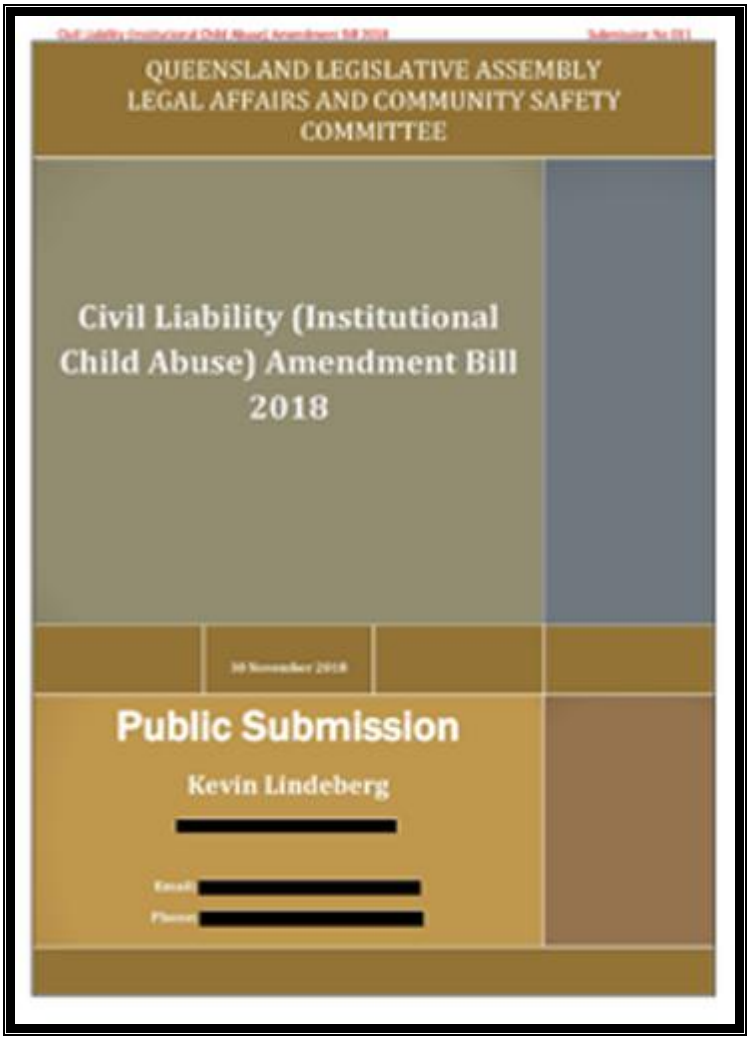
SOME HIDDEN TRUTHS SUDDENLY REVEALED



Go to Submission No 11:

https://www.parliament.qld.gov.au/work-of-committees/committees/LACSC/inquiries/current-inquiries/CivilLiabilityInstitutionalChildAbuse

21 December 2018

There is a salutatory lesson from a truism of history which public officials should know will come with a very high price if they either forget or ignore the truism when performing their public duties.

It is that those who hold high public office of trust and who may knowingly choose to arbitrarily abuse their power in some misguided or arrogant belief in their own untouchability shall always do so at their own peril. That is, if they dare to mock the pursuit of truth with all its related legal, ethical and moral characteristics and demands when the occasion suits, they risk being mocked themselves by that same truth when all is inevitably publicly revealed.

Against that background, on the week beginning 11 December 2018, a quiet but highly important event occurred. Its serious ramifications are yet to be fully realised. The Queensland Parliament's Legal Affairs and Community Safety Committee published Queensland whistleblower Kevin Lindeberg's 30 November 2018 submission. In doing so, **under the protection and authority of irreversible parliamentary**

privilege, this Committee publicly revealed for the very first time some hidden, disturbing truths about recent sordid activities associated with the Heiner affair's still-continuing systemic cover-up, particularly since the 2012/13 Carmody Commission of Inquiry.

To the many thousands of monthly visitors to this webpage from across Australia and around the world (who are obviously closely monitoring the extraordinary developments of this suppurating scandal out of interest either because of their own personal machination-cum-involvement or out of a political, social, academic, whistleblowing, legal, recordkeeping professional compulsion), all are encouraged to download, file and read carefully this published/privileged 30 November 2018 submission.

It should be read within the context of earlier postings on the webpage going back to 2014-16. By putting two and two together, a staggeringly compelling picture involving egregious betrayals of trust emerges. It portrays an unprecedented legal/constitutional/political crisis of governance regarding maintaining public confidence and trust in government and its key institutions in Queensland.

The partial parting of these clouds of confidentiality-cum-silence, cast over the people's democratic right to know the facts by those in positions of trust and authority who self-evidently want to keep a tight lid on everything associated with this matter, now offers everyone an insight into some vital truths. It is not make-believe.

Firstly, readers may recall this extract from the 18 June 2018 webpage posting, ***"Anarchy has arrived when common English words in law pertaining to false and deceptive conduct involving people in high public office can mean from anything to nothing***": (Quote)

> ***"Aside from other matters, the newly-discovered real story of what actually happened during the life of the 2012-13 Carmody Inquiry (and afterwards in associated events) is yet to be publicly exposed and fully accounted for. It is a shocking story. The unprecedented scale about who did what, when and why with and to whom, who was and wasn't told and why, and the consequential alleged serious prima facie damage inflicted on the rule of law, a fair trial, separation of powers, public trust, probity, free speech, privilege etc. will not escape eventual scrutiny."***

Secondly, readers should carefully note the following extracts from Mr Lindeberg's now-published/privileged **submission No 11**, especially regarding hitherto highly disturbing information hidden from the public's right to know in **Point 5**. (Quote)

> ***"In other words, the pursuit of justice in cases where the child abuse involves persons in positions of power and influence always start from a position of very great disadvantage. In such circumstances, cover-ups are not uncommon but expected. For example, I was told at a private hearing on 12 November 2013 by a Commissioner that my unresolved case (i.e. "the Heiner affair") would be recommended for advancement before the recent Royal Commission into Institutional Responses to Child Sexual Abuse due to its relevance and seriousness. However, despite compelling evidence before it and indisputable relevance to its Terms of Reference, including fresh highly disturbing material emerging from the 2012/13 Carmody Inquiry and from <u>public</u> evidence adduced in LSC v Bosscher [2016] QCAT 75[1] inter alia involving an extraordinary intrusive June 2013 agreement sought by the current Queensland Chief Justice the Hon Catherine Holmes, and agreed to by Commissioner Carmody himself in secret between them during the life of the 2012/13 Carmody Inquiry into my shredding-of-evidence/child abuse complaint, the Royal Commission decided to do nothing further."***

[1] https://archive.sclqld.org.au/qjudgment/2016/QCAT16-075.pdf

Points 26 and 27 are stark reminders about the serious essence of Mr Lindeberg's 1990/91 public interest disclosure to the Criminal Justice Commission: (Quote)

> 26. ***For example, the evidence in question (i.e. "public records" under the (then) Libraries and Archives Act 1977), had been lawfully gathered in late 1989/early 1990 by the Heiner Inquiry when looking into the running of the JOYDC. Some of the evidence concerned abuse of children. These records were ordered to be destroyed by Ministers of the 5 March 1990 (Goss) Queensland Cabinet (and aided and abetted by certain senior bureaucrats) to prevent its known and anticipated use as evidence in a foreshadowed and realistically foreseeable future judicial proceedings.***

> 27. ***The record also shows that an extraordinary confidential agreement in February 1991 between the Queensland Government and the JOYC manager was entered into in which public monies were disbursed, on the precondition that both sides would never publicly disclose anything relating to "the events" leading up to surrounding the manager's sudden removal from the JOYDC. It is strongly open to conclude that the euphemism "events" was deliberate code for the interconnected illegal shredding of evidence and the illegal child abuse.***

-oOo-

Corruption in government and ignoring it is not new. When this happens, everything can be poisoned, especially trust. But, words and ideas about how to eradicate corruption and its detestation too easily roll off the tongue or pen like motherhood statements. It's honest actions that count. Now, both sides of our Federal Parliament have agreed to establish a '*Commonwealth Integrity Commission*' but differ on what model should be adopted. A perception is being fostered that such a body is not just necessary, but will be trustworthy itself. Is that really true? This is why what has occurred in the Heiner affair over the last three decades, but more particularly since 2012/13, makes this scandal's outcome critically relevant to our nation's future governance, not just Queensland's.

As if to rub salt into the open wound of hypocritical gainsaying, all current integrity commissions in state jurisdictions (particularly noteworthy being the CCC) signed a joint communique on 7 December 2108 in support of such a national body to fight against federal corruption **(**http://www.ccc.qld.gov.au/news-and-media/ccc-media-releases/united-against-corruption-joint-communique-from-australias-anti-corruption-commissioners-7-december-2018**).** A paper was presented in Brisbane at the 4-7 October 2002 IIPE Biennial Conference, titled "***Judicial Integrity and its Capacity to Enhance the Public Interest***". It had this to say in its introduction: (Quote)

> ***"Corruption is the natural enemy of the rule of law. Corruption within criminal justice institutions mandated to enforce and safeguard the rule of law is particularly alarming and destructive to society."***

And went on to say:

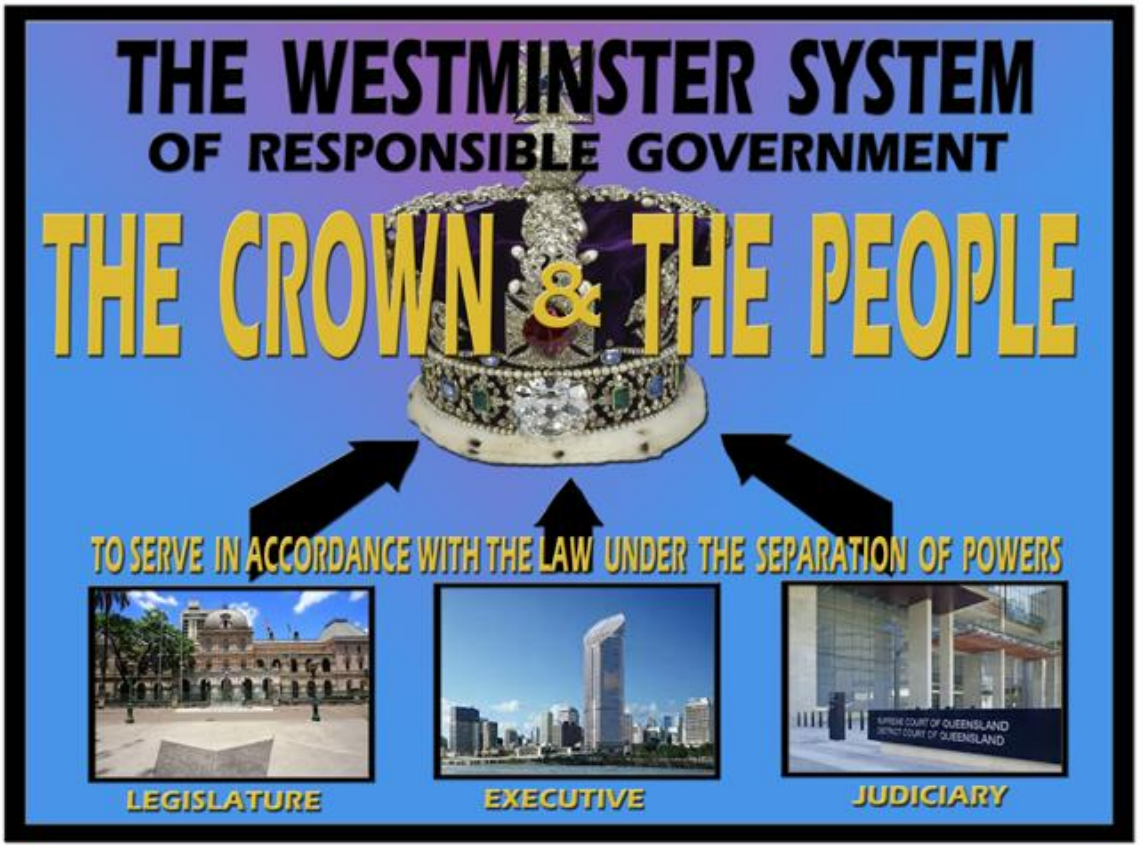
> ***"…An honest criminal justice system, including the courts, is a necessary prerequisite to any comprehensive anti-corruption initiative. Corruption in criminal justice systems will absolutely devastate legal and institutional mechanism designed to curb corruption, no matter how well targeted, efficient and honest. It will serve no purpose to design and implement anti-corruption programmes and laws if the police do not seek to enforce the law, or a judge finds it easy and without risk to be bribed. Judicial integrity should therefore be the cornerstone of any anti-corruption programme…."***

THE IMPORTANCE TO RESPECTING AND UPHOLDING PARLIAMENTARY/COURT AND TRIBUNAL PRIVILEGE

Now, with the sudden irreversible publication of Mr Lindeberg's 30 November 2018 submission by the Queensland Parliament, a hitherto hidden reality has interposed itself on the local and national affairs of government about the worth and/or hindrance of integrity commissions and what public trust means. The published passages show the existence of very serious unfinished business which should reasonably concern anyone to know the whole truth about the current and future state of our governance, and its impact on the dangerous, but justified, lack of public trust in it.

This question arises: Who can be trusted to watch the watchers honestly and fearlessly?

A moment's reflection on parliamentary/court and tribunal privilege's essential nature and why respecting, protecting and upholding it ought to cause any reasonable person to understand why civil, democratic societies governed by the rule of law simply cannot function without it and why any assault on privilege (i.e. '*fidelity to legal norms*') - let alone one agreed to in secret - is impermissible and may not be rationally or ethically capable of being ignored without reaping a very bitter harvest of mistrust of our democratic Westminster system of government and of the rule of law itself .



This type of operational privilege is as vital to the survival and advancement of all democratic societies, its institutions and to truth-seeking, as pure air and clear water is to life itself on earth.

Normally, in compliance with the principle of '*fidelity to legal norms*', privilege is zealously protected and upheld after being lawfully granted by either parliament, court or tribunal to persons (i.e. witnesses and advocates) who appear and provide relevant evidence in good faith, especially under instruction to do so.

Such a right and/or grant of privilege by those bodies-cum-institutions are foundation stones in all civil societies. Enforcing, protecting and upholding the law, the administration of justice, free speech in the

search for the truth, protecting witnesses and advocates from reprisal cannot happen unless privilege operates and is scrupulously respected. These are best described as sacred, immutable and unassailable national values. This is because without such privilege functioning free from outside interference or being free from abuse from within a judicial/quasi-judicial process involving a '*fidelity to legal norms*', civil society shall descend into anarchy, witnesses and advocates intimidated with impunity, justice arbitrarily impeded, freedoms lost and corruption allowed to run rampant. The doctrine of the separation of powers would ultimately mean nothing. No reasonable person wants that.

There is a great deal written about privilege and its essential importance to the rule of law but perhaps Pearce LJ stated in ***Addis v Crocker*** [1961] 1 QB 11 at 28 best summarised it when he said: (Quote)

> ***"....absolute privilege is given to proceedings in courts of law in order that judges, advocates and witnesses may perform their respective parts free from a deterrent fear of actions for defamation. This privilege can create hardship for some persons in particular cases, but it is on balance an advantage to the community."***

Each arm of government possesses its own privilege. It may not be interfered with by one arm against the other, let alone by anyone. Contempt proceedings would await. The Executive exercises its privilege, from time to time, when establishing commissions of inquiry. Their purpose is to investigate, fully and carefully without interference, an issue of public concern or policy which normal organs of government may have failed to do. Their privilege is entrenched in the *Commissions of Inquiry Act 1950* (Qld). In a practical sense, it is exercised (under an expectation of trustworthiness) by the appointed commissioners on behalf of the Government in an impartial, honest, independent and proper manner. Such an inquiry was the 2012/13 Carmody Commission of Inquiry into this matter.

Under the principle of '*fidelity to legal norms*', just as it lawfully applies to all judges and other authorised decision-makers, special individual favours-cum-deals are out. That is, it rules out a commissioner being asked and/or then acquiescing to do a special favour/deal in secret which may advantage one party over another, most especially when the inquiry is on foot.

If this were to become an accepted norm (by the system somehow excusing it or knowingly ignoring it), the price would be unthinkable. Any justice system would become oppressive, if not collapse, under the intolerable weight of unfettered bias and arbitrary betrayals of trust to be found in those very same high ranking public officials before whom the people are expected to appear, repose their complete trust in, and their own life's destiny.

The evidence is that the integrity of Queensland's system of governance across its three arms is in a state of deep crisis. The real story about the abuse of power by those in authority in handling this matter past and present, particularly since 2012/13, is yet to be fully revealed.

So, there is much, much more to come out. The people have a right to know the whole truth because of its centrality to their freedoms, trust in government institutions and democratic rights. It's just a matter of time now before the whole unstoppable and shocking truth emerges into the full light of day, not just these couple of irreversible privileged passages recently published by a committee of the Queensland Parliament.