

# Australian Electoral Administration and Electoral Integrity

Excerpt from Paper 2 from Dr. Norm Kelly

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## **Growth in non-attendance voting and the impact this has on integrity.**

Non-attendance voting, in the form of postal voting, is seen as a way of increasing turnout by making voting easier. However moving away from the controlled polling booth environment increases the risk of fraud and corruption. In Britain when postal voting rules were relaxed in 2001, it was accompanied by significant fraud by Labour and Conservative candidates who saw the advantages in controlling postal ballots (*R.Mawrey Easy Voting Means Fraudulent Voting Quadrant vol.54 no.4 2010*).

In Australia, postal voting has increased significantly over the past two decades. At the federal level postal voting has risen from 2.93% to 6.09% in 2010. (*These are Senate figures. Prior to the 1993 election postal voting was around 4-6% but the introduction of pre-polling resulted in a significant initial drop in the rate*). Increases at the State level have been similar. For example, in Queensland, postal votes jumped from 4.6% in 2004 to 7.5% in 2009.

The growth in postal voting raises three important questions in regard to the integrity of elections.

- First, are there sufficient safeguards to ensure that postal votes (which are, by their nature, cast in an uncontrolled environment) have been made freely, without coercion or undue influence?
- Second, can election officials have confidence that a postal vote has been cast by the person stated on the accompanying application forms (and has that person had a legitimate reason for applying for the postal vote)?
- Third, because of the ability for political parties to be intricately involved in the distribution and collection of postal voting application (PVA) forms, does this corrupt the process and increase the possibility of also disenfranchising some voters?
- In answer to the first two questions it is impossible to ascertain or control the conditions in which postal voters cast their votes, and whether an application has been forged. However with an accurate electoral roll, and the electronic availability of signatures from enrolment forms for cross-checking PVA signatures, there can be a good degree of confidence that identities are correct.

The answer to the question of whether voters have legitimate reasons to lodge a postal vote is less clear. Schedule 2 of the Commonwealth Electoral Act 1918 specifies several circumstances when an application for a postal vote may be made, namely, when the voter will be outside the state or territory; will not be within eight kilometres of a polling booth, will be travelling throughout polling hours; is ill, infirm or approaching childbirth (caring for someone in these conditions); is in a hospital without polling facilities; has religious beliefs that preclude attending at a polling booth. (*Eligibility may be broadened to anyone outside their electorate on polling day, under the Electoral and Referendum (Modernisation and Other Measures Bill 2010.*)

As applicants only need to specify that they are eligible for a postal vote, without indicating the particular reason (at least on the federal level), there is a relaxed onus of proof. Electoral Commissions understandably do not investigate applicants' eligibility in the middle of conduct an election, but a doubling of applicants in recent years suggests that more voters are using postal voting as a convenience rather than a necessity.

Of greater concern is the involvement of political parties in the PVA process, which may also explain the general increase in postal voting. Part XV of the Commonwealth Electoral Act details the process of applying for a postal vote. As a result of amendments in the past 25 years, political parties can now actively solicit for electors to lodge postal votes.

Such solicitation is commonly carried out by the parliamentary representatives of the major parties who can use both taxpayer-funded and party resources, such as printing allowances and elector databases, to mail postal vote application to enrolled voters.

It is also standard practice for the mail-outs to include a return envelope to the member or party, which then forwards the application on to the AEC. AEC figures show that 39% of all PVA's are returned indirectly via a third party, with 97.8 % of these being forwarded by the Labor and Coalition parties (*AEC Submission to the Inquiry by the JSCEM into the 2007 Federal Election 2008 p.36*). This shows that the governing parties have an advantage over less-resourced parties in influencing electors.

For more than 15 years, the AEC has consistently criticised such overt party involvement in the conduct of elections. Its arguments include:

- There is a potential for voters to become confused, thinking it is the parties who are responsible for postal voting rather than the AEC.
- Delays occur due to applications not being returned directly to the AEC, resulting in possible disenfranchisement (*AEC to JSCEM The Conduct of the 1996 Federal Election 1996 p.54-55*).
- Electors often receive more than one PVA, sometimes resulting in multiple applications being received by the AEC, adding to its administrative burden (*AEC to JSCEM op cit The Conduct of the 1999 election p.80.*)
- There is unnecessary use of postal voting, increasing costs and delaying the finalisation of results for at least 2 weeks (*Report of the Inquiry into the Conduct of the 1999 Federal Election and Matters Related Thereto Canberra 2000 p.56*)
- Political parties stockpile PVA's before sending them to the AEC, resulting in processing delays and, at times disenfranchisement (*ibid p.32*).
- The secrecy and integrity of the ballot may be compromised as votes are cast in an uncontrolled environment (*Gerry Newman Analysis of Declaration Voting research paper No.3 AEC Canberra 2004 p.11*).
- Parties attempt to obscure the fact that the PVA is returned to a Political party address by misappropriating terms such as 'returning officer' (*AEC Submission to the Inquiry of the JSCEM into the 2007 election p.35*)
- **Party officials 'correct' details on PVA's before sending them to the AEC (*ibid p.37*).**

Despite the AEC's ongoing concerns, the JSCEM, and successive governments, have chosen to support the continued involvement of parties in the process. At times the JSCEM has shifted blame to the AEC for some of the problems, stating that it 'is possible that some (voters) were disenfranchised as a result of administrative errors by the AEC. The general thrust of the reports is that the parties are providing a public service in distributing PVA material.

Under the Commonwealth systems, parties can, either accidentally or deliberately, delay a PVA from reaching the AEC, meaning that eligible voters may be prevented from casting a vote. During the Joint Standing Committee on Electoral Matters Inquiry into the 1998 election, the AEC identified 174 electors who were disenfranchised through such apparent delays.

Despite raising concerns about stockpiling since at least 1993, evidence in the AEC's submission to the JSCEM suggests the practice is continuing, with a surge in the number of applications being received more than fourteen days after the witness signature to the PAV. However, despite evidence, the AEC has been reluctant to initiate prosecutions against the parties, an indication that it is a victim of the regulatory capture referred to earlier, through its close day-to-day dealings with the parties. In addition, prosecutions can be costly, and the government can limit the AEC's capacity in this area.

In terms of fairness and equity, only the Coalition and Labor parties have the financial and database resources to engage in mass mail-outs to electors. With the incumbency benefit of having electronic databases of electors, these can be designed in a personalised format. The databases and tracking systems, that have been developed by the major parties, also include information that identified the polling booth where an elector votes, and whether an elector is a possible party supporter.

Although there is no direct evidence that this practice occurs, it is conceivable that a party might delay forwarding a completed PVA to the AEC if the elector is identified as a non-supporter. Reform in this area has been minimal with the parliament passing some modest reform measures in mid-2010. In particular, the legislation ensures that party material is physically distinct from postal vote application forms and encourages electors to vote online rather than via the parties. However, it does not eradicate party involvement in postal voting.