

February 4
The Secretary
fpa.sen@aph.gov.au
Parliament House
CANBERRA ACT

Dear Sir,

I make this submission as President of the H.S.Chapman Society in distinction from a separate submission of February 3 that I am making as a private citizen. Therefore I refer only to the problems that might occur from the management by the Australian Electoral Commission of the proposed plebiscite of Senate Brown on 'a road to a republic.

Before I do so I must establish my credibility to speak authoritatively on this subject, as this has been seriously and persistently damaged by the public hostility of certain officials of the Australian Electoral Commission over the past decade.

My credibility with the H.S.Chapman Society UK

In 1977 I established the H.S.Chapman Society UK in concert with the National Agent of the Tory Party, Paul Gribble CBE, by organising a forum with him and the Chairman of the UK Electoral Administrators in the Royal Commonwealth Society. This forum was attended by the National Agents of the Labor, Liberal and Green parties and other key interested parties.

The current Chairman of H.S.Chapman Society UK is the former Labor Party national agent, Baroness Gould. Thereafter I have attended their sessions in the House of Lords, kept in touch with members, and written several articles for *Arena*, the journal of local electoral officers. The society is currently studying the Rowntree Report on electoral reform, which recommends adoption of reforms in Northern Ireland..

In May 2007, I attended the third of their special meetings in this decade in Millbank. The most senior barristers and solicitors of all major parties were also present. There was unanimous agreement that serious electoral fraud, which had accelerated with Prime Minister Blair's insistence on full postal voting on demand (which Australia virtually has today), now existed. The political correspondent of the Times and Sunday Times congratulated me on my achievement in creating the Society in that the highest parties responsible for electoral regimes were all gathered together in such an agreement.

The means to combat electoral fraud, successfully introduced by Pat Bradley CBE in Northern Ireland, was seen as the successful model to follow. Incidentally I organised a visit by Pat Bradley, as a guest of the H.S.Chapman Society, to Australia in 2001. I took him to meet the Australian Electoral Commissioner, Mr Becker, who, attended by six of his most senior officers, told a sceptical Mr. Bradley that there was no fraud in Australia. Mr. Bradley told me that, in 22 countries as electoral inspector for the UN he had never seen an election where there was no fraud.

My credibility with the Australian Electoral Commission

In contrast to my UK experience, I have experienced continual hostility from some members of the Australian Electoral Commission. 'We' have been called 'right wing', 'redneck', 'conservative ratbags', 'like the rabbits they will go away', or even worse.

The most unpleasant example for me was the response of Commissioner Dr. Hughes (1984-9) to H.S.Chapman's first publication, *Corrupt Elections*. The contributors to *Corrupt Elections* included Senator Minchin, Marshall Cooke QC, Paul Sheehan, Emeritus Professor Rydon, David Patton, myself and others.

Dr. Hughes wrote a virulent highly libellous 20 page review in 1998 (*Aust. Journal of Politics and History vol 44.no.3 pp.471-91*) in which I was condemned in terms calculated to destroy my academic credibility, and ridiculed in a style unworthy of his own academic reputation.

'Back in the 1980's David Patton carried his message to the groupuscules of the Far Right and talkback radio audiences. (Due to a rising angst as)' five successive electoral harvests failed in the eighties and nineties, belief in the existence of witches intensified and witch-finders stepped forward confidently.'

Dr.Hughes reiterated his prolonged libellous attack in a retirement interview with Laurie Oakes (*Bulletin November 1989*).

"A remarkably effective lobby group has been at work exposing alleged rorts, which it suggests are part of a widespread conspiracy to fake election results. Among themselves, electoral officials talk of 'this strange phenomenon' and speculate that the self-appointed watchdogs draw inspiration from the activities of some fundamentalist organisation in the United States.'

The Assistant Commissioner elections and Enrolment, Mr. Paul Dacey, attached this libellous article to a letter (*October 12, 1999*) to Mr Peter Maywald, Director of Investigations, Commonwealth Ombudsman in response to a number of issues I raised concerning the conduct of the 1999 referendum. Mr. Dacey, I understand, is still on the AEC staff. He agreed with me on one point:

"Dr. McGrath's claim that she could vote more than once, by postal and by prepoll, at the 1999 Referendums is not denied; the same is possible at all federal elections and referendums. However, multiple voting can be detected by the AEC."

Yet the AEC itself was quoted in the 1993 Report of the Joint Standing Committee on Electoral Matters that there were 10 ways of fraud being committed in voting, of which the AEC could only detect one. In any case all fraudulent votes are counted willy nilly. And there are more than 10 ways in any case.

PLAINLY THIS PLEBISCITE SHOULD BE CONDUCTED UNDER THE REFERENDUM PROVISION, AND SEVERAL NEW CLAUSES ADDED TO PREVENT POTENTIAL FRAUDULENT VOTING AS ADMITTED ABOVE.

Problems that might occur from Senator Browns plebiscite on a 'road to a republic.'

The overall problem is that there is no legislation, like the Referendum (Machinery Provisions) Act, covering plebiscites. Therefore it should be an imperative that anyone,

like Senator Brown, who is seeking to destroy the constitution and the 'indissoluble union of the States' set out both form and substance in specific rules as to how the questionable substitute of a plebiscite should be conducted.

Senator Brown's proposal for a plebiscite, as it stands is no more than smoke and mirrors. It is merely a propaganda opinion poll of little value until a detailed proposal is produced which can seriously be considered as an alternative to the present Constitutional provisions.

The proposal lacks form

Senator Brown's Bill has not provided any details as his plebiscite should be conducted. As the AEC's Director of its Parliamentary and Ministerial Section, Helen Monten, says:

"the legislation requiring the plebiscite would also set out the rules governing compulsory or voluntary voting, and the method of casting a ballot (*letter 9 July 2004 to Ms Morgan AIDC.*)"

The proposal lacks substance

Helen Monten also assumed that there would be an Authorising Act:

"whichever style of ballot was required, the wording of the authorising Act would set out the rules governing which ballot papers were to be accepted as formal or ruled out as informal. It is not unusual that the rules for formality of ballot papers differ slightly from the instructions to the voter on how to complete the ballot (*ibid.*)"

A problem suggesting possible manipulation or 'bending the rules' for formality of votes

Why should this occur in any case? The suggestion that rules, laid down by the parliament, could be altered by the Australian Electoral Commission.

Helen Monten surely could not have been aware that the AEC had done exactly that in the 1999 Referendum by nominating 13 other ways voters could complete a 'valid' ballot paper than the exclusive 'Yes/No' within a square prescribed by the Referendum (Machinery Provisions) Act in Section 8 of their Scrutineers Handbook (*pp.28-30*).

This new tolerance in 1999 that the formality could 'differ slightly' from the Act had caused a vehement protest from the National Party, a court action by the Monarchist League and a protest to the Commonwealth Ombudsman by the H.S.Chapman.Society as to how the AEC considered they could legally do this.

The reply of the AEC via the Commonwealth Ombudsman was that the Attorney-General advised them they could. However, it turned out that that advice, given in 1961, related to a different Act on a different issue, that is the Electoral Act in relation to the more problematical preferential voting.

The advice was that a vote could be counted formal if the voter's intention was clear. It was nonsense, however, to say that there could ever be any doubt whether a vote was formal or not, when it had either to be Yes/No in a square or not. Any other method was plainly illegal.

The then Electoral Commissioner, Mr. Gray told Mr Davey of the National Party:

“Effect shall be given to a ballot paper of a voter according to the voter’s intention, so far as that intention is clear.... Notwithstanding the mandatory terms of s.24 this provision does not prescribe an exhaustive mode of indicating a vote as it must be read subject to s. 93 (8) (*Letter 18.10.1999*).”

If Helen Monten’s advice in 2004 came from higher up in the hierarchy, it sounds a loud warning bell that the same dodge might be tried again which, in 1999, allowed a formal vote by any mans such as an ‘x’ was crossed out and a tick added thereby turning a ‘no’ vote into a ‘yes’.

Since anyone spoiling a ballot paper can get another one, such an error suggestive of a vote being changed by someone else after the vote was cast, should never be allowed.

A problem suggestive of the possibility of excluding informal votes from the ‘no’ count.

During the 1999 referendum, Mr. Justice Handley, a Justice of N.S.W. argued that all informal votes should be counted as negative and not be discounted from the count for the purpose of deciding whether a ‘majority of voters’ are achieved. None the less I understand the considerable number of informal votes were not counted. This issue must be resolved before any plebiscite is held.

Some problems, which need to be addressed to ensure integrity of the plebiscite

1. Outsourcing printing, despatch, checking on return of postal ballot papers.
2. Management in amalgamated divisional offices with only one store eg.Chatsood
3. Marking off postal voters as having voted before preliminary scrutiny

CONCLUSION

It would be scandalous for this Senate Committee to decide to hold a plebiscite, which would divide Australia fatally for the foreseeable future, and precipitate it into the same conflict as has happened in every country which abandoned its monarchical connections for a republic, as I have noted in my website *Republic Delusion*.

This ‘delusion’ is that becoming a republic will deliver some Utopia and not, as invariably happens – the destruction of the separation of powers, and an overwhelming monopoly and power by centralising governments. Or even worse. Some newly republican countries in the 20th century, have suffered civil war, dictatorship and intervention by new imperialistic powers to profit thereby. Who can say it cannot happen here? As it did to Spain which is the reason why Spain reinstated its monarchy.

Dr Amy McGrath OAM PhD Hons 1 & Centenary Medal
President H.S.Chapman Society