

Inquiry into the Conduct of the 2024 House of Assembly General Election and 2024 Legislative Council elections

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It's not who votes that counts, but who counts the votes

*"I consider it completely unimportant who in the party will vote, or how,
but what is extremely important is this – who will count the votes, and how."*

Joseph Stalin, Soviet Dictator, 1923¹

1. Presumption of Integrity

Counting of votes in our elections is undertaken by bureaucrats presumed to have integrity and only rarely is this presumption challenged². That being said, any election system that exposes bureaucrats to the opportunity to commit fraud during a vote count without significant risk of being caught has the potential to tempt honest insiders into becoming political operatives that justify acts of dishonesty for partisan political or personal gain.

In Queensland's Criminal Justice Commission (CJC) Shepherdson Inquiry in September 2000, a city councillor named Karen Ehrmann who had already been convicted of 47 counts of falsifying the Commonwealth electoral roll to stack party branches during pre-selections in 1993, 1994 and 1996 told the inquiry that the ALP had an "insider" within the Queensland Electoral Commission whose job it was to obtain documents to fraudulently enrol party members in bogus electorates³. This case highlights that the presumption of integrity in electoral commissions is not infallible.

There is currently no requirement for ballots cast in Tasmanian elections to be made available for general public review and no routine independent audit of electoral rolls, postal ballots, vote counts and Hare-Clark preference distributions, other than a recount of close races overseen by bureaucrats some of whom were involved in the original count. If there is fraud that results in a decisive result, then there may be no recount to pick up the fraud without a whistleblower.

2. Independent Audit vs Insider Reconciliation & Review

Audit generally means an independent review of a process and its results. Our elections are conducted by the Tasmanian Electoral Commission (TEC) and therefore it cannot legitimately claim to conduct an independent audit. Despite this, the Tasmanian Electoral Commissioner Mr Andrew Hawkey claimed on ABC Radio during the ongoing electoral count that his team of bureaucrats undertook an "audit" during the count, when the team of bureaucrats overseeing and conducting the election were merely conducting a reconciliation or declaration exchange and review of ballots to exclude informal votes⁴. Why would the senior bureaucrat responsible for overseeing the election say the Tasmanian Electoral Commission conducted an "audit" when he and the TEC are not independent of the election process? Possibly, because the Commissioner knows there is no independent audit, but he still wants the public to have confidence that election results are accurate and not maladministered by those who conduct the electoral count.

¹ Boris Bazhanov *The Memoirs of Stalin's Former Secretary* (1992), ISBN 0-8214-0948-4; see STOPPARD.

² Tenenbaum, L 2000, 'Queensland vote-rigging inquiry reveals: The rotting structures of the Australian Labor Party', World Socialist Web Site, 27 November 2000, <www.wsws.org/en/articles/2000/11/qld-n27.html>

³ Ibid, at p2 'Karen Ehrmann and the AWU faction'.

⁴ ABC Radio Hobart, 2024, 'Why will it take so long to get a final result in a Tasmanian election?', ABC Radio Hobart, Leon Compton Interview with Tasmanian Electoral Commissioner, 25 March 2024, <<https://www.abc.net.au/listen/programs/hobart-mornings/when-will-we-know-the-make-up-of-tas-parliament/103627624>>.

3. Election Fortnight

It used to be that election results were clear on election night, however that is now rarely the case as we seem to have replaced election night with election fortnight. In the latest Tasmanian election, the count progressed approximately as follows according to some media reports⁵:

- 85% of votes counted on election night;
- 95% of votes incl. prepoll counted three days after election night;
- 100% of votes incl. interstate, postal, telephone counted 10 days after election night; and
- 100% of Hare-Clark preferences distributed 14 days after election night.

The more postal votes, and waiting ten days for them to arrive, the longer the count takes and more time there is for an insider to tamper with results sufficient to convert losers into winners. This happened recently in the Pakistan elections where Commissioner Rawalpindi Ali Chatha admitted that he helped rig Pakistan's general election in February 2024 by tampering with the results of independent candidates who had a lead of over 70,000 votes and "converted losers to winners" a week after polls marred by allegations of manipulation returned no clear winner⁶. The Commissioner in Pakistan may have justified in his own mind that a clear election result without unruly independents was in the interests of the country, however his actions totally undermined the integrity of the electoral commission and the bureaucrats who count the vote.

4. Hare-Clark Distribution by Computer

The proposal to conduct future Hare-Clark elections and preference distribution by computer similar to the ACT is likely to exacerbate concerns over election integrity because no one involved has the specialist technical know-how to adequately audit the machine code, software, chips and hardware for vulnerabilities, malware and back doors. The proposed computer system will effectively introduce a 'black box' to the election process that could be susceptible to unauthorised manipulation before, during and after the election count by those who are aware of its vulnerabilities. This could result in intentional or unintentional unauthorised manipulation of election data and the digital cover up of that manipulation.

A recent example of the vulnerability of computers during elections took place in Puerto Rico where in June 2024 its elections commission said it was reviewing a contract with a US electronic voting company after over a thousand errors and discrepancies were discovered following the island's primary⁷. According to commission interim president Jessika Padilla Rivera the problem arose from software that caused machines supplied by Dominion Voting Systems to incorrectly calculate vote totals. The extent of the issue was only picked up after a full hand count of paper ballot receipts. Computers are therefore more safely used for audits of a hand count of paper ballots *after* the result of the hand count has been declared, rather than instead of a hand count.

6. Paper Ballots, Hand Counted with Computer Audits

Paper ballots, hand counted with computers only used for an efficient independent audit of the Hare Clark count and preference distribution *after* the election result has been declared is the ideal. This is because there would be less incentive to manipulate the machine code, software, chips, hardware and data to reconcile digital results with physical ballot stuffing if computers are only being used independent of the official count and after there has already been a full hand count of paper ballots and Hare-Clark hand distribution of preferences.

⁵ Ibid ABC Radio Hobart, 2024; and Antony Green's Election Blog <<https://antonygreen.com.au/tasmanian-election-post-election-night-updates/>>

⁶ SBS Australia, 2024, 'Converted losers into winners': Senior Pakistan official resigns after confessing to voter fraud, 18 February 2024, <<https://www.sbs.com.au/news/article/converted-losers-to-winners-senior-pakistan-official-resigns-after-confessing-to-voter-fraud/q0527pyqf>>.

⁷ Marcos CM, 2024, 'Voting machine contract under scrutiny following discrepancies in Puerto Rico's primaries.', AP World News, 12 June 2024, <<https://apnews.com/article/puerto-rico-primaries-discrepancies-voting-problems-machines-8019db17829c7b1fbae5fb3fde623a4b>>.

5. Independent Audit Office

The best way to introduce more certainty of integrity into our Hare-Clark vote count and preference distribution is to introduce a body responsible for an independent audit of the declared hand count independent of the Tasmanian Electoral Commission that conducts the election. This independent audit could use computers *after* the result has been declared to efficiently review the hand count and the Hare-Clark preference distribution.

6. Conclusion

The presumption of integrity in commissions and the counting of votes in Australian elections is not infallible as revealed at Queensland's Criminal Justice Commission Shepherdson Inquiry in 2000.

There is currently no independent audit of elections in Tasmania and suggestions to the contrary on ABC Radio by the Tasmanian Electoral Commissioner during the vote count were misleading.

There is evidence overseas of electoral counts being manipulated by bureaucrats involved in the vote count, most recently in Pakistan where a commissioner admitted he helped rig Pakistan's general election in February 2024.

Computer voting systems and Hare-Clark preference distributions by computer similar to ACT are likely to introduce a 'black box' to the electoral process that a growing number of voters are questioning after the failure of electronic voting systems around the world, most recently in the US territory of Puerto Rico in June 2024.

Paper ballots, hand counted with computers only used for an efficient independent audit of the Hare Clark hand count and preference distribution *after* the election result has been declared is the best way to provide more certainty of integrity in our vote counts.

7. Final Thoughts

We already have an opposition and minor party that have narrowly lost four state elections in a row such that they may be out of power for 14 years straight. It may be their policies were not as popular, but how long before the opposition and cross bench start to question future elections if they continue to narrowly lose and there is no opportunity for general public review nor any routine independent audits? Alternatively, after four or five terms of one party in government, is there an increased risk of a disaffected bureaucrat justifying in their own mind tampering with the count to give the other side a chance at power for a change? This issue cuts both ways.

Personally, I have no basis to doubt the vote count other than the fact there is no opportunity for general public review nor routine independent audits to discourage an election bureaucrat from being tempted to commit the kind of fraud that happened in Pakistan in 2024. Proposals to use computer voting systems in future elections are also more likely to undermine the public's trust after failures elsewhere, most recently in the US territory of Puerto Rico in 2024. Surely, we can afford safer systems than Third World banana republics to count four hundred thousand votes?

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[THE END]