WHEN LIES BECOME TRUTH AND TRUTH BECOME LIES
- IT'S TIME TO STOP THE ROT –

Kevin Lindeberg – 30 November 2021

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When breaches of democratic-rule-of-law principles like probity in public office occur and are twisted in their meaning and purpose by those in authority to become clearing house 'truths', that ought to be enough abuse of power to enrage any reasonable person.

But, when Parliament (via one of its committees) applies a lifetime gag order on a whistleblower (i.e. me) on pain of contempt if facts disclosing those so-called 'truths' are self-serving misleading lies and half-truths used to cover up serious systemic wrongdoing by elected and appointed public officials, the magnitude of the abuse skyrockets.

It destroys all the ideals and precepts of trust in constitutional government by the rule of law.

Such a lifetime gag not only assaults my priceless implied right to political discussion (guaranteed under the *Constitution*) but also ensure their illegal activities can be remain covered up and hidden.

You see they believe that they are safe because power is something to be used and abused arbitrarily and capriciously whenever the situation suits those holding positions of high public trust. Instead of responsibility prevailing, opportunity subjugates trust.

This repugnant conduct casts the administration of justice into a profoundly dangerous state of injustice.

It has a name: **Corruption of the highest order in many high public places**.

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Meantime, this abuse of power publicly struts and poses on the stage of Queensland's public affairs as an unchallengeable truth. But placed under the microscope, it is really a modern day version of the Emperor wearing no clothes.

By status and influence, the perpetrators of such misdeeds have a monopoly on being treated as above the law, as well as possessing immense coercive 'Star Chamber' powers, access to a bottomless pit of taxpayer's monies to defend their indefensible actions and declarations if challenged.

Now, compounding everything, we now know that the **Crime and Corruption Commission** (CCC) can work secure in the knowledge that it enjoys the favour of its parliamentary oversight committee, the **Parliamentary Crime and Corruption Committee** (PCCC), in dealing with the most glaring of improper conduct.

That is, although mandated to hold the CCC to account at law in all its activities, it has always been a bridge too far for the PCCC (and its progenitors) to face this festering systemic cover-up head-on, and to let the law purse to truth on available evidence irrespective of who gets caught up in its net.

But it's far worse than that.

> ***We are now at a point in time when accountability and the rule of law have been displaced by self-serving double standards and rank hypocrisy of the highest order of and for the advantage of "the Governors" to the known disregard and disadvantage of "the Governed – the People".***

On the basis of available compelling evidence, we have finally reached this inevitable hell in our 100-year parliamentary unicameral Queensland history.

Its drivers have been the conjoined evils of conceit and unfettered abuse of power in public office combining in the shadows or behind closed doors for the last three decades to maintain a corrupt status quo.

When facts are hidden by governments, lies and half-truths too easily become the false currency and political spin to underpin the claim that accountability is being met when the opposite is true.

Fortunately, this situation always had its Achilles Heel in the affairs of humankind.

It came into play by the convergence of a series of indefensible scandalous events occurring at the highest levels of government and when one determined individual, rendered a related injustice in the process, was not willing to cower or retreat but instead chose to stand firm on time-tested values and principles underpinning the Truth.

This constitutes fundamental human rights like implied freedom of speech, equality before the law, right to a fair trial, probity in public office, not misleading parliament and sustaining an independent judiciary, all now mortal enemies to the continuing longevity of this systemic cover up.

It's to be remembered that its beginning point rests on the deeply flawed claim that all known and foreseeable evidence could be lawfully destroyed providing that a known and 'realistically possible' future judicial proceedings had not commenced.

A moment's thought quickly reveals the particular law's interpretation (used as a clearance for a Cabinet's illegal shredding of public records) as a perversity of the highest order. It leads to "*a world without evidence*" and a complete breakdown in the administration of law, public trust and justice.

It is beyond argument that the law itself [i.e. section 129 of the ***Criminal Code 1899*** (Qld) – **destroying evidence**] was so unambiguously clear in its wording and purpose that such an interpretation was impossible for any competent lawyer to reach honestly without facing a charge of obstructing justice and being in material breach of the Solicitor's Code of Conduct as "*officers of the court*".

Added to which, however, is this damning fact. If this interpretation was honestly held to be correct then an urgent amendment to the law was imperative. Instead the authorities did nothing leaving its perversity to advantage all members of 5 March 1990 Queensland Cabinet and certain senior bureaucrats to escape scot-free.

This display of corruption rebounded with a vengeance.

That is, when a **Baptist pastor**, who committed the same (shredding) conduct in less clear circumstances found himself charged under section 129 in 2003, made an application to the Queensland Director of Public Prosecutions to drop the charge because of the way it had been interpreted in the case about similar conduct of the Queensland Cabinet, the application was summarily rejected.

The Minister of religion was put on trial and found guilty, all the way to the Queensland Court of Appeal.

In other words, for materially similar conduct, a minister of religion had the law applied correctly, found guilty and branded as a criminal for life.

On the other hand, in far more serious circumstances, ministers of the Crown had the very same law applied incorrectly by the same authorities (in an absolutely untenable way which I and my senior counsel constantly pointed out to them and received derision for our troubles).

This allowed those ministers of the Crown to continue in office free from all the prospective odium of a criminal trial, adverse media coverage, branded criminals for life and being removed from Parliament pursuant to the Queensland Constitution.

The application of this untenable interpretation just happened to avoid a constitutional crisis the likes of which had never been seen before or since in Western democracies.

The clearance is now firmly shown up to be fatally flawed factually and legally. It was never worth the paper it was written on from day one. I challenged it from day one. I was repaid by public derision from those who wrote it and by others who relied on it.

Whatever may have been unearthed by the 1987/89 Fitzgerald Commission of Inquiry, its nothing compared to the illegality of what occurred in the case of ***the unresolved Heiner affair*.**

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There are sound reasons for bringing these two public videos back to public attention at this time.

Firstly, they have direct relevance (as an insight) to the true state of Queensland's governance at the time.

Secondly, they provide a visual background to a gravely compounded worsened state since 7 October 2016. Now, what was unknown previously is now known and by related misdeeds in high places to desperately continue the cover-up, the cover-up has now run its race to the point of exhaustion, final accountability and public derision.

The best that the system can now do is not respond to compelling "new" evidence presented by me but to archive it unread and unconsidered. It unquestionably knows that the falsity of previous clearances and related corrupt conduct by certain decision-makers has been comprehensively exposed.

Even the extraordinary and desperate imposition of a lifetime suppression order on me pursuant to **Standing Order 211A(4)** which was hoped would shut me up forever and to never emerge back in the public's mind will not hold firm.

Their ultimate folly has always been to deceive themselves about the real nature of Truth.

It is not, and never has been, for them to decide its course or timing but rather to realise that Truth is the master of us all.

Respect, obedience and sacrifice to Truth keeps us free in mind and spirit. Its consequences cannot be denied no matter what position of power tries to think or act otherwise.

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These videos concern:

- **The 7 October 2016 public hearing before the Crime and Corruption Commission (CCC) about whether or not public interest disclosures to the CCC should be remain confidential or made public; and**
- **the 8 June 2018 public hearing before the Parliamentary Crime and Corruption Committee (PCCC) about the effectiveness of section 329 of the *Crime and Corruption Act 2001* regarding "improper conduct" involving CCC officials in carrying out their statutory duties.**

When viewing these videos, bear these facts in mind.

Click here for the video

During my 7 October 2016 appearance, I was **not** fully aware of **all** the CCC's acts of commission and omission (and other applicable legal obligations) which had taken place leading up to, surrounding and in the aftermath of the landmark egregious breach of trust when the CCC knowingly violated its **27 February 2015 legal undertaking** with me.

This signed undertaking unambiguously promised to appoint a retired **interstate** Supreme Court judge to carry out a preliminary review into the allegations of serious wrongdoing set out in the Heiner affair papers.

Arguably, it was the most historically important legal/constitutional and political undertaking into the governance of Queensland since the 1987-89 Fitzgerald Inquiry. In effect, it was an audit of the CJC/CMC/CCC's effectiveness since its inception in 1989.

Against the known character of the allegations under review (which included the conduct of certain past and sitting Queensland judges), it was accepted that this preliminary review could only be conducted by a retired Supreme Court judge "…***external to Queensland***" if independence and impartiality were to be assured by law and ethical strictures.

The CCC **knew** that without this materially important precondition being guaranteed in its signed undertaking to me that I would not have agreed to such a review.

It was always a deal maker and breaker on legal and ethical grounds.

Just as this preliminary review was carried out in secret (it transpired, by a former Queensland Supreme Court judge) during mid-2015 at considerable public expense over a period between 10-12 weeks, and I was told not to publicly disclose this fact, its material violation by the CCC was knowingly done **in secret** while knowingly leaving me to believe that the undertaking was being fully honoured as promised (that is, by an **interstate** retired Supreme Court judge).

After the process was ended around late July/mid-August 2015, I then discovered that the CCC had secretly engaged a recently retired **Queensland** Court of Appeal judge. It refused to identify the judge.

The CCC later claimed that it had simply changed its mind, and chose to switch judges. The CCC had done the very thing the law and ethical strictures should have prevented it from doing.

No big deal! Let's move on! And by the way, the report is being withheld from me (as the complainant/whistleblower), Parliament and public, instead would remain stowed away in the archives of the CCC, and, one suspects, the PCCC, never to see the light of day.

For my part, the deception was a shocking betrayal of public trust.

Not only was it unconscionable and egregious in nature, but the breach was so materially relevant to the bona fides of the honest and impartial search for the truth that the validity of the whole exercise now stands null and void. That is, being created and conducted under a veil of deceit and glaring conflicts of interest, and failure to honour the undertaking, its integrity was lost completely.

The (secretly and covertly appointed) retired judge was a 17-year senior member of the same Judiciary on which fellow judicial officers sat (or had sat) and whose conduct this judge was commissioned to review impartially, according to law, and in the public interest. What a travesty! The judge is now deceased.

The fact that this historic commission to engage a retired interstate Supreme Court judge was both offered and accepted and then not honoured (secretly) says everything about the integrity surrounding it and of those responsible. The judge is now deceased.

This is to say nothing about all the details in respect of how it ever came to be that this retired Queensland judge (then a **private** citizen/counsel at the Bar) was provided with accommodation in the Queen Elizabeth II Courts of Justice Building to conduct his preliminary review on behalf of the CCC, an arm of the Executive.

Again, a moment's thought would see that this extraordinary arrangement was plainly a breach of the separation of powers which should never have happened but the fact that it did, gives rise to the reality of "a club of mates" at work in their common interest, not the public's, as it should have been.

> ***If ever a CCC review into allegations of serious wrongdoing at the highest levels of government, including the Judiciary, needed to be carried out with complete integrity so that whatever its outcome it would be accepted by all as being fair and above suspicion, this was it.***
>
> ***Instead, it failed every fundamental test of probity from beginning to end.***

So, while I was knowingly misled by being kept in the dark about the switch of the judges, the same cannot be said of the CCC, including on 7 October 2016 when I appeared before that body at its public forum.

Also, when watching the video be aware of this. They **all** knew what facts were being hidden from me, and what the serious legal/constitutional and political ramifications were, and yet they appear as pure as the driven snow.

On the other hand, the public were left to wonder at the mysteries of the sudden erasures in the video. Now, via this posting, and joining the dots, the public may better start to appreciate my hesitancies.

It was borne out of what was going on inside the system (i.e. with the PCCC) and my not wanting to jeopardise what might yet come out of the PCCC's deliberations, their having been provided with compelling incriminating material by me (the details of which I cannot disclose publicly by reason of the PCCC's lifetime gag order!).

The other critical point to bear in mind is that they were the responsible public officials at law, not me.

Ponder this, if I had lied to them (i.e. the CCC) as they materially lied to me, does anyone not think that contempt/perjury charges would have awaited me?

This becomes an inescapable concerning realisation. That is, these are the public officials in whom "'*We, the People*" (in particular whistleblowers) are told we can safely place our trust to investigate wrongdoing in public office impartially, diligently and honestly no matter its seriousness or legal/constitutional and political ramifications.

They are touted as being our fearless trusted guardians. All have a duty to protect and uphold integrity in public office in Queensland. They are supposed to be the 'gold standard' of ethical/trustworthy public office holders.

We are constantly reminded that this assurance of being trustworthy comes about by reason of their own personal integrity and binding obligations on each of them at law to act honestly and in the public interest.

But there has always been another sworn duty at play. It was relevant in these circumstances. It is that many CCC officials are also "*sworn officers of the court*" being legal practitioners as QC's, barristers and lawyers.

This duty also applies to the certain PCCC members, its parliamentary administrative staff and the Parliamentary Crime and Corruption Commissioner who are "*sworn officers of the court*" by reason of graduating with a law degree.

That is, at their respective admissions ceremonies, they **all** swore a solemn and enduring oath not to engage in acts of commission or omission which interfered with the administration of justice. From that moment, each was duty bound by professional ethics to protect and uphold the impartial administration of justice in the cause of justice and to conduct themselves as '**fit and proper**' persons to practice law.

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The video of my 8 June 2018 public appearance before the PCCC warrants very close attention.

Click here for the video

The hearing was about the effectiveness of **section 329 of the *Crime and Corruption Act 2001***. In particular, the meaning and effectiveness of its '*Rubicon threshold*' concerning "improper

conduct", which **could not be** crossed, and made all the more poignant by its low-level threshold definition.

All such incidents are mandated to be reported to the PCCC by the CCC.

So when watching this public video (not reported in the media to date), be aware of the following when watching the extraordinary exchanges between PCCC Chair, the Hon Tim Nicholls MP and me, amid the deafening silence of other watching PCCC members.

That is, by being denied the opportunity to air the highly relevant details (to the issue at hand as a live example) of the known evil inside the CCC by reason of the lifetime gag [i.e. **Standing Order 211A(4)**] imposed on me by the PCCC as from 4 September 2017 (by PCCC Chair the Hon Lawrence Springborg MP) and re-imposed again on 4 May 2018 (by PCCC Chair Mr Nicholls), I had to labour on as best I could.

All PCCC members **knew** that they had earlier permitted the CCC to materially cross that important "*Rubicon*" **without** any legal consequence in respect of its material breach of trust concerning the aforementioned historic 27 February 2015 undertaking to appoint an **interstate** retired Supreme Court judge to review the transgressions involved in the Heiner matter.

This hearing therefore was a drama within a drama within a cover-up involving enormous stakes being concealed from public view by order of the PCCC.

The details about how the PCCC arrived at its perverse view is a shocking story. It is one of betrayal, deceit, arrogance and scapegoating. What has occurred since then to the present is equally shocking, if not worse.

> ***A major crisis in lawful governance impacting on the integrity of the three branches of government exists. Its dimensions are so serious and vast that no one in power dares to speak its name.***

But, try as they may, the unstoppable demands and lessons of history will not allow 'this shocking story of corruption' in 'post-Fitzgerald Queensland' to remain hidden forever from public view, examination and judgement.

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So, let me conclude by pointing to the folly in their current straw-man defence.

The reliance and belief that anyone can place in legal undertakings entered into and signed by any organ of the Queensland Government entity is absolutely central to the affairs government functioning under the rule of law.

In this setting, the CCC is the authorised watchdog of ethical practices across '*whole of government*' because it sets those standards, and can enforce them by punishing public officials who breach them.

Therefore, it is fair and reasonable to say that what is good for the goose (i.e. the CCC) should be equally good for the gander (i.e. whole of government). Double standards must be avoided.

> ***Hence, using this case as the standard, what is undertaken to be done in writing according to law and ethics (i.e. to avoid the reality and/or perception of bias in order that justice is not just done but seen to be done) can now be reduced to a state of complete meaninglessness, dissembling and abuse to allow that which is promised in writing shall <u>not be</u> done but will and can be done without any legal consequences whatsoever.***
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> ***And, in the process, the CCC and any Queensland Government entity may deliberately lead a citizen/whistleblower into an unconscionable false and misleading state of mind to believe that the undertaking is being scrupulously and fully honoured when it is known <u>not to be so</u>.***
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> ***Left as matters stand, this present state of affairs represents an irretrievable dangerous breakdown in civil society governed by the rule of law.***
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> ***Trust has evaporated. Left in its place is chaos, crippling distrust, a denial of fundamental human rights, and injustice.***

The conduct which I complained about to the PCCC was not sour grapes or an inconsequential frivolous technical point.

It mattered mightily, just as it still does.

In this context, the foundation for maintaining civil society relies on lawyers (i.e. "*sworn officers of the court*" – as **<u>all</u>** CCC Chairs are) **<u>strictly</u>** honouring legal undertakings entered into with others.

The administration of justice relies completely on this 'trust' element being present in its daily operations of those who practice law in order to ensure peace, harmony and good government.

It is a bedrock duty applying to **<u>all</u>** legal practitioners in the process of administering justice.

At law, it was never a simple matter of arbitrarily changing the terms of a legal undertaking as the CCC has claimed and relied on.

Neither was it a simple matter of the proposed change being advised to the other party as the PCCC has relied on.

In either scenario, a material act of omission condemns them utterly to a state of illegality. This law/professional duty has always been explicitly clear. It is a fundamental duty which <u>all</u> competent lawyers are expected to know and obey on pain of severe penalties when not.

This omission therefore cannot be described as an innocent oversight.

> ***That is, when a material change to a legal undertaking is desired by one side after being entered into with another, the other party must not only be informed but must give <u>prior</u> agreement to the change taking effect; and if not, the undertaking must be fully honoured as first agreed to in a timely manner on pain of a finding (in the breach) of professional misconduct being made against the legal practitioner involved, with a probable removal from the roll of legal practitioners as a minimum penalty due to the high importance of this duty.***

The **Queensland Law Society** has produced this Solicitor's Guide regarding "**Undertakings**". It relevantly says: (Quote)

> **"The honouring of undertakings is a necessary incident of the solicitor's paramount duty to the court and the administration of justice *Australian Solicitors Conduct Rules 2012* (Rule 3) and other fundamental duties of honesty and integrity (Rule 4).**
>
> **Rule 6 provides:**
>
> > **Undertakings**
> >
> > **6.1 A solicitor who has given an undertaking in the course of legal practice must honour that undertaking and ensure the timely and effective performance of the undertaking, unless released by the recipient or by a court of competent jurisdiction."**

In ***Vincent Cofini*** [1994] NSWLST 25, 6, the Legal Services Tribunal held: (Quote).

> ***"Undertakings bind that practitioner as a matter of professional conduct and comity, and will be enforced by the courts because legal practitioners are officers of the court and because without enforcement undertakings would be worthless, persons and courts would be unable to rely on the word of a legal practitioner and this aspect of legal practice, that demands compliance for legal efficiency, would collapse."***

In discussing the landmark case ***Bhanabhai v Commissioner of Inland Revenue*** (2009) 24 NZTC 23,126 concerning a breach of undertaking, the UK Journal "**Professional Negligence**" Vol. 27 No.1, 2011 at page 15 said: (Quote)

> ***"The Bhanabhai decisions serve as a watershed in the law on solicitors' personal undertakings. They serve as a salient reminder of the seriousness with which undertakings are entered into generally as a matter of law, but particularly in the context of meeting taxation obligations, including indebtedness for tax. Any attempt to subsequently deny or lessen the import of an undertaking after it has been given and accepted by the respective parties to it, will be vigorously resisted in the interests of maintaining confidence in the legal process and the legal profession. Bhanabhai emphatically demonstrates a reinvigorated affirmation of the adage that 'a solicitor's word is his or her bond.'*** ("Red" and underlining added)

Pre-eminent jurist, (the late) Lord Denning MR, in ***Geoffrey Silver & Drake v Baines*** [1971] 1 All ER 473 at 45 relevantly said: (Quote):

> ***'This court has from time immemorial exercised a summary jurisdiction over solicitors. They are officers of the court and are answerable to the court for anything that goes wrong in the execution of their office. Even if the solicitor has been guilty of no fault personally, but it is the fault of his clerk, he is accountable for it ... This jurisdiction extends so far that if a solicitor gives an undertaking in his capacity as a solicitor, the court may order him straightaway to perform his undertaking. It need not be an undertaking to the court. Nor need it be given in connection with legal proceedings. It may be a simple undertaking to pay money, provided always that it is given "in his capacity as a solicitor"...If such an undertaking is given, the court may summarily make an order on the solicitor to fulfil his undertaking and, if he then fails to do so, the court may commit him to prison...."*** ("Red" and underlining added)

This fundamental duty – '*a fidelity to legal norms*' - was completely violated in my dealings with the CCC from the time we entered into the historic legal undertaking on 27 February 2015.

The PCCC and Parliamentary Crime and Corruption Commissioner also became explicitly aware of this breach but forgave it. In the process, they shockingly and implausibly scapegoated the deceased acting CCC Chair, Dr Ken Levy, alone. They found that he should have to told me (about the switch) and had thus acted in '*an unbecoming manner*' by reason of the position he held, but beyond that point, nothing. The matter was at an end and all further correspondence would be not be read or responded to, just filed.

The details of this truth are so sordid and shocking that the relevant authorities and many people in high public desperately want the public to never be informed, and certainly not by me before I die.

We shall see, but my path is set.

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