

THE AEC HAS ABUSED ITS 'INDEPENDENCE'

The Australian Electoral Commission, since its creation in 1984, has been successively ignoring the fact it exists to ensure it gives its Divisional Returning Officers maximum support, because it is they who are our line of defence against perversion of those elections by fraudulent voting - not the Canberra bureaucracy.

Instead the Australian Electoral Commission has been downgrading their function in every way. I have written an entire book on this topic: *Frauding of Elections*. All members of the current Parliament should have received a copy.

A. THE AEC IN BREACH OF THE CTH ELECTORAL ACT

The Australian Electoral Commission has been in breach of the Commonwealth Electoral Act in certain sections which are:

Section 7 (1) & (3) Functions and Powers of the Commission

(Core functions of the Electoral Commission cannot be outsourced)

(1) The functions of the Commission are:

(2)(a) to perform functions that are permitted or required to be performed by or under this Act, not being functions that (1) a specified person or body, or the holder of a specified office, is expressly permitted or required to perform.

Section 32 (1) & (2) Divisional Returning Officers

(The spirit and intention of the Act is that DRO's be located in their Division, the requirement for 'written directions' as to their functions often breached and they are being called 'office managers' in a degradation of the fact they carry the whole responsibility of the integrity of elections.

(1) There shall be a Divisional Returning Officer for each Division, who shall be charged with the duty of giving effect to this Act within or for the Division subject to the directions of the Electoral Commissioner and the Australian Electoral Officer for the State or, if the division, is or part of, the Australian Capital Territory, the directions of the Electoral Commissioner.

(2) A Divisional Returning Officer for a Division may, subject to any directions given by the Electoral Commission and, if the Division is part of a State, the

respect to the performance of their functions and the exercise of their powers under the Act in, or in relation, to the Division.

Section 82 (1) (2) & (3) Subdivision Rolls, Division Rolls

1) There shall be a separate Roll for each Division.

(2) There shall be a separate roll for each Subdivision

(3) All the subdivision rolls for a Division shall together form the Roll for the Division

Section 79 of the CEA does not overcome this retrospectively

Section 99 (33) Claims for enrolment or transfer of enrolment

(3) Subject to sections 94, 95, 95AA, 96 and 96A and part XV11, a person is not entitled to have his or her name placed on the Roll (these sections apply to electors who are prisoners, overseas, itinerants or in special territories like Norfolk Island and Antarctica.

(4)c - in respect of an address other than the address at which the person is living when the claim is lodged.

Section 188 (1) a & b Issue of certificate and ballot papers

(The DRO's alone have the duty and obligation to issue ballot papers under the CEA.)

(1) A DRO or Assistant RO who receives an application, properly signed and witnessed, for a postal vote shall post to the applicant.

(a) A postal vote certificate printed on an envelope addressed to the DRO for the Division for which the applicant declared that he or she is enrolled; and

(b) one postal ballot paper for a Senate election or one postal ballot paper for a House of Representatives election, or both, as the case requires.

NB: The AEC cannot legally delegate the issue of postal ballot papers to a private contractor as it did in the 2004. DRO's have always issued and despatched postal ballot papers daily as applications arrived. The contractor fell 7-10 days behind, 5 days before polling day. Large numbers of postal voters Australia wide did not get their postal ballot papers in time. The AEC panicked with couriers and taxis rushing to deliver postal votes together with expensive advertisement and directions to pre-poll o vote on polling day.

The AEC statistics on the AEC internet on October 22 for Swan in WA, won by the ALP by 111 votes, the gap between postal ballot papers issued and votes counted was 3,505 or 56% of the ballot papers snot returned compared to the usual 20%.

B. AEC EXPLOITS OMISSIONS IN THE CTH ELECTORAL ACT

1. What legal basis exists for the following provision in the Divisional Operations Procedures Manual?

Manual Part 8 subpart 6 Despatch lists to Scanning Centres

(for sending certified lists to scanning centres within 24 hours of the polling day count so they are not available for the 2 weeks of further scrutiny)

DRO's are to follow the despatch arrangements determined by State head office operations, in consultation with the scanning manager.

The despatch of certified lists to scanning centres, while vote counting is proceeding, is clearly in breach of Section 90 that all proceedings should be open to scrutineers in view of the fact the ACE expressly prohibits scrutineers from entering those centres classifying them as administrative centres.

Legality of Call Centres

2. What legal basis exists for outsourcing the management of Call Centres of the Australian Electoral Commission to Call Centres of Centre Link to operate from issue of the writs to two weeks after polling day. In 2007 the AEC will have only one Call Centre for the whole of Australia.

Most people would not give a second thought to that arrangement although the legality of this is highly questionable. Helping people to know how and where to enrol and vote, what's wrong with that. Everything. The Call Centre will not be on AEC Territory, as has always been the case but in a separate building. They are manned by casuals on shift. Dozens of them. No security checks.

When this innovation was first introduced for the 2004 election, AEC divisional Returning Officers were troubled by the fact that these casuals would be linked by terminals to the mainframe data base of the AEC whereas the AEC had previously located the Call Centres in AEC Head Offices.

However Mr. Dyak of AEC's Canberra Office, who was overseeing this innovation. He did not deny the casuals would be linked to the mainframe data base of the electoral roll, but sought to set my concern to rest, that roll-stacking in marginal seats could occur, by saying the casuals would have a Read Only Access Bar on their computer link.

Now a Read-Only Access Bar is a very flimsy barrier as any computer expert will tell you. Reliance on it to prevent fraud is very dangerous. It could be bypassed by any casual planted there with evil intent, who claimed a mechanical breakdown so a mechanic could be called in to 'fix' a machine.. the It could be breached by a hacker from a private telephone as Timothy Cooper did into both electoral roll and ballot count in Queensland during the 1993 election as verified by both the AEC prosecutor in his trial and the IT man rectifying the AEC's system.. **Or it could be breached through a Telstra exchange**

What if someone did bypass the terminals in the Call Centre? In 2004 that hacker could have stacked different ghost names on the roll for 7 days. That loophole has been curtailed for the forthcoming 2007 election with close of roll on the issue of the writs.

In contests where seats are won by less than 500 votes, and election results, overturned, it is madness to allow outside access to the electoral roll.

3. Postal Vote Envelopes

The postal vote envelopes used in the 2001 and 2004 federal elections breached privacy. They were not as anonymous as possible as the AEC itself believes to be desirable in the industrial elections it manages. In 2001 each envelope a large red V on one side and a smaller red symbol on the other.

Australia Post AEC argues that security from theft lies in automation. This is nonsense. They can be tossed off the line with a flick of a switch and pass through up to a dozen hands. If diverted, they can be opened, destroyed, altered or delayed until after the election. The danger was considered so manifest in industrial elections, the practice now is to make these envelopes as anonymous as possible. Why has the AEC adopted the opposite practice in the two last federal elections by making them as obvious as possible?

4. Postal Voting

The witness authenticating a postal voter is not required to supply an address on the envelope. Yet this is the only document regarded as proof of its legality under oath for what is essentially a statutory declaration. The AEC breached the privacy of 650,000 postal voters by issuing only one envelope to each postal voter on the grounds that 10% of votes returned by voters were informal when they failed to include the vote in the second envelope provided. Thus postal voters were obliged to returned their votes in an envelope with their birth dates, names and addresses on the outside of the envelope exposing them to identity and vote theft.

C. Amalgamations of Divisional Returning Offices.

AEC began centralising by amalgamations or colocations from 1987.
Its policy to co-locate divisional offices out of their neighbourhoods to new locals meant that smaller staff would be moved into smaller standard size offices in clusters of 2,3 or 4 - even 6. This would save 15-20% in rental, 30% in rents and 15-5% in staffing cost.

Both parties opposed amalgamations in JSCEM -1992/1996/2003.
Advice to the AEC as to the legality of amalgamation, was negative until recently.
The AEC claimed in 2003 that it had advice in favour but refused to produce it.

150 Divisional Returning Officers petitioned Special Minister of State Senator. Abetz.

They objected to amalgamations still progress in defiance of him as Minister.

150 Divisional Offices struck in protest for 3 hours November 7, 2002.
Their 6.5% pay rise over 2 years was linked to agreeing to amalgamation. They objected to lack of consultation with themselves or their union, the CPSU.

Special Minister of State wrote to every Divisional Returning Officer.
No further action on amalgamations without consent of the Parliament or Minister.

Divisional Returning Officers said they jeopardise the electoral system.
Divisional staff lose contact with the physical nature of their electorate and electors.
They have a reduced ability to detect enrolment fraud via roll reviews. They cannot manage elections as efficiently eg. Supervision on polling day. They lose demographic familiarity essential for redistributions.

Divisional Officers disagreed that amalgamation would save money.
The average rent of 23 Queensland divisional offices was \$35,000 in recent times when the rent of Queensland Head Office + 4 Divisions was \$400,000 and West End \$400,000. Therefore it was cheaper to move Head Office than Divisional Offices.

Divisional Officers asked why they were targets for economy in AEC.
Senior executive in Canberra received \$652,187 in performance bonuses. They bought wide TV screens and photocopiers equal to the price of a small car.

Examples - Lilley/Moreton/Brisbane/Bonner (new electorate) in Brisbane
Central/Bradfield/North Sydney/Berowra/Bennelong in Sydney.
The latter meant enormous inconvenience to 250,000 people