The Independence of Electoral Administration

By

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As a topic for serious study, electoral administration has been a late starter. Classic political philosophers like Rousseau and John Stuart Mill wrote about electoral systems and the theories of representation they embodied, and so did historians of Greece, Rome, the Papacy, the Holy Roman Empire, the United Kingdom and the United States *et cetera*. But such writers almost always ignored the low-level mechanics of who did exactly what when elections were taking place, the one virtuous exception being Jeremy Bentham. As an undergraduate fossicking in the second hand bookshops which once stood where the Bank and the Fund now rule the world, I acquired two volumes entitled *How the World Votes*.[1] Their author was a Yale professor, Charles Seymour, with his research assistant shown as co-author. Seymour is still well known today for his account, written a few years earlier, of the development of the English electoral system after the Great Reform Act.[2] To start this lecture I want to ask why the "How" in the later title was ignored for so long.[3]

It will help if we look at the sub-titles of those books for a moment. In 1915 Seymour added "The development & operation of the Parliamentary Franchise 1832-1885," and in 1918 "The story of democratic developments in elections." By 1918 democracy was seen as a good thing, though not necessarily always suitable for export and adoption. Look at what was being said about Iraq in the Covenant of the League of Nations (Art.22) and the text for the subsequent mandate. What "developing democracy" traditionally meant in the context of elections was extension of the franchise to, eventually, all adults. Since the end of World War II that meaning has expanded, as we will see.

When Seymour reached "Elections in the British Colonies," those colonies which were about to become Dominions, his praise was fulsome: "[T]hese self-governing commonwealths represent in many ways the furthest development of the democratic idea that the world has seen." (p.181) In particular, they had curbed plutocracy and reformed the hereditary upper house. The methods of roll-keeping in Canada and Australia were described briefly, and he noted that "Australia has … gone far in developing the technical details of holding elections."

Unlike the mother country where untrained officials produced often unsatisfactory rolls, and "electoral duties were regarded as of comparative unimportance and shifted on to the backs of already overloaded officials, Australia has a wealth of electoral officials who have nothing else to do but to see that the mechanism of elections runs smoothly." (p.193) The significance of that development has been discussed elsewhere.[4] In practice the "wealth of officials" meant a full-time junior official who did the routine work and a more senior officer with other, non-electoral duties as well, located in every electoral district (the Commonwealth Constitution called them "divisions"), plus very small establishments at state and federal level supervising them. The whole organization was

known as the Electoral Office, and formed part of a large ministerial department for budgetary and personnel administration purposes.

Writing a few years later than Seymour, Lord Bryce, having defined democracy as meaning "nothing more nor less than the rule of the whole people expressing their sovereign will by their votes," was equally approving of Australia:

> It is the newest of all the democracies. It is that which has traveled farthest and fastest along the road which leads to the unlimited rule of the multitude.[5]

That was certainly true. Adult male suffrage, abolition of plural voting and property franchise, suffrage for women were far and fast indeed. Bryce also mentioned several local innovations that extended the franchise, but went on to say that "[t]he counting of votes appears to be everywhere honestly conducted, and one hears no complaints of bribery," whilst noting limitations had been imposed on campaign expenditure and the likelihood that elections were getting more expensive. (pp.200-01)

What Bryce did not write about, nor did anyone until Robert Parker[6] 40 years later, was the Australian tendency to turn adjudication of some important decisions over to independent bodies. It is important for today's topic and again it is a matter written about previously.[7] When developing electoral administration, the Australian colonies had originally followed British foot-steps fairly closely, but as the post-Bentham era of reforms unfolded sometimes the Australians were a few paces ahead, sometimes the British. The franchise began as a property right, and as such was suitable for adjudication in the ordinary courts of law. But when the numbers of electors grew and their qualifications had been reduced and simplified, it proved easier to turn disputes over to a specialized court that came into existence *ad hoc* when rolls were being compiled to hear *inter partes* disputes about eligibility. The new federal government immediately created Special Courts of Revision (Commonwealth Electoral Act [CEA] 1901, s.38) comprising the electoral official charged with keeping the roll in his division and either a magistrate or a couple justices of the peace. The matter remained with those special courts briefly, then the magistrate or justices of the peace were dropped. That left enrolment disputes to the official responsible for roll maintenance in that division, subject to appeal up the bureaucratic hierarchy.

Disputes about membership of the House of Commons – membership of the House of Lords raised very different questions – could concern either eligibility to be elected or the conduct of the poll. In either case it was considered the responsibility of that chamber which would appoint a select committee to investigate. Eventually responsibility passed to a special court consisting of a superior judge, and the Australian colonies followed.

Another electoral problem took the same course away from the legislative branch. By 1902 when the Commonwealth first legislated, the time was already ripe for what Seymour would soon describe: routine electoral matters were turned over to public servants, a process which was encouraged by the demands made by a continuous roll. New Zealand and New South Wales had already innovated in a closely-related area by turning the drawing of division boundaries to an official, subsequently three officials. However that legislation set criteria to be applied by the official(s) and each chamber

retained the right to reject the officials' proposals and require them to try again. There still remains some uncertainty whether the provisions of the CEA monopolize the electoral sphere, or can other legislation dealing with review of administrative decisions offer an alternative remedy,[8] but that lively hare will not be pursued now.

Corrupt acts affecting the electoral process went to the ordinary courts. "Electoral offenses" they were called generally but in the CEA they were divided into three categories: those committed by electoral officials and called "breach or neglect of official duty," those committed by political activists and called "illegal practices" which included bribery and undue influence, and those likely to be committed by ordinary citizens which were also called "electoral offences." Offences were prohibited and penalized "[t]o secure the due execution of this Act and the purity of elections" with savage penalties: imprisonment with maximum terms of two years, one year or six months depending on the offence, or fines of £200 or £50 maximum. The only cut-price offence was defacing or removing official notices at £2 maximum, still a tidy sum for those days (CEA 1902, ss.173-91). Breach or neglect of official duty was near the top of the range with a maximum of one year or a £200 which is not surprising for an era where public service ethics rested on a penalty-based disciplinary system.

"Independence" from interference by another in a sphere of government activity usually has a close connection to the status and reputation of the person or persons undertaking that activity. By 1902 judges had more than two centuries of independence under their belts, public servants nearly half a century. Both the politically active and the mass public would have had fairly clear and firmly-held beliefs about the integrity and independence of judges and public servants, reinforced as they were by the severe sanctions of loss of a relatively good and certainly secure job and possible criminal prosecution.

It remained possible for a *deus ex machina* to be invoked if and when it was thought necessary which was rare. A select committee reviewed the first election conducted by federal officials in 1903, and was generally satisfied with arrangements. A royal commission sat in 1913 when some things were thought to have gone wrong at that election. It ended the last vestige of the "overload" Seymour wrote about by making the senior official in each division's two-person office a full-time electoral official. One might say that Australia's "characteristic talent" for bureaucracy[9] had triumphed once more because it appeared to work well. In a wider context the point has been made:

> Paradoxically … electoral governance attracts serious attention not when it produces good elections but when it occasionally produces bad ones. It is this paradox that has obscured the empirical relevance and analytical significance of electoral governance.[10]

The Australian system of electoral administration was paralleled in each state for their own elections, save they did not have officials permanently stationed in each of their electoral districts but recruited other officials *ad hoc* when an election came on. It became a familiar and trusted part of the Australian political landscape and as a consequence nobody wrote about it. Regular tinkering with, and occasional substantial

changes to, the electoral system meant that Parliament often had an opportunity to say something about the administrative implications of those matters, and in particular Members would avail themselves of the opportunity to mention local grievances like the availability of polling places, but these rarely had a sustained partisan flavor. Significant for future talk and writing about Australian electoral administration, though not at that time, was the struggle in the 1940s and early 1950s for control of the international trade union movement waged by the American Federation of Labor and the International Congress of Free Trade Unions as part of the Cold War.[11] It led to the Electoral Office being given responsibilities for the conduct of trade union elections as well as parliamentary elections, and the former proved to be much more prone to disputes and consequent litigation in the courts than the latter ever were.

Not until the early 1970s and the coming to office of the Whitlam Government was serious and sustained consideration given to major changes to the electoral system and, associated with it, to the ability of what had become something of an in-bred bureaucratic backwater to cope with major additions to its responsibilities and with the consequences of changes in Australian society and party politics.[12] Thanks to the responsible minister, Fred Daly, a modest increase in the staffing of the divisional offices was achieved and roll-maintenance computerized, but that did little more than recognize the massive growth in enrolments and the number of enrolment transactions every year. The Electoral Office was made a statutory authority, and thus slightly more at arm's length from its ministerial department, its senior officials were made statutory officers and so removable only by Parliament, but these changes only gave legal form to existing practice. The Hawke Government came to office in 1983 with what was potentially a substantial program for change inherited from the Whitlam period, but chose to work through a Joint Select Committee on Electoral Reform (the JSCER) in the first instance.

I will mention only changes which resulted from that process that are germane to this lecture's subject, the independence of electoral administration. For the benefit of anyone present familiar with a paper on that subject published a few years ago,[13] I will try to avoid repeating what was said then. Both the major parties, Labor and Liberal, recommended creation of an independent electoral commission, and the JSCER saw "great merit in the existence of an Australian Electoral Commission (the AEC) with a statutory basis and which is seen to operate independent of political influence" and recommended accordingly.[14] The JSCER proposed that the AEC carry on all the current functions of the Electoral Office, and in particular a statutory basis should be given to what had already started on a limited and intermittent basis, "research, information and education programs."[15]

But the JSCER also proposed involving the AEC in what would have to be relatively novel responsibilities. In 1902 a relatively recent British precedent had been copied and limits set for campaign expenditure (CEA 1902, ss.160-72), but the provisions had been largely ignored in practice. Eventually they were repealed by the Fraser Government when the possibility that they might be applied arose. The JSCER considered two "closely related" issues, the first being introduction of partial public funding of election expenditure, and the second the re-imposition of an obligation to disclose expenditure

now coupled with imposition of a new and additional obligation to disclose the source(s) of donations.

Whilst a great many of the JSCER's recommendations were supported by both major parties, the area of these two issues was charged with partisan feeling, attributable presumably to the widely-held belief that the Liberal party benefited more substantially from the current, un-regulated situation that did the Labor party. With the support of minor party members in the Senate the Hawke government was able to legislate along the lines laid down by the JSCER. In the more than 20 years since then there has been, I think, widespread acceptance that there should be public funding and that there should be some degree of disclosure, but considerable partisan feeling hangs over the details of both.

Another new field of activity would be the registration of political parties, introduced to support several changes being made. One change was the addition of the party identification of candidates on ballot-papers, a second was collective lodging of nomination papers of a party's candidates, and a third the payment of public funding and the lodging of disclosure returns. Those changes largely reflected the changing nature of campaigning and electoral contests with increased emphasis on party leaders rather than individual candidates, the centralized control over campaign messages allowed by IT developments, and the steeply rising cost of campaigning. The new function appeared to fit comfortably into existing routine: for the most part it required routine clerical work within fairly clear statutory provisions. Ready access to an administrative tribunal and then the courts if an imaginative new party tested the *status quo* took away any politically sensitive disputes. However a case that happened to arise under similar legislation in a state jurisdiction recently showed the potential for trouble that can lurk in apparently quiet corners. It involved money and therefore imported the criminal law of fraud into the dispute and that in turn led to a well known political identity being locked up for a time. On the other hand, when a party opposing the passage of a constitutional amendment referendum differed from the AEC on the meaning of a statutory restriction on advertising, the matter was speedily and finally resolved by the former applying to the High Court. It all depends.

Finally the JSCER proposed enhancing the AEC's independence, compared to the Electoral Office's, by abandoning the power of each chamber to fail to pass or to reject a redistribution scheme for a particular state and require the redistribution commissioners to try again (CEA 1902, ss.21-22). Lest this be thought a minor matter for the last instances are now 30 years in the past, there were 17 instances of rejection and 14 instances of a scheme lapsing before the parliamentary veto power was removed. There had been speculation whether the possibility of rejection might inhibit the independence of the redistribution commissioners.[16] The majority of the JSCER, wisely, chose to rely instead on appearances and "believed that, to reinforce to the maximum possible extent the independence of the commission and to ensure as much as possible the removal of its conclusions from the political sphere, the conclusion of the Electoral Commission with respect to redistributions should be final"[17] and that was what the legislation provided. In a dissenting report, Sir John Carrick, the senior Liberal member of the JSCER,

suggested that at the final stage of the redistribution the proposals should be placed before Parliament which might make comments or recommendations. The redistribution commissioners should consider these and then make their decisions which would be final.

That has been a short history of how we, that is Australia, got to where we are today and it is time to start looking around and asking questions. This is undoubtedly a popular topic:

> From Afghanistan to Burundi to Liberia to Palestine, today's headlines are full of situations in which electoral processes go forward in the face of tremendous challenges for conflict management. The reason is clear: in today's world, no government can claim to rule legitimately without some degree of dereference to the will of the people …[18]

To begin at the beginning, the first critical decision has to be the choice of an electoral system, how to convert votes into seats. For some time Australia has used bicameralism to have two-bob each way, and whilst there are proposals abroad for tinkering with each system, their only impact on electoral administration is the increased burden complexity of the voting process places on an administrative authority that is expected to explain the variations to the electorate. Next is the question of how electoral systems affect party systems, which at present is the extent to which proportional representation increases the number of minor and mini parties on offer.

Finally, and back to our subject, there will be fundamental considerations of electoral administration.

> Research has shown that the structure, balance, composition and professionalism of the electoral management body (e.g. an electoral commission) is a key component in successful electorate processes that generate legitimate, accepted outcomes.[19]

But it is a great truth that has been recognized only recently.

> The organization of elections was traditionally a specialist backwater of the administrations of established democracies, often located within the government or local government service. Individual committed officials worked in their electoral service for many years often in isolation and with their role unrecognized.[20]

Does the international scene have anything to do with us? Australia hasn't had a civil war like Afghanistan and the others. Elections in such countries have generated a literature of their own[21] and organizations have sprung into existence to assist, some based on a single national benefactor and others truly international in their composition and funding. Australian electoral administration is good enough to export to the less fortunate, and the AEC and its officials have been vigorously engaged in that activity since 1983 as its Annual Reports document and a comment by the Prime Minister about Iraq puts beyond question. Do we really need to worry about the maintenance of what is a long-accepted administrative structure or the avoidance of politico-administrative ills we have never experienced? My answer is that it would be useful to have a look at some recent events, first in fellow members of the Commonwealth of Nations with which we

are rarely compared, then in a country with which we like to think we have a number of similarities, and finally in one about which we don't think we have much in common.

Nigeria has an electoral commission that is supposed to be independent. It also has an anti-corruption watchdog commission, like some of our states. With elections pending, the Economic and Financial Crimes Commission recently wrote to political parties, of which Nigeria has a good number, listing 130 candidates who are about to be charged with corruption, including one of the most serious candidates for the federal presidency. The Nigerian electoral commission has since said they will not be allowed to stand.[22] At the beginning of the year the army of Bangladesh called on the country's president to declare an emergency to prevent the impending general election being held. Bangladesh is a polity where excessive bitter rivalry between two major parties and their veteran respective leaders permeates political life. Each party distrusts the other being in office during an election, and so a practice developed that a caretaker government would be installed whilst the election was on. One had just been appointed when it was tipped out by the army. When the new, temporary one was installed it appointed a new electoral commission. However, the author of the article relied on here, speculates that the army will not allow an election to be held for at least a year, in part to allow correction of a national roll thought to contain 12.2 million "dubious names," an estimate attributed to the National Democratic Institute which says the roll will take "several months" to correct, and the issue of "fraud-proof identity cards" would take a year.[23]

In the United States the Federal Electoral Commission was established only after the Watergate scandal.[24] It is concerned only with regulating campaign finance in presidential elections, and is an example of a bipartisan commission, rather than a nonpartisan commission. Consequently its members may have active party links, as do a great many elected or appointed electoral officials. Everything else involving federal elections is the responsibility of the 50 states and 4,600 local authorities, though there are federal constitutional provisions and federal legislation covering some aspects. The federal legislation may be very specific e.g. requiring access to polling places for the disabled (1984), ensuring that the military and other citizens overseas can still vote (1986), and that voter registration is possible at motor vehicle registries (1993), or it can be very broad in its effect – battling discriminatory voting practices (1965) and requiring statewide rolls and provisional ballots and making money available to improve electoral administration (2002). Brian Costar and I,[25] and a great many Americans too,[26] have been very critical of the conduct of recent American elections on more grounds than can be dealt with now.

Finally there is the recent experience of Mexico, where democracy suffered from the long dominance of one major party. Their Federal Election Committee (FEC) was established in 1946 and has been characterized as "highly controversial … run directly by the interior secretary as a dependence of the executive branch … notorious for directing elections towards outcomes dictated by the president."[27] In 1989 a Federal Electoral Tribunal was created in which decisions of the FEC might be challenged, and in 1990 the Federal Electoral Institute was added. Gradually its powers and its jurisdiction were extended and its reputation for integrity enhanced. In 1996 it was transferred from the executive

branch to come under the authority of the Supreme Court, and given control over the selection of its chief executive officer. By 2006 it had engendered sufficient confidence in its independence and integrity to weather an extremely close presidential election followed by a short period of peaceful mass protest against the outcome it had declared.

The conclusion to be drawn from these cases, and there could have been many more, is that there is nothing magical about an electoral commission. It can be set up with inadequate responsibilities and powers, and be recognized as inconsequential. The principles on which its members are selected are important, as are the circumstances in which they can be removed, individually or collectively. A commission can be caught up in political conflict and become the pawn of more powerful forces. Or it can establish itself as a respected independent force able to resolve political conflict. The rest of the lecture will address a series of questions about how this is most likely to be achieved.

The first question is whether a statutory foundation is sufficient, or should the electoral commission be entrenched in the constitution. There are three pretty obvious truths to start with. Thirty years have passed since the Australian electorate got up enough speed to carry a constitutional referendum, and we have only to consider the level of affirmative voting in 1988 on parliamentary terms and fair elections. Next, amendments may not get things quite right first time. The 1977 amendment on Senate vacancies failed to catch the first case that arose after it had been adopted. Finally, the fact that the Commonwealth Constitution says something should exist is no guarantee it will exist. What could be said to a Martian visitor to Canberra who asked to be taken to the Inter-State Commission? Perhaps tell him it was intended to regulate river transport and he will understand. Given the likelihood that a federal government will not control the Senate, legislation ought to be sufficient. If I caught the magic flounder and it offered me one amendment in return for its freedom, I would rather try to guarantee a right to vote.

It should be remembered that there are well known points at which the Constitution pinches electoral administration, for example introducing a fixed term would assist ad ministration but runs up against the Governor-General's power to dissolve in s.28. There is current an interesting point following the statutory change passed in 2006 to close the rolls on the day that the writ for an election issues. It brings into play s.12 which allocates the power to issue writs for Senate elections in the state governors, and their power to do this has traditionally been regulated by state legislation.[28] Current provisions either give the local Governor-in-Council discretion, or for Victoria adopt the 1983 amendments to the CEA – as that state did generally with its electoral legislation – and specify the close of rolls being seven days after the date of the writ (s.4(1)). The federal government apparently relies on s.109 to claim that such a provision is inconsistent with a Commonwealth law and to that extent invalid, and it may well be that Commonwealth law determines what can be put on the writ. But whether the Commonwealth can compel a state governor to issue a Senate writ may be a different matter, and one can only say "watch this space."

The second question is how specific, or broad, should electoral legislation be; in other words how much discretion should an electoral commission have when conducting an

election. Over the years the CEA has grown in length, and the regulations made under it have shrunk, and that is a good thing. There will always be matters where a wide discretion is required. If you are going to enforce compulsory voting, as the Act requires, then something like s.245(4) is necessary:

> The DRO is not required to send a penalty notice if he or she is satisfied that the elector: (d) had a valid and sufficient reason for failing to vote.

Parliamentarians should not have to spend their time considering what should, or should not, be included in a list of reasons that would qualify as valid and sufficient. Possibly some of them have not seen enough of the world to even imagine some of the reasons that are put forward.

On the other hand, discretion demands careful consideration. Take s.268(3):

> A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as that intention is clear.

A rhyming couplet was easily remembered, "When in doubt/throw it out," but it hardly complies with the intention of the legislation to preserve the voter's right to have their vote counted if that is possible. On a related point, casual observers of the political scene are at risk of mistaking where responsibility lies and whither criticism should be directed. To take a current issue, the ability of candidates who qualify for public funding to show a profit on the operation, the one news story might refer to "federal electoral law" or "the rules" or "the AEC rules" which allow this. It is unlikely to say there once was a statutory provision preventing such an abuse, but it was deleted by agreement of the major parties once they found it an inconvenient distraction from the main game of spending as much as they could as quickly as they could

The third question is whether there should be some protective machinery involving the legislature to act as a counter-balance to the executive's natural and pervasive influence. Some countries bring their courts into play for this purpose, but because of the view that Australian (and US) courts have taken of dangers to the separation of powers doctrine we can more usefully concentrate on the legislature. The news that the JSCER was going to morph into a permanent feature of the electoral landscape was good news, and some years of living with the Joint Standing Committee on Electoral Matters (the JSCEM) did not undermine my belief in parliamentary committees.

However, it is possible that the relative stability of governments since 1983, a period of almost a quarter century in which two governments each lasted more than a decade and won five and up to the present four general elections respectively, induced a feeling among new members of the committee and others that elections weren't working properly "to throw the rascals out" and something was wrong somewhere. Two other phenomena of the period, a propensity to strengthen a few components of the government machine at the ex pence of the rest and an intensification of partisanship in public life and attack campaigning on the American model in electoral competition, contributed to this feeling. But having said that, it is certainly the case that the evidence engendered by the JSCEM's inquiries and its subsequent reports constitute a unique body of material on electoral administration in detail.

The fourth question is whether the leadership of an electoral commission can be protected from partisan influence, and if so how. The South Australian branch of the Labor Party had suggested to the JSCER that the first chief executive officer should be chosen "on the recommendations of an independent select committee" and thereafter by the AEC itself, but the JSCER preferred the more usual Governor-General-in-Council appointment. This followed interviews conducted by a committee of relevant permanent heads. Although the defeat of the Whitlam government in 1975 effectively brought an end to administrative reform in the Electoral Office, it coincided with the retirement of the long-serving Frank Ley and led to the appointment for the first time in living memory of an outsider, coming from the Prime Minister's Department, to the most senior office. Since then no insider has been appointed.

What is probably more important as a guarantee of independence is that no incumbent has been re-appointed when their first statutory term ended. If a convention has developed, and one must always be reluctant to say that, it is a useful one. This is not a matter of removing self-interest as a consideration when unpleasant decisions have to be made, but of ensuring any appearance that self-interest might have operated. Curiously the point at which the discretion of the Governor-General-in-Council is partly fettered concerns the chairman, one of the two-part time commissioners, who has to be selected from a panel of three "eligible Judges" supplied by the Chief Judge (CEA 1918, s.6(4)), a formula which, I suspect, was designed to maintain a proper arm's length between the judiciary and a politically sensitive appointment. For the other part-time member, another convention again appears to have started that the appointee will always by the Commonwealth Statistician; again it is a wise step.

It will always be possible for a government so inclined, and provided it controls both houses of the Parliament, to nibble away a bit of independence by so legislating rather than picking the right person. Thus the Act previously said:

> The office of a Divisional Returning Officer shall, unless the Commission otherwise directs, be located with the Division. (CEA 1918, s.38)

The location of divisional offices was the subject of tension between the AEC and some Members and within the Commission between Central Office and divisional staff, primarily because the section's clear implication of each division having its own, small office and existing staff's satisfaction with that arrangement ran counter to the cost and other benefits of consolidating several offices into one in metropolitan and large provincial city areas.[29] Eventually, by the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2005 the provision became:

> The office of a Divisional Returning Officer must be located within the Division, unless the Minister has given written authority for the office not to be so located.

And, it was added, such a written authority was not a legislative instrument, the significance of which I need hardly explain to this audience. This may be a one-off bit of business pressed by a few back-benchers, or even former back-benchers, or it may be a tentative toe in the water with a view to bringing back the Minister in other places. In the United States, for example, the location of and allocation of resources to polling places have been highly controversial matters at recent elections.

Fifth and finally, are some electoral administration functions more dangerous to exercise, i.e. likely to lead to an attack on independence, than others? Or, coming at it from a different angle, has the expansion of responsibilities since 1983 put the AEC more frequently into the political firing line than the old Electoral Office ever was? One has only to mention removal of the parliamentary veto of redistributions, entanglement in parties' internal affairs, enforcing disclosure, contributing to electoral education, and various international contacts – the likelihood that effective controls in Australia will only drive the offending operation overseas, the possibility of web and blogging defamation, money and messages sent from outside the jurisdiction, the swarm of front and fellow-travelling organizations that may surround a contemporary political party, even terrorism and the measures taken to fight it, to appreciate how far the political environment that surrounds electoral administration has changed and the extent to which the newer responsibilities have thrust the AEC into it. Understanding its past may help to protect its future.

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[2] C. Seymour, *Electoral Reform in England and Wales* (New Haven, Yale U.P., 1915; reprinted Hamden CN, Archon Books, 1970).
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[4] C.A. Hughes, "The Bureaucratic Model: Australia," *Journal of Behavioral and Social Sciences* v.37 (1992), pp.106-23.
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[13] C.A. Hughes, "The Independence of the Electoral Commissions: The Legislative Framework and the Bureaucratic Reality," in eds. G. Orr et al, op.cit., pp.205-15.
[14] Joint Select Committee on Electoral Reform, *First Report* (Canberra, AGPS, 1983), pp.38-40.
[15] Ibid., p.40.
[16] C.A. Hughes and D. Aitkin, "The Federal Redistribution of 1968: A Case Study in Australian Political Conflict," *Journal of Commonwealth Political Studies* 8(1) (1970), pp.21-22.
[17] JSCER, op.cit., p.88.
[18] J. Large and T.D. Sisk, *Democracy, Conflict and Human Security: Pursuing Peace in the 21st Century* (Stockholm, International IDEA, 2006), p.85.
[19] Ibid., p.99.
[20] *Ten Years of Supporting Democracy Worldwide* (Stockholm, International IDEA, 2005), p.106.
[21] E.g. ed. K. Kumar, *Postconflict Elections: Democratization and International Assistance* (Boulder CO, Lynne Rienner, 1998).

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[23] "Everybody but the politicians is happy," *The Economist* 382(8515), 10-16 February 2007, pp.27-28.
[24] *Congressional Campaign Finances: History, Facts, and Controversies* (Washington, Congressional Quarterly, 1992), pp.44-50.
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[26] E.g. S. Overton, *Stealing Democracy: The New Politics of Voter Suppression* (New York, W.W. Norton, 2006); House Judiciary Democratic Staff, *Preserving Democracy: What Went Wrong in Ohio* (Washington, US House of Representatives, 2005); The Commission on Federal Election Reform, *Building Confidence in U.S. Elections* (Washington, Center for Democracy and Election Management, American University, 2005).
[27] T.A. Eisenstadt, "Off the Streets and into the Courtrooms: Resolving Postelectoral Conflicts in Mexico," in eds. A. Schedler et al, op.cit., p.88,
[28] Senators' Elections Act 1903 {NSW], Senate Elections Act 1960 [Qld], Election of Senators Act 1903 [SA], Senate Elections Act 1935 [Tas], Senate Elections Act 1958 [Vic], Election of Senators Act 1903 [WA].
[29] JSCEM, *'Is this where I pay the electricity bill?' Inquiry into the Report on the Efficiency Scrutiny into Regionalisation within the Australian Electoral Commission* (Canberra, AGPS, 1988).