

FRAUD IN THE CEPWU (N.S.W.Branch) – 1994 Election. SAY NO TO POSTAL VOTING

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A lot of ‘rorting by member of the postal workers union, the CEPWU, occurs throughout the postal system. For evidence of this, what better way to start than by quoting a passage from Marion Wilkinson’s biography of Graham Richardson – the former Senator and doyen, or ‘godfather’ for want of a better word, of the CEPU – a passage aptly named ‘Ghosts of the Past’:

‘The Postal Union ballot was officially run by the Australian Electoral Commission (AEC), which was responsible for ensuring a fair election. Not long after the election was being held, the Returning Officer began hearing stories that a post bag from the AEC with hundreds of unmarked union ballot papers had been intercepted right from the floor of the Redfern Mail Exchange. From there the bag had apparently gone to a Mail Exchange in Gosford on the N.S.W. Central Coast and then disappeared with hundreds of unmarked union ballot papers.

Quentin Cook has given a very good account of how the challenge by himself, and Noel Battese, in the Federal Industrial Court showed that the postal ballot was open to corruption. I will try to lead you through the structures that enabled the enquiry to operate and give examples of how the AEC in particular failed as custodian of the electoral system. For this, a précis of the 110 page judgement and the findings made is necessary (vide p.87 below)...

Examples of Irregularities.

In traversing some of the irregularities that were found by Justice Moore in the election inquiry, it is imperative to remember that the AEC, as custodian of the electoral process, must conduct union elections not only in accordance with the Industrial Relations Act, but also with the Rule Book of the particular union involved.

1. For example, Rule 69 (d)4(a)(2) states that the envelope that contains the ballot material must have as few distinctive characteristics as possible. Now the rationale behind that is quite obvious, namely that there are a large number of members that vote in the election and a lot of these are postal workers engaged in the postal process. If a postal worker can identify an envelope coming through the postal system that worker can easily siphon it out. For example, if the envelope was a red envelope, as opposed to an ordinary envelope, and has ‘Return to AEC’ on it, there are at least two separate and different stages in the process where a mail officer can quickly pull the ballot out.

Remember this, the AEC gives out the ballots and posts them into the system; the ballots go into the Australia Post system which delivers them to the members. Some, but not all, of the members complete them and return them back through the system to the AEC. Every time they go through this conduit or system, there are opportunities for these envelopes to be siphoned out. Hence out constant plea that you cannot have a postal ballot in a postal union. But these pleas have fallen on deaf ears.

The Court found that the envelopes were sufficiently distinctive for the postal workers that regularly handled the mail to be aware they were postal ballot envelopes. Now although this was a technical breach of the union Rule Book, it did not constitute an irregularity.

2. However, another breach of the union Rule Book, involving those self-same envelopes, for which the AEC returning officer was responsible, did constitute an irregularity

This rule provided that the voters must sign their names and write (a) their names and (b) their addresses on the back of the security envelope. Its purpose was to allow the returning officer to make random handwriting comparisons between the handwriting on the back of a security envelope, and on that particular voter’s membership card; and thereby to work out whether it was fraudulently completed or suspect. The Court found the AEC failed to implement part (b) of this rule, and this failure amounted to an irregularity.

3. Furthermore, Rule 69D(4)(b) states that the AEC must

a) notify members, inviting them to report to the 'returning Officer if the voter did not receive their ballot and

(b) this notice must be provided at the time the ballots were forwarded.

The reason for this rule again is quite obvious. If this notice was sent out at the same time as the ballot papers, and the voters did not receive their ballot papers within the requisite time frame, then it would give the voters an opportunity to request duplicate ballot papers from the returning officer. The returning officer could then be put on notice that there was something awry in the system. The AEC did not comply with this requirement, a failure found by the Court to constitute an irregularity.

4. Another irregularity was apparent in out-of-course posting. 1009 ballots were shown to be out-of-course. This simply means that if I live in Sydney and work in Parramatta, you would assume quite safely that I would post my ballot in the precincts of Sydney or Parramatta. If, however, my ballot paper was channelled through, and posted in, Melbourne, then I would be asking why? The Court found 1009 cases where ballot papers mysteriously drifted off well outside the domain of residence and employment.

5. There was also evidence of massive intimidation. Evidence was provided to the inquiry that shift-changers would intimidate their subordinates into handing over ballot papers by using their power to determine whether members were assigned to the graveyard shift, or the more humane 9-5 shift.

6. The most obvious of the irregularities pertained to multiple voting. A total of 936 ballot papers were identified by forensic experts, with various degrees of probability, as having been completed fraudulently. 936 ballot papers were identified by forensic experts, with various degrees of probability, as having been completed fraudulently. For that to have taken place, it could not have been done by a few individuals. You cannot organise 936 ballots in an *ad hoc* manner. That is, in my mind, without question an example of organised crime.

7. The other major concern that we found was the AEC's breach of its own undertaking. Now for this I will need to give you a quick chronology. On Friday, July 1, 1994, the ballot was opened and 17,228 ballot papers were issued of which 8,412 were returned to the scrutineer. On Tuesday, July 5, 1994, the AEC returning officer received an anonymous call that somebody was collecting ballot papers. On Friday, July 8, 1994, the AEC returning officer received another anonymous complaint regarding the collection of ballot papers and referred this matter to Sergeant Brereton of the Australian Federal Police (AFP). So, sure enough, the AFP began their inquiry.

Interlocutory proceedings in the Industrial Relations Court, for an order to postpone the declaration of the ballot, failed. The ballot was declared on the 11th of August, 1994. The Right Wing won a significant victory, securing all 48 positions. Whilst this was going on, the Federal Police were working away in the background and we, as lawyers, were working in the Court. On 14th September, the AFP closed their file on these allegations of irregularities and fraud; but they closed it with a notation in the papers that the AEC would give them an undertaking to inform the AFP if any evidence was forthcoming in the inquiry that showed fraud.

On January 27, an affidavit from Paul Westwood was filed in the Court. Now Paul Westwood is probably the pre-eminent document examiner in Australia, or in the Pacific region. And he said in that affidavit that there were multiple cases of ballot fraud and, in fact, identified in excess of 827 ballot papers on that occasion. But notwithstanding that, the alarming fact was that the AEC did not report back to the AFP.

As a result, 12 months ticked by from the date of the inquiry of July 27, 1994 and nothing was done. When we asked the AFP why not they said 'Well, no? We closed our file.' When we subpoenaed their records, surprise, surprise, we saw this little undertaking, then asked the AEC 'Did you refer this matter on to the AFP in accordance with your undertaking and, may I add it's a serious undertaking and a serious breach.' Their reply was 'no'. When all the evidence was taken on board, His Honour Justice Moore held that the irregularities may have affected the result of the election and ordered a new ballot.

From that time, we have always contended that you cannot have a postal ballot in a postal union and that the most appropriate way to go about it would have been by attendance ballots. But of course this rather sensible proposal was opposed by the AEC. Needless to say they still have a postal ballot despite the turmoil that this union's history displays.