Act to appoint District Councils and to define the powers thereof*. The mid 1850s clarified local governance for a greater portion of the Province. The Municipal Corporations Act, previously biased toward the City of Adelaide, was amended to provide clearer provisions for other towns to apply for Municipal Corporation status. The Governor could exercise his power to modify the number and names of the office bearers and alter the times for holding elections. Local governance options were available to all localities willing and able to partake.

From 1855-6, following the institution of responsible government for South Australia, the *District Councils and Municipal Corporations Acts* in conjunction with the *Ballot Act, 1862* provided the main direction for the conduct of elections for local government. The *Local Government Act, 1934*, whilst still making a distinction between municipal corporations and district councils, combined all legislation relating to local government in one main statute. After revisions over more than sixty years, the 1934 Act was replaced by the current legislation, the *City of Adelaide Act 1998*, the *Local Government (Elections) Act 1999* and the *Local Government Act 1999*.

Part One – Boundaries

Boundary Formation/Alteration

Boundaries of the City of Adelaide as defined in 1840 were determined by the city limits outlined in William Light's survey. Ultimate power for delineating the boundaries rested with the then governing body for the Province, the Governor and Legislative Council.

In 1852 the Municipal Corporation of the City of Adelaide was reformed as a body corporate and the City was divided into four wards – Hindmarsh, Gawler, Grey and Robe.

Later the same year the District Councils Act was introduced. The power for boundary delineation was vested in the Governor of South Australia. Two fifths, or at least one hundred, of the ratepayers had to petition the Governor for proclamation of a new district, describing the boundaries and nominating the names of five people to fill the council roles. In 1861 this was extended to two thirds of ratepayers. Division of districts occurred upon petition of at least 20 ratepayers (1852) or two fifths from the late 1800s; division of wards occurred on the petition of at least two fifths of ratepayers. However the Governor had certain powers to act without petition in regards to boundaries and wards in municipalities and districts. 1874 saw the introduction of two additional wards to the City of Adelaide – Young and MacDonnell wards. In 1887, the Government empowered itself to form district councils without any resident initiated petition, forcing immediate growth in the number of councils.

Following a petition by ratepayers to the Governor to establish new areas and/or divide areas, proclamation of such could then proceed through the *Government Gazette*, provided no objections were lodged. Where roads and footpaths were not covered by boundary descriptions, the Governor had the power to alter boundaries so works could be undertaken. *The Municipal Corporations Act, 1890* placed limitations on criteria for establishing a municipality - the rates of the area had to total a minimum value of £300 per year.

When a municipal corporation was proclaimed a district council, or vice versa, the original status and encompassing laws ceased to operate. The elected mayor and councillors 'constitute a Council for good government ... and management of affairs' (1880 No.190). *The Municipal Corporations Amendment Act, 1896* authorised the union of two or more municipal corporations after a poll of ratepayers was conducted. Any municipality was given the name 'The City of xxx'; larger municipalities of more than 20 000 persons were named

‘The Corporation of the City of yyy’. The Governor’s power to alter districts was adjusted in 1921 to include on address from both houses of Parliament as well as by petition of ratepayers.

The *Local Government Areas (Re-arrangement) Act, 1929* set up a Royal Commission to inquire into local government boundaries and areas and recommend changes to increase the efficiency and economy of the local government bodies. The reports on local government areas were sent to the affected councils for comment, with a final version to the Governor for noting or proclamation.

Metropolitan municipal councils and metropolitan district councils were introduced in 1934. An amount of £3000 was required annually from rates to qualify. Creating a new area required the proclamation to:

- a) Assign a name to the area:
- b) Describe the boundaries thereof:
- c) In the case of a municipality name and describe the wards:
- d) In the case of a district determine whether or not the district is to be divided into wards ...
- e) In ... district determine ... number of councillors, and, where ...wards, ... number of councillors for every ward:
- f) In ... municipality appoint the first mayor and first councillors ... two councillors for every ward ... in ... district appoint the first chairman and first councillors, ... and if ... wards, the first councillors for every ward.

(1934 s10(1)(a-f))

Where two or more areas conjoined, the process was similar to that for creating a new area. A municipality that contained over 20 000 residents could have aldermen in addition to councillors. Municipalities had to have wards though district councils had the choice of whether or not to adopt them. Areas that severed from established districts had limitations:

- for municipalities - the number of wards could not fall below two or above ten;
- for districts - the number of councillors could not be less than five or more than ten.

A petition to divide an area or ward, alter boundaries or abolish wards, or alter councillor numbers had to be made under ‘common seal of the council’ or be signed by a minimum of 25% of ratepayers of wards involved (1934 s30-32). 1976 brought revised wording but no change to the substance of the 1934 provision.

By 1984 the Governor still possessed the power, through proclamation, to:

- a) Divide an area into wards.
- b) Redivide an area into wards ... including, where land is added ... constitution of ... additional ward or wards ... or ... within an existing ward or existing wards.
- c) Abolish the division of an area into wards.

(1984 s7)

The compulsory division into wards for municipal councils was maintained until 1988 where it was left up to the 'circumstances of the particular case' (1988 s8).

Representation Reviews

Periodical reviews were introduced in the *Local Government Act Amendment Act (No. 3) 1984* to determine whether electors were fairly represented and, if changes to the composition of a council or ward structure were considered necessary, to ensure this. The initial review completion date was determined by the minister responsible for local government matters with subsequent reviews no later than every seven years. The Local Government Advisory Commission conducted a review, if council failed to, and made recommendations. If the proposal was to be put to poll before proclamation, the minister could direct either the council or the Electoral Commissioner to conduct it.

From 1992 proposals for changes to the composition of council or wards had to comply with the following set of principles (similar to those used for State electoral district boundary redistributions):

- a) The desirability of reflecting communities of interest of an economic, social, regional or other kind;
- b) The population of each area or ward affected or envisaged by the proposal;
- c) The topography of each area or ward affected or envisaged by the proposal;
- d) The feasibility of communication between electors affected by the proposal and their elected representatives;
- e) The nature of substantial demographic changes that may occur in the foreseeable future;
- f) The total size and composition of the council in relation to the total number of electors in order to ensure adequate and fair representation.

(1992 s4)

When creating or altering wards the council had to ensure ‘the number of electors represented by a councillor must not ... vary from the ward quota by more than 10 percent’ (1992 s4). Reviews were still required every seven years. On completion of the Report, it was given to the Electoral Commissioner to determine whether the requirements of the Act had been met and if so a certificate was issued to the council. If the requirements were not met, the matter was referred back to the council. The Electoral Commissioner was able to operate on a cost recovery basis for this service.

The *Local Government (Boundary Reform) Amendment Act 1995* established the Local Government Boundary Reform Board (operational 1996 until 30 September 1998) to assist with, recommend and consider structural reform proposals to provide:

- a) A significant reduction in the number of councils in the State; and
- b) A significant reduction in the total costs of providing the services of local government authorities under this Act; and
- c) Significant benefits for ratepayers under this Act.

(1995 s10)

The Electoral Commissioner had a role in certifying that structural reform proposal summaries presented a balanced view of both sides of the proposal. If appointed by council, the Electoral Commissioner also had a role in conducting any poll on the issue.

During the review of the local government legislation and development of the *Local Government Act 1999*, a Boundary Adjustment Facilitation Panel replaced the Boundary Reform Board (1 October 1998). The Facilitation Panel’s role continued under the 1999 Act with representation reviews at least every six years certified by the Electoral Commissioner.

Part Two – The Franchise and Rolls

The original Act of 1840 to establish a municipal corporation for the City of Adelaide gave the franchise to:

Every male person of full age ... at least 6 months resident within the Province and ... proprietor or occupier of any land house warehouse counting-house or shop within the ... city of ... annual value of not less than twenty pounds actually residing within the ... city or within seven miles thereof ... shall have paid on or before the fifteenth day of July all rates if payable by him (sIV).

Exceptions:

- no aliens
- no person in receipt of public relief in the 6 months prior to enrolment
- if within 2 years prior convicted of felony or misdemeanour (with 3 months imprisonment with hard labour). (sIV)

Establishing and maintaining the roll was the responsibility of the Returning Officer (RO) (the mayor was to be RO after the first ever election), and two or more assessors. Annually on 1 September, an advertisement for registration of enrolment was given, allowing one week to fourteen days to enrol, if qualified. The enrolment was claimed by eligible persons (as above) voluntarily delivering a handwritten notice to the RO stating residence, qualification and claim for enrolment. Once enrolled for a property, it was not necessary to re-enrol unless removed by objection.

Three weeks after the close of enrolment, a day was set aside for public revision of the roll and finalising the number of qualified electors. A complete list of electors and their qualification was prepared and printed prior to that day so that objection could be made by other electors. A certified copy of the roll was then printed, incorporating amendments made from revision day.

At that time, the returning officer was able to advertise the total number of voters on the roll and determined the amount of votes required for an electoral section or quorum to return a member, being 1/19th of total qualified electors. A quorum was a voluntary classification of electors forming an electoral 'group' to return a member through a unanimous vote. Only as many electoral quorums as position vacancies were allowed i.e. if four vacancies, up to four quorums allowed.

The formal dissolution of the City of Adelaide Municipal Corporation in 1846 was followed by more extensive legislative provisions in the 1849 Ordinance. Every October, collectors made an alphabetical list (the citizen list) of those entitled to be enrolled, based on the franchise of proprietor or occupiers of property. The lists were publicly displayed for inspection on buildings or could be purchased for a small fee. This allowed the right of objection and alteration to the list. An alderman and two assessors from each ward conducted any revision to the roll. Roll maintenance was the responsibility of a combination of the town clerk, collectors, aldermen and assessors.

The 1849 Ordinance roll provisions were repealed and replaced by books of assessments in the mid 1850s. The names of ratepayers were contained in these books and when prepared and signed off, were used as the citizens' list and rolls. Omissions were resolved by appeal to Council. Lists were available for a fee. Every ratepayer, whether named in the assessment book or not, was entitled to vote as long as rates were paid. Ratepayers were entitled to one vote for property in each ward. The qualification was as outlined in the 1849 Ordinance.

In 1861 the Town Clerk was assigned the responsibility for compiling alphabetical citizens' lists on or before 20 October each year. The qualification for enrolment was 'every person', owner or occupier, thus allowing qualified females the franchise. The Court of Revision was held 25 November each year to correct any omissions or object names off the list. The list of claims and objections was exhibited three days prior to the court being held. Frivolous objections were fined. A ruling in 1862 ensured that persons were only entitled to vote if their name appeared in the assessment book.

In 1876, for all district council elections where there was joint tenancy or tenancy in common, only one person could vote unless the annual value of the property was above £75. An additional vote for each £75 or part thereof above £75 was given until the annual value was reached or all tenants voted. Entitlement to vote in municipal corporation elections changed similarly in 1880; where there were more than three joint tenants or tenants in common, only the three tenants as nominated could vote in the election. Those nominated needed to be notified a minimum of one week prior to the election and if no nomination was made, the first three on an alpha surname basis had voting rights (maximum three votes per same property and qualification).

In 1880, the timing for the Revision Court was brought forward to the 15 November each year, with the revised list out by 25 November signed by the mayor and town clerk to become the ratepayers' roll.

From 1890 alteration and amendment of the citizens' roll was made anytime except from 14 days before an annual election, changing to 7 days prior in 1903.

From 1903 nominees of public companies were allowed to vote for municipal corporations. To be enrolled on the citizens' roll and have the right to vote, the directors had to nominate one to three persons by 31 August each year in any one ward. In 1904 the *District Councils Act, 1887* was amended and public companies were able to nominate one person per district and, where divided into wards, one per ward. Towards the end of 1904 legislation changed so that the town clerk prepared the roll in May and certified it on or before 30 June each year.

In 1910, municipal corporations allowed persons receiving public relief to be enrolled as citizens; district councils followed suit in 1914.

Not all councils were required to hold revision courts so a distinction was outlined for roll preparation between those holding revision courts and those not.

Rolls for councils with revision courts:

- In April the clerk prepared an alphabetical list of ratepayers set out according to wards (if any).
- Copies of the list were displayed.
- Claims for insertion or objection were made in prescribed form and 14 days prior to sitting of the Court of Revision, second Monday in June every year.
- After the revision was certified and became the voters roll, the roll was available for purchase.

Rolls for councils not holding revision courts:

- If more candidate nominations than positions, a voters' list was prepared by the clerk before election day. All names were as appeared in the latest assessment book as ratepayers, separated into wards (if any).
- On election day, RO or DRO could add to the list if there were any inadvertent omissions.

An amendment to the assessment book equalled an amendment made to the voters' roll. Citizens' lists were formally made available for inspection in buildings rather than on buildings in 1929.

The *Local Government Act, 1934* brought roll provisions for all councils together. The majority of councils (municipal, metropolitan district and certain other district councils) prepared rolls by 1 May each year, the court of revision took place 8 June and a certified list was issued on 25 June with no alterations being allowed within 10 days of polling day. For the other district councils, if nomination day raised more candidates than positions, the roll was made after nominations, prior to polling day. 1934 also gave a trustee and/or attorney of an owner the right to enrol and vote on behalf of the owner, as well as maintaining vote/s of own entitlement.

In 1946 the requirement to hold a court of revision for enrolment objections and omissions and to specifically prepare rolls one or several times a year was removed, in favour of continuous maintenance whenever there was an amendment to the assessment book. A few councils chose not to utilise the continuous update option and had to prepare rolls at least a week before an election. Enrolment criteria were tightened to ensure that only British born or naturalised British were eligible to enrol and vote; those in the armed forces under the age of 21 and who were also owners of property were allowed to enrol. In December 1971 the voting age was lowered to 18 years of age.

The first reference to the Electoral Commissioner (the person holding such position under the *Electoral Act 1929-73*) in relation to local government came in 1976. An adult rather than property based franchise was established, with the roll a combination of council and State House of Assembly rolls. The Electoral Commissioner had the responsibility of producing the State House of Assembly roll of electors and providing the appropriate portions to councils for any election, poll or meeting on a cost recovery basis. In 1978 it was ruled that the voters roll was to be compiled twice a year as fixed by *Government Gazette* notice, with the more recent of the two rolls used for the election or poll.

The Local Government Act Amendment Act (No. 3), 1984 consolidated and amended the 1934 Act. The voters roll twice yearly review was set for March and September changing to February and August in 1986. Suppressed addresses were introduced to local government in 1986 to protect the personal safety of people at risk.

The *City of Adelaide Act 1998* and *Local Government (Elections) Act 1999* removed the requirement for body corporate and groups to nominate a person to exercise their vote before roll closure. The *Local Government (Elections) Act 1999* requires a House of Assembly roll of electors for the relevant area to be supplied by the Electoral Commissioner to councils within 7 days of a roll closure for an election.

Part Three – Election Conduct

The District Councils and Municipal Corporations Acts were the main basis of direction for election conduct for local government. The intent of the acts was not always clear, particularly in the 19th Century. In 1897, an election was defined as ‘taking the poll on an adjournment ... of the proceedings in the event of there being more candidates nominated than are required to be elected’ (1897 s5). A consolidation of district council and municipal corporation electoral legislation was carried out in 1934 and some new innovations introduced, largely influenced by the election process in the State government sphere. The major innovation was the introduction of voting by post. The State Electoral Commissioner gained greater statutory responsibilities for election conduct following the introduction of the *City of Adelaide Act 1998* and *Local Government (Elections) Act 1999*, the most notable being to act as returning officer for all council elections.

Terms of Office

Original terms for candidate eligibility were:

No person who is not enrolled upon the list of citizens and who is not the proprietor or occupier of a house within the said city of the yearly rental of at least fifty pounds or ... personal property to the value of at least five hundred pounds shall be capable of being elected or of acting as a common councilman and no person who has at any time been convicted of a misdemeanour followed by imprisonment of three months with hard labour ... shall be capable of being ... elected (1840 sXIII).

An interest in, or contract with, the Corporation, holding a place or office of profit with the Corporation or any such unsettled claims also precluded candidature (1840 sIV).

The day after the election was completed, council members elected four aldermen from the councillors and from the aldermen a mayor, prior to being sworn into office. Disqualification and vacancies arose from bankruptcy, insolvency or absence from the province for six continuous months.

October 1840 heralded the first election for local governance in South Australia for the City of Adelaide. The town clerk was David Spence, father of Catherine Helen Spence, and James Hurtle Fisher became the first ever mayor (Spence 1861:19). The second election was held in October 1841; Mayor Fisher resigned in January 1842. A third election was held later in 1842 before the City corporation finally collapsed post June 1843 (Robbins in Jaensch:1986:395-397).

In 1842 power to amend or take away the rights of the City of Adelaide Act was given to the Governor and Legislative Council. Prior to 1846, the corporation had entered into so much debt that it had to be dissolved and the Province pay out and take control of Adelaide. Under the new City of Adelaide legislation in 1849, 400 ratepayers with a combined property value of £15 000 were required to petition for a municipal corporation with a board of Commissioners put in place till such time. In 1851 the petition was realised and the first election of office bearers was held in 1852, as legislated in the 1849 Ordinance. It provided for a mayor, four aldermen and twelve councillors. On the first day of December, every ward of the City elected four persons and the person with the greatest number of votes became the alderman, the remaining three, councillors. Every December, one councillor in each ward vacated office, determined by rotation, and an election was held for the vacant position. Every third year half the number of aldermen left office.

Candidate eligibility was tightened from the 1840 Act with ministers of religion and persons not eligible to be enrolled now being excluded. Anyone elected to the office of mayor, alderman, councillor, auditor or assessor had to accept office or pay a fine to the City fund.

The town clerk could not be a member of council however they could be an Attorney of the Supreme Court of SA, or any of Her Majesty's Superior Courts in Great Britain or Ireland.

In 1852 the City of Adelaide abolished the previous non-acceptance of office fine and fixed the fine at £50 for an alderman or councillor and £100 for mayor. Where a vacancy occurred outside of the annual election, notification of the date for a supplementary election meeting was given within fourteen days.

The 1855-6 Act (to Amend a certain Provision of the Act No 11 of 1849) enabled communities to establish as municipal corporations and conduct elections in accordance with modified City of Adelaide rules.

In 1858 the number of councillors for district councils was set at five if no wards and where wards existed, the number was fixed by provisions of the Act. If the necessary notices to call the election were not placed, a Justice of the Peace could give notice of the meeting, call and conduct it. The annual election meeting was held on the first Monday of July (polling times unchanged 10am-4pm), with three members retiring from office each election/year.

Exempted from serving as councillor:

- Legislative Council or House of Assembly member;
- Resident outside the district;
- Re-elected for council within 3 years of term;
- 60 years old.

Qualifications for candidate:

- ratepayer of the district;
- no special magistrate or stipendiary magistrate;
- no person holding a licence to sell fermented or spiritous liquors;
- no uncertified bankrupt or insolvent;
- no holder of a place of profit in the district council.

If a candidate was elected for more than one ward, they were not a council member until they had notified the district council in writing which vacancy they were filling. Where no notification was received, the council decided the ward to be served and a fresh election was held for the vacancy.

The Municipal Corporations Act, 1880 prescribed ‘Any female’ as a disqualification to stand or continue to be a member of council (s18). The aldermen provisions could apply to any municipality that wished to utilise them. Aldermen could not be mayor unless they had served on council for at least a year and the number of aldermen, not being less than three or more than six, was determined by proclamation. The mode of election was the same as for mayor i.e. a prerequisite of serving a minimum of a year as councillor before advancing.

The District Councils Further Amendment Act, 1883 provided that councillors did not need to be resident in the district to be elected, however they had to provide written consent if living outside of the boundaries. *The Ballot Act Amendment Act 1894* allowed candidates to attend meetings up to 48 hours before opening of the poll.

From 1914, females were permitted to stand as councillors. Susan Grace Benny, South Australia’s first female councillor (Brighton Council) and Australia’s first female politician, was elected in 1919.

1903 – *The Municipal Corporations Amendment Act, 1903* provided that a vacancy occurring within two months of December did not have to be filled prior to the annual elections. The

town clerk or a council member who was not a candidate was appointed RO. A DRO (deputy) could act in place of the RO on nomination day if required.

1904 – *The District Councils Amendment Act, 1904* changed election and nomination days to Saturdays from Mondays.

1929 – *The District Councils Act, 1929* stipulated no councillor was allowed to retain office for more than two consecutive years without re-election.

1931 – *The Local Government Areas (Re-arrangement) Act, 1931* allowed the Governor to postpone, for up to six months, elections in local government areas where an amalgamation was taking place as a result of the 1929 Areas Rearrangement Act.

The Local Government Act, 1934 allowed aldermen, not less than three or more than six, for municipalities of 20 000 or more persons. 1946 formalised that a candidate was not able to be a DRO or poll clerk (1946 s11) and 1986 ensured scrutineers were not able to be candidates.

1980 changed nominations day to the first Friday in September. More than one scrutineer could be appointed per polling booth but only one in the booth at any time.

In 1983, the requirement for a mayor or alderman to have at least 12 months prior service was reduced to ten months and then a year later in 1984 was reinstated to twelve months. [Note that in 1984 all reference to the town clerk was changed to the chief executive officer].

The term of office of an elected representative was extended to every two years at the periodical election beginning 1st Saturday in May 1985. A vacancy occurring within six months of a periodical election (changed to five months in 1988) was filled at a periodical election. Supplementaries were held on a day determined by the RO, being a Saturday (1988), unless conducted entirely by post.

Under the *City of Adelaide Act 1998 (CAA)* and *Local Government Act 1999 (LGA)*:

- aldermen positions were removed and replaced with ‘area councillors’;
- disclosure provisions were introduced for candidate campaign donations; and
- the provision requiring mayoral candidates to have previously held office as a member of council was removed.

Nominations

The 1855-6 Municipal Corporation Act provided for nominations to occur before 11am on election day with candidates nominated by two or more citizens. The poll was declared closed at 11am if the number of nominations were not greater than the number of positions available.

From 1858, as for previous years, nominations opened at 10am and closed at 11am providing an hour to nominate. If more than the required number were nominated, the chairman took a show of hands for each candidate and declared elected those with the greatest show of hands. Following the declaration of the result, a ratepayer could demand a poll that proceeded immediately and closed at 4pm.

1861 marked the move towards a similarity of local government election procedures with Parliamentary procedures. Every election was to be by ballot in accordance with the conduct of House of Assembly elections. 1 December each year, a mayor and four ward councillors (one per ward) (numbers relevant to City of Adelaide, other councils determined by proclamation) were elected at meetings held in wards conducted before a presiding councillor, who was not to be a candidate. Nomination day was at least three days before the election. Nominations had to be signed by two citizens and the nominee and lodged in the office of the town clerk before noon of nomination day. At noon the mayor publicly read aloud nominations. If they were equal to the number of positions all were declared elected, if more nominations than positions, an election was held on 1 December.

From 1876 (DC) nominations were taken in the prescribed form on the last Monday in June by 12 noon. Polling day, or the commencement date of those elected on nomination day, was the first Monday in July. Commencing 1880, nominations had to be held a minimum of 6 days before the election with public notice of such given at least 10 clear days from the election. From 1914, all nominations had to be lodged at the district office by noon on the second Saturday in June each year in the prescribed form signed by two ratepayers of the ward, if wards, and council area, if no wards. Rates had to be paid up before nominating and only one position could be nominated for.

1926 Municipal Corporation legislation resulted in nominations day being fixed on the second Saturday in November every year.

The *Local Government Act, 1934* synchronised nomination day for municipal and district councils - before noon on the second Saturday in June each year, changing to May in 1946 with a further change to the second Friday in May from Saturday in 1952. In 1972 a new section was added to the Act to allow for corrections to be made by the nominee when the nomination form was lodged. The nomination was valid if all details were correct, all rates paid up before nomination and qualifications met. Withdrawal in writing could be made anytime up until noon on nomination day. If a candidate died after nominations but before the election, the election for that position was considered failed. 1984 broadened provisions dealing with the death of a candidate after nominations close to encompass serious illness.

In 1938 a nomination fee of £3 was introduced to the City of Adelaide for all positions, with deposits returned to successful candidates or those that reached a prescribed number of votes.

The returning officer was appointed by council at least 10 days before a nomination day and held that appointment until 30 April, unless revoked by council (1978 s24). Nominations could only be lodged with the returning officer or the deputy returning officer. From 1980 the RO was appointed at the first annual meeting of council each year and nominations could only be made with the RO (or DRO acting as RO). Public inspection and release of information on nominations was available from nominations close to polling day.

1984 - nominations were lodged with the RO no earlier than 21 days before nomination close day, being the first Thursday in April for a periodic election or 12 noon on the second Thursday of the month prior to a supplementary being held. From 1986 the nomination period began the last Thursday in March, extending the time between nominations and polling day for periodical elections and nomination day (not less than 21 days before poll) for supplementary elections.

Voting at Polling Places

During the period that an electoral quorum was required to be elected, if not all vacancies were filled by quorum, an ordinary election followed with those who had not yet voted entering a vote in the poll book at the polling place.

Under the 1849 Ordinance, elections were held in front of current alderman and assessors from 9am to 4pm. Eligible electors (enrolled citizens) voted for any number of persons up to the number of positions available by filling in a voting paper (signed by the elector and

containing his enrolled property address) with the Christian name and surname of the person being voted for and their residence and description. If the mayor deemed booths would facilitate the voting process, he could have them erected or hire rooms to be used as booths with divided compartments. A clerk was appointed to conduct the poll at a booth for the said wards or parts of the area assigned and only votes from those designated localities were to be taken there; there was no absent voting. Four questions could be asked of the voter before voting:

1. Are you the person whose name is signed as A.B. to the Voting Paper now delivered in by you?
2. Are you the person whose name appears as A.B. in the Citizen Roll now in force for this Ward, being registered therein for property described to be situated in (*here specify the street described in the Citizen Roll*)?
3. Are you still in the occupation of premises within the City?
4. Have you already voted at the present Election?

(1849 sXXIX)

To obtain the result, the alderman and assessors examined the voting papers and those with the greatest number of votes won. In the event of a tie, alderman and assessors chose the person/s to be elected. Ballot papers were kept for 6 weeks afterwards. The alderman published a list of the elected persons within 2 days of the election. 9 December every year, council elected a mayor from amongst its members. Supplementary vacancies were filled within 14 days of a vacancy, in a similar manner to general elections.

In 1852 a law providing for the right to establish a district council was passed. While there were many similarities between the District Councils Act and the Municipal Corporations Act, subtle differences included election meeting day on 1 January every year (unless a Sunday), with voting hours 10am – 4pm and using a plurality system (variation of first past the post).

The voting paper contained:

- a description of the qualification to vote,
- names of the persons being voted for, and
- name and signature of voter.

Votes were openly recorded in the poll book.

In 1854, district councils' polling day was moved to the first Monday in March every year, unless elections were uncontested on nomination day.

1858 district councils, same as for municipal corporations, had every meeting for an election of councillor/s for a ward in that ward. The procedure for the poll:

- electors voted on a ballot paper signed by the voter outlining the qualification to vote and the names of person/s voting for, not exceeding the number of vacancies;
- votes were recorded in a poll book; the book was used to calculate votes;
- voting papers were kept for 3 months for public inspection;
- the close of poll fixed the time for declaration, not being later than 2pm the next day.

The Ballot Act, 1862 provided uniform laws for all elections for offices in public bodies including both district councils and municipal corporations. The Ballot Act introduced the secret ballot. Voting places with divided compartments were set up containing a certified copy of the portion of roll with persons entitled to vote at that place. The returning officer was appointed to preside over the conduct of the election with deputies appointed for voting places. Proceedings on day of election:

- voting hours 9am – 5pm (same day)
- vote, in person, at the voting place in the district entitled to vote at stating name, residence, occupation and nature of qualification
- name was crossed off roll, handed voting papers with RO's initials
- ballot paper contained list, alpha order by surname, of candidates with a square opposite each name.
- First-Past-The-Post voting system (cross against name)
- secret ballot, as adapted from Parliamentary election ballots
- ballot was folded and deposited in the ballot box, only to be opened in the presence of scrutineers.

At the close of voting, the ballot box was sealed and delivered to the RO. The RO, in the presence of two or more scrutineers, at the place of nomination, opened the ballot boxes, examined the papers, removed informals and tallied up all formal voting papers from all booths and declared the result. If a tie for 2 or more candidates occurred, the RO had a casting vote to decide who was elected (otherwise the RO had no vote). All voting papers were destroyed after the declaration of names of those elected (s13).

The District Councils Act, 1876 ensured that, prior to election day, the RO placed notices of candidates and wards along with voting times and places on every post office and required place for posting notices. For supplementary elections, a day was set no later than one month after the vacancy occurred. Nominations were taken seven days before polling day with the ballot conducted as per general elections. *The District Councils Act, 1887* kept polling day as the first Monday in July with nominations moved to the third Monday in June. Where there were no wards, the ballot was held at the district office, otherwise at appointed polling places within the wards.

Polling booth hours were 8am – 7pm from 1890. 1903 amended the municipal corporation election date to the first Saturday in December, rather than the first day in December, as it had been since 1849. 1904 changed district council voting from 8am - 7pm the same day.

The Municipal Corporations Act, 1890, more than ten years later than in parliamentary elections, allowed blind men voting assistance to mark their ballot paper in local government elections. The provision was upgraded in 1903 to blindness ‘or other affliction’. Finally, in 1904, the *District Councils Amendment Act, 1904* added assistance for blindness and other ‘bodily infirmity’.

The District Councils Act, 1914 set voting hours (same day) of 8am – 7pm for councils that held revision courts, and for those with no revision court 9am – 5pm. With electors voting at an assigned polling place, the procedures for voting were taken from State election provisions, eg voting in private, placing a cross against the name/s of candidates being voted for, folding the ballot paper to hide the vote but so that RO’s initials were still visible, placing in ballot box and retiring from the booth.

In 1929 ten municipal councils had voting closing at 7pm and the rest set at 6pm.

Voting hours set in 1934 (s120):

- (a) metro councils – 8am-7pm (same day)
- (b) municipal councils – 8am-6pm (same day)
- (c) district councils – 9am-5pm (same day)

Polling day - the first Saturday in July.

If the presiding officer was **satisfied** the voter could not vote without assistance it was granted.

In 1946 voting hours for municipal and district councils were made the same, 8am – 6pm with metropolitan councils remaining open until 7pm. 1980 changed the annual election month to October and, from 1981, voting hours were made uniform across all councils, 8am-6pm the same day. 1988 the council had the power to determine polling booth hours (maximum close time at 6pm) one of which had to be open from 8am-6pm.

How to vote cards were introduced for display in polling booths in 1986.

Voting in Advance / Voting by Post

Postal voting was made available in 1934 for the seriously ill and infirm and those ratepayers not in the area on polling day or within 10 miles of a polling booth. A postal vote included the postal vote certificate and papers. The application was to be made on a prescribed form, witnessed by an authorised witness and sent to the RO before 12 noon two days before polling day (extended to 5pm in 1946). The postal vote certificate and papers could then be issued. All postal vote applications were open for public inspection until the election could not be called into question. Anyone who voted by post was not able to vote in person (unless surrendering postal voting papers).

From 1946 only those postal votes that were ‘posted’ were accepted. All others handed in or delivered by another method were rejected and failed to reach scrutiny.

1968 introduced council authorised postal vote applications only. Only the RO, DRO and spouse of an applicant were able to deliver an application form. The 1978 provisions allowed electors whose names were not on the roll to vote by post. A declaration was signed in addition to the postal vote certificate. By 1980 the tight interpretation on posting was relaxed so that postal votes could be posted or delivered to the elector. The acceptance deadline for such votes was the close of poll.

1986 - advance voting was used in ‘proclaimed’ areas where distance and terrain hindered attendance at a polling place on polling day. In these circumstances polling places were not used and the entire ballot was conducted by post. Advance voting papers were available at least 21 days and no later than 14 days before polling day. Close of voting was 6pm on polling day; if a supplementary election was conducted entirely by advance voting, it closed at 12 noon polling day. The postal vote papers were required to include a pre-paid envelope addressed to the returning officer for return of completed voting papers. The 1996 Act closed

elections conducted entirely by advance voting at 6pm the day before polling day. 1996 legislation also offered personal delivery by electoral officials of advance voting papers to specified institutions instead of attendance voting on polling day. Candidates and electors were to be informed if this procedure was to be used.

Another obstacle to postal voting was overcome in 1990, allowing a mark placed by a person who could not sign their signature to be witnessed by a person over 18 years old.

Amendments to the Local Government Act in 1996 required declarations on postal votes to be on a tear-off extension to the envelope flap allowing for easier removal in the count process whilst maintaining the secrecy of the vote.

The Local Government Acts of 1998 and 1999 provided for postal voting as the primary method of voting across the State, with qualified exceptions in country areas as allowed by the returning officer.

Vote Counting

In 1852 the count procedure began with a duplicate vote check of the poll book. The candidate with the greatest number of votes was elected. If a tie of candidates' votes occurred, the winner was decided by drawing lots. Resignation of a council position resulted in a fine.

Prior to *The Ballot Act Amendment Act, 1894*, at the conclusion of voting the ballot boxes were opened and papers examined by the returning officer. This was replaced for the City of Adelaide with a localised count. The deputy returning officer carried out the informals check and count at the polling place before forwarding a return of the ballot materials to the RO for the declaration of the poll. Other councils could petition the Governor for these provisions which were inserted, in 1914, into the District Councils Act. The RO had the casting vote if votes were tied. For those councils not under the above provisions, the RO conducted the count centrally and exercised a casting vote in event of a tie.

In 1978 a measure was introduced that if the voter's intention was clear, even though the ballot paper was not marked exactly in accordance with instructions, the ballot paper could be included in the count. In 1972, in the event of a tie, the law was modified so that the RO chose the candidate who was up for re-election over any other and, where none were up for re-election, drew the candidate by lot.

The *Local Government Act Amendment Act (No. 3), 1984* removed First Past the Post as the voting system and provided councils with a choice of two voting systems:

- 1) Optional Preferential - where a minimum of one preference was numbered; or
- 2) Proportional Representation – to be numbered consecutively from 1 to at least the number of vacancies.

The voting method was required to be in place before the beginning of the election process and, where council made no determination, the default method was optional preferential. For councils with wards, optional preferential was the required method. In 1985, full choice was allowed regardless of whether a ward structure existed. In 1986 a new subsection was added to the Act to allow for the use of prescribed electronic equipment for vote counting and, in 1990, vote recording. From 1999 all councils were required to use proportional representation.

In conjunction with the change in voting methods, in 1984 the presiding officer completed a return of papers, envelopes used etc before doing an informals check and delivering all materials to the returning officer for a centralised count. In 1986 the presiding officer could be directed to count the ballot papers to first preferences before delivery to the returning officer for count finalisation. Recounts could be requested within 72 hours of the provisional declaration in 1984, changing to within 48 hours in 1986.

Timeframes for ballot paper destruction are outlined in Table 1.

Table 1 - Ballot Paper Destruction

Year		Length of Time after Election
1849	mc	6 weeks
1852	dc	2 months
1858	dc	3 months
1862	BA	Forthwith after declaration of election
1876	dc	3 months
1914	dc	28 days – councils where DRO counts ballot papers 3 months – councils where RO counts ballot papers
1923	mc	7 days – councils where DRO counts ballot papers Forthwith after declaration of names elected – councils where RO counts ballot papers
1934		1 month after declaration
1938		3 months after declaration
1968		6 months after declaration
1984		Not less than 6 months after declaration
1999		When RO satisfied election or poll could not be questioned

mc = Municipal Corporation
dc = District Council
BA = Ballot Act

Forms of illegal practice were identified from 1862 onwards eg acts of bribery or corruption by a candidate invalidated the election of such a person; recovery of penalty proceedings were to begin within three months of an offence. In 1978, a local government court of disputed returns was established to hear petitions concerning the validity of an election or return of a mayor, alderman or councillor. This court was able to give judicial redress in situations where an election outcome was found questionable.

Conclusion

The electoral framework for local governance in South Australia has progressed significantly from its 1840 beginnings with open voting and poll books to secret voting and ballot papers. Centralised and uniform boundary representation and election processes have given fresh independence and transparency to electoral governance. The extension of the franchise to all State House of Assembly electors opened the way for the inclusion of a greater number of citizens while full postal voting provided increased voter access and response. The rewriting of local government legislation in 1999, after decades of extensive amendments to the 1934 Act, and the passage of separate legislation for the electoral framework, reinforced the integrity required of election conduct. The potential exists to sustain and further promote impartiality in boundary and electoral matters for this sphere of government which holds a constitutional role in State affairs.

References

Act No.	Year	Short Title or Description
4	1840	An Act to constitute a Municipal Corporation for the City of Adelaide.
1	1842	An Act to amend “An Act to constitute a Municipal Corporation for the City of Adelaide.”
12	1846	To repeal an Ordinance intituled “An Act to constitute a Municipal Corporation for the City of Adelaide.”
11	1849	To constitute a Municipal Corporation for the City of Adelaide.
13	1849	Farther to amend and continue the Ordinances authorising the Levying of an Assessment within the City of Adelaide, and to provide for the Improvement of the City, until Municipal Institutions shall be established.
2	1851	An Act to continue the powers and authorities of the “City Commissioners.”
9	1851	An Act to postpone for Six Months the first elections or appointments of Officers and other Persons under the Ordinance “To constitute a Municipal Corporation for the City of Adelaide.”
16	1852	An Act to appoint District Councils and to define the powers thereof.
23	1852	An Act to alter and amend the Ordinance, No. 11 of One Thousand Eight Hundred and Forty-nine, “To constitute a Municipal Corporation for the City of Adelaide.”
16	1854	An Act to amend “An Act to appoint District Councils and to define the Powers thereof.”
5	1855-6	An Act to amend a certain Provision of the Act No 11 of 1849, “To constitute a Municipal Corporation for the City of Adelaide.”
18	1855-6	An Act to amend the Laws relating to the Corporation of the City of Adelaide, and also to regulate the Slaughtering of Sheep, Calves, Swine, and Goats in the said City, and to prevent certain nuisances therein.
10	1858	An Act to consolidate and amend the Laws relating to District Councils.
16	1861	The Municipal Corporations Act, 1861
8	1862	An Act to amend the “District Councils Act, 1858.”
13	1862	The Ballot Act, 1862
21	1862	Municipal Corporations Act Amendment Act, 1862
21	1865-6	An Act to further amend the Act No. 10 of 1858, intituled “An Act to consolidate and amend the Laws relating to District Councils.”
23	1873	Municipal Corporations Amendment Act, 1873
43	1876	The District Councils Act, 1876
79	1877	The Municipal Corporations Amendment Act, 1877
168	1880	The Corporations and Councils Boundaries Act, 1880
190	1880	The Municipal Corporations Act, 1880
293	1883-4	The District Councils Further Amendment Act, 1883
336	1885	The District Councils Further Amendment Act, 1885
419	1887	The District Councils Act, 1887
497	1890	The Municipal Corporations Act, 1890
573	1893	The Land Value Assessment Act, 1893
606	1894	The Ballot Act Amendment Act, 1894
660	1896	The Municipal Corporations Amendment Act, 1896
674	1897	The District Councils Elections Validating Act, 1897
833	1903	The Municipal Corporations Amendment Act, 1903
863	1904	The District Councils Amendment Act, 1904
1033	1910	The Local Government Act, 1910
1182	1914	The District Councils Act, 1914
1183	1914	The Municipal Corporations Act Amendment Act, 1914
1485	1921	District Councils Act Amendment Act, 1921
1558	1923	Municipal Corporations Act, 1923
1694	1925	Municipal Corporations Act Amendment Act, 1925
1757	1926	District Councils Act Amendment Act, 1926
1778	1926	Municipal Corporations Act Amendment Act, 1926
1885	1928	District Councils Act Amendment Act, 1928
1908	1929	Local Government Areas (Re-arrangement) Act, 1929

1911	1929	Municipal Corporations Act Amendment Act, 1929
1924	1929	District Councils Act, 1929
2016	1931	Local Government Areas (Re-arrangement) Act, 1931
2045	1931	Municipal Corporations Act Amendment Act, 1931
2105	1932	District Councils Act Amendment Act, 1932
2156	1934	Local Government Act, 1934*
2331	1936	Local Government Act Amendment Act, 1936
2424	1938	Local Government Act Amendment Act, 1938
43	1939	Local Government Act Amendment Act, 1939
16	1946	Local Government Act Amendment Act, 1946
51	1948	Local Government Act Amendment Act, 1948
21	1952	Local Government Act Amendment Act, 1952
48	1952	Local Government Act Amendment Act (No. 2), 1952
56	1954	Local Government Act Amendment Act (No. 2), 1954
54	1957	Local Government Act Amendment Act, 1957
34	1959	Local Government Act Amendment Act, 1959
50	1959	Local Government Act Amendment Act (No. 2), 1959
60	1963	Local Government Act Amendment Act (No. 2), 1963
54	1964	Local Government Act Amendment Act, 1964
28	1966	Local Government Act Amendment Act, 1965-1966
36	1967	Local Government Act Amendment Act, 1967
16	1969	Local Government Act Amendment Act (No. 2), 1969
89	1969	Local Government Act Amendment Act (No. 3), 1969
107	1971	Local Government Act Amendment Act, 1971
113	1972	Local Government Act Amendment Act (No. 2), 1972
141	1972	Local Government Act Amendment Act, 1972
63	1974	Local Government Act Amendment Act, 1974
77	1976	Local Government Act Amendment Act, 1976
1	1977	Local Government Act Amendment Act, 1977
32	1978	Local Government Act Amendment Act, 1978
70	1978	Local Government Act Amendment Act (No. 3), 1978
88	1980	Local Government Act Amendment Act (No. 2), 1980
61	1981	Local Government Act Amendment Act (No. 2), 1981
27	1983	Local Government Act Amendment Act, 1983
103	1983	Local Government Act Amendment Act (No.3), 1983
34	1984	Local Government Act Amendment Act (No. 2), 1984
58	1984	Local Government Act Amendment Act (No. 3), 1984
13	1985	Local Government Act Amendment Act, 1985
12	1986	Local Government Act Amendment Act, 1986
101	1986	Local Government Act Amendment Act (No. 4), 1986
69	1990	Local Government Act Amendment Act, 1990
29	1992	Local Government (Reform) Amendment Act 1992
54	1992	Local Government (City of Adelaide Wards) Amendment Act 1992
66	1993	Local Government (Voting at Meetings) Amendment Bill 1993
79	1994	Local Government (1995 Elections) Amendment Act 1994
108	1995	Local Government (Boundary Reform) Amendment Act 1995
58	1996	Local Government (Ward Quotas) Amendment Act 1996
98	1996	Local Government (Miscellaneous Provisions) Amendment Act 1996
14	1997	Local Government (City of Adelaide Elections) Amendment Act 1997
47	1998	City of Adelaide Act 1998
62	1999	Local Government Act 1999
63	1999	Local Government (Elections) Act 1999#
64	1999	Local Government (Implementation) Act 1999
46	2002	Local Government (Access to Meetings and Documents) Amendment Act 2002

#First Act to separate local government electoral provisions from principal statute relating to local governance.

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