AUSTRALIA DOES NOT HAVE A SECRET BALLOT SYSTEM

Australia no longer has a secret ballot system to judge by the definition of a secret ballot system that the Australian Electoral Commission (AEC) defines in its ‘electoral education resource’ Democracy Rules: ‘Citizens vote in secret. A screen is provided to prevent others from seeing how they voted. The secret ballot allows people to vote without fear of intimidation from others and reduces the risk of bribery.’

Obviously the 2007 federal election did not qualify by that definition as a secret ballot election as 16.4% of the votes cast did not qualify as being cast under those conditions. They were postal or pre-poll declaration votes both of which the AEC describes as ‘early votes’. And the level of these is rising with each successive election; for example postal votes have doubled in number since 1993, while pre-poll votes have tripled.

Such early votes do not qualify as being cast by secret ballot as they are not cast in the same polling box, in the same polling booth, in the same polling station, with the same security, as ordinary votes on the one polling day. Furthermore they are not votes cast which reflect the same snapshot of issues and news polls on the same day as is the case with ordinary voters on polling day.

Moreover postal voters never cast their votes into any polling box, while pre-poll voters are often denied the opportunity as they often find a ballot box out of reach in undermanned or inexperienced pre-poll stations. Also neither postal nor pre-poll voter have the faintest idea what security exists over their ballot papers until electoral officials begin counting them in their offices in the lead-up to election day. They certainly are no longer secure in police stations as once was the case.

A great many voters are uneasy that fraud can most easily be committed on an organised scale in the area of postal voting. This unease was reflected in the conclusions of the Australian Government Electoral Reform Green Paper authorised by Joe Ludwig as Special Minister of State in September 2009 Its implications for postal votes in particular include the following:

*In contrast to ballots cast in polling places, secrecy cannot be guaranteed for postal ballots, completed in an environment uncontrolled by electoral administrators. It has been argued that there is a greater risk that postal voters ‘may be influenced or even intimidated by others’.
*It has been contended that postal voting makes it ‘much harder to be certain that the person casting the vote is actually the person the vote is registered for.’
*Postal voting relies on the postal service to transmit ballot papers and completed votes within relevant deadlines. There have been instances of disenfranchisement of voters particularly in rural and remote areas, where infrequent postal services have slowed the postal voting process. (Reform Green Paper p 164)

Very few people are aware that the issue of electoral fraud in our elections, or ‘bribery’ as it was called then, has always hovered in the background of Australian political life since 1856. For example our famous federal MP (Billy) Hughes said, during the first Commonwealth Electoral Bill debate in 1902, ‘Bribery (fraud) is carried on to a greater or lesser extent at every election in every state in the Commonwealth.’ But that issue tends to be dismissed, or derided, as the bad grace of losing candidates or parties, rather than taken up as a case of where there is smoke there is fire.

The first debate on whether to adopt postal voting began in the South Australian Parliament in 1856, the very year that Victoria adopted H.S. Chapman’s final resolution of a limited secret ballot voting process, which spread world-wide as the Australian Ballot. This Parliament rejected postal voting as ‘entirely incompatible with the sanctity of the secret ballot’ (F.M.McCain Origins of S.A. Electoral system 1972 p.49). However this view was reversed in 1890 to permit seamen and shearsers, authorised by certified witnesses, to cast postal votes despite objections that ‘it would open the door for combinations of people and unions to obtain a block vote (S.A. Hansard 10.10, 1890 p.71)

The South Australian prevailed when the Commonwealth government was formed. Postal voting was adopted, but curtailed briefly in principle during the short-lived Fusion Government in 1909 because, in Senator Hutchings’ words, ‘The grossest kind of fraud has occurred in connection with postal voting
Postal voting not only escalated not supported by the former and present N.S.W. Electoral Commissioners Dixon andefeated teams ofervicemen, verified this view in 2001 (flying angels) erroneous view that electoral fraud is commonplace cals when challenged. It ran - that -

The AEC does not investigate fraud, is not required to do so, nor in my opinion should be required to do so because they should not have to sit in judgement on their own work. Therefore we have no recent example of a judicial inquiry into postal voting fraud to compare with that conducted by Richard Mawrey QC, who sat as Electoral Commissioner for the High Court in a challenge, by two defeated teams of
candidates, to the results of an election in two wards of the 2004 Birmingham Council election conducted by postal voting on demand. The sanction to conduct elections by full postal voting on demand had been approved by all parties in the House of Commons in 2001. After a long, arduous enquiry, Richard Mawrey QC announced just before the 2005 general election that this Birmingham Council fraud ‘would have been a disgrace to democracy in a banana republic.’ This not only shocked the political world out of complacency, but also the media where the story dominated the early days of the election, including the fact he had faced strong obstruction from the Labor Party to its continuance throughout.

His conclusion was that ‘the principal problem with postal voting, whether on demand or otherwise, is that no means can be devised to guard against serious and organised fraud. The British government has tried - not very hard – to devise such a system but the changes brought in response to the election cases, where I have exposed massive fraud, have been minimal.

I identified fourteen different types of fraud capable of being perpetrated (thought some were cumulative and not free-standing) and in Slough I dealt with the fifteenth type, that dear old friend well known in all democratic systems, where I shamelessly purloined the Australian term ‘roll-stuffing. The changes brought in by our government in 2006 dealt with one of the fourteen frauds but no more. The other thirteen and roll-stuffing like John Brown’s soul go marching on (Quadrant p. 52).’ He complained of strong obstruction tactics from the Labor Party throughout.

The 2007 report of a University Liverpool academic Stuart Wilks-Heeg Purity of Elections in the UK supported Richard Mawrey’s view that postal voting should be abolished. ‘Cases tried since 2000 underline that the extension of postal voting has clearly enhanced the vulnerability of UK elections to large scale fraud. The likelihood of such fraud occurring could and should have been predicted on the basis of evidence growing of proxy vote fraud during the 1990’s. Moreover the potential for the political control of a major city council, or the outcome of a contest for a parliamentary constituency to be determined by postal votes, has been clearly demonstrated by recent fraud cases, most notably the offences considered by the Birmingham election court in 2005 (ibid op cit).’

The conclusion of both Richard Mawrey QC and of Stuart Wilks-Heeg was that parties are wrong in their belief that postal votes will particularly favour them, or that it will boost attendance at the polls. They are concerned at the increase in fraud in British elections, which is signified by the current inquiry by police in fifty constituencies following the recent May 6 election.

My own conclusion is that so long as one of the two parliamentary parties has its power base in the trade unions built on postal voting – power that is related to amassing control of such unions –it should be confined to those unions and not extend into parliamentary elections unless in remote areas and for emergency circumstances.

So long as we are disposed to consider ourselves a great democracy, we should ensure that our secret ballot is in every respect a secret ballot; and not yield that secrecy to an ever increasing number of postal and declaration votes that cannot by any stretch of imagination be considered to be secret. For we allow party members to scan lists of applications for postal votes, and electoral officers to scan them without scrutineers present. For all the checks that may be in place, none readily verifies if the postal voter is a phantom or fraudulent voter, for no identification is required. But questions should nevertheless be asked urgently not about this or that, but about the validity of the whole non-secret ballot system.

As Richard Mawrey QC told us during his visit here earlier this year ‘easy voting is fraudulent voting.’ Therefore serious questions should be asked about our easy voting system which is the most generous and prolific in the world. And an Electoral Ombudsman should be appointed to ask them.

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