

Submission No:186.....

QUEENSLAND POLITICAL REFORM GROUP

RECEIVED
- 2 AUG 2004

BY *J. Mathew*
28th July 2004

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE
LEGAL AND CONSTITUTIONAL
AFFAIRS

07 3816 2120

Noel Turner

PO Box 563
Booval 4304 Q

Submission of correspondence copies as evidence of activity relating to:

- ❖ The shredding of the Heiner documents by the authority of the Queensland Government Executive on 23.3.1990, and the following cover-up to date
- ❖ The Lindeberg Grievance submitted by the late Mr Robert Greenwood QC

This material is circulated to:

- ❖ The House of Representatives Standing Committee on Legal and Constitutional Affairs; "Crime in the Community"
(Secretary Gillian Gould)
- ❖ The Australian Senate Select Committee on the Lindeberg Grievance
(Secretary Alistair Sands)
- ❖ **Professor Bruce Grundy**, Department of Journalism and Communications, University of Queensland, St Lucia, Brisbane.

This material is organised in six (6) small folios covering the period from March 1996 (1993) to 1998.

Each folio covers an initiative by us (members of the Queensland Political Reform Group : QPRG), and related responses to our initiatives , also supporting extracts of publications and public statements.

The QPRG has as its objective , sound and just to all parties resolution of the events leading to the shredding of the **Heiner Inquiry Documents in Queensland on 23 -03 – 1990**, and the following and continuing cover-up, and to have this conducted as a lawful and constitutional exercise by Queensland and Australian Public Institutions.

Arrangement of the documents , and what they reveal :

1. The first folio, docs 1 – 4 , show that QPRG was stating/supporting our view that only a specifically constituted Commission of Inquiry could competently examine the circumstances of the shredding of the Heiner Inquiry Documents, the following cover-up and political denials.

It also shows that the office of the then Premier, Mr Robert Borbidge, erroneously assumed that QPRG was proposing to conduct an inquiry into the matters (?).

The Premier could apply the *Whistleblowers Protection Act 1994* to provide justice for Mr Kevin Lindeberg (?).

2. Second folio, docs 5 – 11 , show that, consequent to publication of significant material relating to the Heiner/Lindeberg matters (TWI – Shreddergate), QPRG requested more extensive action on them by the then Attorney-General of Queensland, Mr Denver Beanland.

Note that : Doc 10, the *Sunday Mail* news extract of 01 – 10 - 1989 , clearly shows that Anne Warner knew of violence occurring in the JOYC, Wacol, as did the Centre's Executive Director, Mr Ian Peers. This and other events at the JOYC could **confirm** pack-rape as an integral component of control function within the Centre and its activities.

The responses of the former Minister, Anne Warner (1993), and the former Premier, Wayne Goss (1996), tend to confirm that the incumbent Labor Government of Queensland (and following Coalition and Labor Governments), had little, if any, intention of examining conditions at the JOYC.

The response from the Attorney-General's Dept (Nov 1996) shows that, beyond the Morris/Howard investigation and the Carruthers Inquiry, no further inquiry would be applied to the Heiner/Lindeberg matters (?).

3. Third folio, Docs 12 – 18, show further publication of more incisive and directed questions and analysis, post- Morris/Howard and Carruthers investigations, and the emerging debacle of the Connolly/Ryan Inquiry. Consequently, QPRG reinforced our request for a full and open Commissioned Inquiry into the Heiner/Lindeberg matters. QPRG specifically noted sections of the Morris/Howard Report and the 63rd Senate Privileges C/tee Report (Dec 1996), and activities of the Connolly/Ryan Inquiry, in detail and with related external professional analysis. QPRG declared our position with regard to the competence of the CJC/PCJC, and other public institutions of law and administration, and elected politicians, particularly the **quality** of their behaviours.

The response from the Attorney-General's Dept (Apr 1997) stated that recommendations of the Morris/Howard Report were referred to the Director of Public Prosecutions, Queensland (where they languished) ; and that actions of Commissions of Inquiry are reviewed by the Supreme Court of Queensland (to what extent?).

4. Fourth folio, Docs 19 – 27, show that the Heiner/Lindeberg matters, and the lack of resolution with justice, were becoming quite substantial concerns :

- Senator Woodley's MPI ;
- Kevin Lindeberg's letter to QPRG ;
- QPRG letter to Attorney-General, Queensland ;

Contain a range of issues of differing emphases, but most related to the matters and actions around them, particularly the issue of non-resolution of them.

Note that : QPRG had increased circulation of our concerns to national and international individuals and institutions, and continue so to do.

5. Fifth folio, Docs 28 – 33, show QPRG addressed our concerns to the PCJC, Qld (Vince Lester), and received a response to our request from the PCJC which stated the Morris/Howard Report was sufficient investigation of the Heiner/Lindeberg matters, therefore further inquiry was not recommended within the context of action to that time. Note the nature of our concerns, particularly with regard to probable deception of the PCJC, the *Criminal Justice Act 1989*, and the conclusion by the Senate Privileges Committee.

6. Sixth folio, Docs 34 – 39, are comment and analysis of print news articles ; material hand delivered to Liz Cunningham MLA, and Peter Wellington MLA (identical material) ; a print news article by Peter Morley of the *Courier-Mail* commenting on the release by Premier Peter Beattie of some documents of Cabinet actions in 1990 - Re: Decision to destroy Heiner Inquiry documents ;

Note that : this is occurring in 1998, the year and election which saw Peter Wellington (Nicklin) “ keeping the minority Labor Government honest “

Following the by-election which established a majority Labor Government (albeit by one [1]) Peter Wellington no longer saw it necessary to keep the Beattie Labor govt honest, and publicly declared his discipline unnecessary.

Wellington's attitude in August 1998 was to **not** pursue, at great expense, **another** inconclusive investigation into the Heiner/Lindeberg matters.

Liz Cunningham, on the other hand, saw, and sees, the folly of challenging the solid Labor, and some Coalition, front opposed to resolving the matters.

QPRG urges a substantial change of politico/legal climate.

A handwritten signature in black ink, appearing to read 'Noel Turner', with a long horizontal flourish extending to the right.

Noel Turner

for OPRG

Qualification of Limits to Support Activism by QPRG : Heiner/Lindeberg Matters;

We, the QPRG, have acted in the support interests of Mr Kevin Lindeberg with respect to his quest for personal justice and justice for all effected by the failure of attempted resolution of the Heiner/Lindeberg matters. We commenced this support activity in 1994 in response to his request for assistance.

During the following five (5) years, we assisted with Kevin,s activities; arranged and attended discussions to advance the cause of resolution of the matters; generated materials for and conducted public gatherings to advance the cause; post- 1995 commenced the formal requesting of the Queensland government to actively inquire into and resolve the Heiner/Lindeberg matters (the material evidence of this submission); and in mid-1999 circulated details of the Heiner/Lindeberg matters to a number of public and other institutions, national and international, to seek broader support for inquiry into and just resolution of the matters.

Note that : Copies of this last mentioned material can be made available on request.

Following this contribution by QPRG in 1999, we reduced our support activity as Kevin Lindeberg and Prof Bruce Grundy had developed a national and international campaign to resolve the Heiner/Lindeberg matters, this of far greater competence and resources than QPRG could contribute.

QPRG remains actively supportive in this campaign, and we trust that this contribution is useful in the just resolution of these matters.

One specific comment : As QPRG is a **political** reform activist group, partisan only in that we are committed to individual and community justice flowing from our politico/legal foundations, we are acutely aware of the limitations of the Queensland **unicameral** political system, and correlative dubious quality of applied legal practice tolerated within this unicameral political function.

We understand clearly that this structure and function are the reasons that the Heiner/Lindeberg matters remain beyond domestic Queensland resolution.

We advocate as essential Queensland constituted social reform, the implementation of a bicameral electoral system as the foundation for continuing politico/legal reform within the constituted State of Queensland, within the Federated States of the Commonwealth.

This action will bring greater individual and social justice to Australians subject to Queensland law and political practice, and align Queensland electoral practice with that of the other States of the Federation, which should facilitate more effective synchronisation of the application of law and politics across the Australian community.

Issues of concern not addressed in our submission :

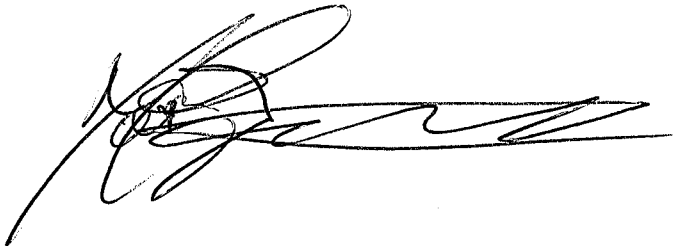
1. Morris/Howard report section Pp 66 – 79, including the “Smoking Gun” section P 74 :
This is the ‘Remaining Material’ section of the report, and goes a considerable way to revealing the extent of the duplicitous collaborations and actions of officers of the then DFSAIA.
We draw your attention to Pp 78 – 79, where Peter Coyne initiated a memorandum to Ms Ruth Matchett, titled : ‘PUBLIC COMMENT AND POLITICAL LIBERTY’.
Investigation of the reasons for this statement could reveal the substance of motivation for the later payment of money to Peter Coyne to buy his silence, and probably reveal more substantially the range and nature of events of child abuse and other abuse, particularly the probability that pack-rape was a tolerated form of control within the IOYC and its activities.
2. The presentation of the infamous Document 13 to the Senate Select Committee 1995 by the then Chief of Staff of the Office of Premier in Queensland, Dr Glynn Davis (now Prof Glynn Davis Griffith University). This event and its consequences require thorough and complete examination.

3. The false presentation of 'evidence' to the Senate Select Committee in 1995 by Mr Michael Barnes, (then of the CJC, now State Coroner, Queensland), and his something of admission in Mar 1999 that he " . . . could have seen documents inculcating the Executive of the Queensland Government as the source of authorisation (by agreement or vote) to destroy the Herner Inquiry documents, and consequent related activities.

In 1995, Barnes was of the opinion, or claimed that Ruth Matchett could not have known the nature of the material of which, as a senior public servant, she authorised the destruction supervised by an officer of her department.

This claim by Barnes must now be in serious doubt.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Noel Turner', written over a horizontal line.

Noel Turner

for OPRG

28TH July 2004

C-M BRISBANE

SAT AUG 1

1998

PETER MORLEY

Amid the rubbish, however, were contributions that finally appear to have lanced more than eight years of secrecy surrounding the controversial Heiner shredding affair.

It relates to the 1990 decision of the Goss Labor cabinet which, soon after it came to power, decided to shred documents relating to an inquiry into child abuse at the John Oxley detention centre.

Endless inquiries, including state investigations and Senate probes, have failed to throw light on this suspicious episode which has refused to disappear from the political agenda.

One Nation, however, has managed to shake free some relevant cabinet submissions and letters from that era which otherwise would have been hidden in archives until 2020.

In doing so, the MPs have succeeded in their debut performance where people like former premier, Rob Borbidge failed.

Access to these papers previously had been denied by Peter Beattie, whose permission for release had been sought by then-premier Borbidge in requests up to the time when Beattie was opposition leader.

Beattie had argued that the principle of Cabinet confidentiality was a cornerstone of good government in the Westminster tradition.

"No good case has been made for compromising that principle," Beattie wrote when rejecting the request which Borbidge had made soon after his minority government took office in 1996.

That principle was sacrificed early yesterday morning as an exhausted Parliament approached the vote that confirmed its confidence in the Beattie minority administration.

Beattie produced the papers for public consumption but defended the actions of the 1990 cabinet which included five members of his current ministry.

Provided the Premier has not been selective, his release decision suggests that, as a lawyer, he believes they contain nothing that can point any fingers at his colleagues.

If this is the case, Queensland and other taxpayers might have been saved a considerable amount of

39.
money if he had been of this opinion a couple of years ago.

The spin Beattie put on the release was that Labor, a new Government anxious to get on with the job of running the state, did not deserve to be saddled with any baggage from a past administration. It was time to look ahead rather than at the past.

From the language its MPs used when they called for the "Shreddergate" documents, One Nation is unlikely to let what it described as this "unresolved case of systemic corruption" rest.

One Nation MPs told Parliament that it was hard to imagine a more serious breach of public trust than a situation where a government executive decided to knowingly shred public records.



QUEENSLAND POLITICAL

REFORM GROUP 38.

COURIER-MAIL , BRISBANE

SAT 1 JULY 1998

COPY

Aug 18 - 1998

Ph (07) 3857 2704

The first investigation in 1991 was by the CJC's own admission, "grossly inadequate" and "embarrassing". It comprised one or two letters sent to government officers for their versions of events.

Kevin Lindeberg - a former union official who says he was sacked for pushing Mr Coyne's legal right to have access to the Heiner documents - was not interviewed although he sent the CJC seven letters and 12 documents.

Mr Lindeberg's complaint alleging misconduct by the department and Cabinet is found to be unsubstantiated.

Later an officer attaches a handwritten note in Mr Lindeberg's CJC file branding him "irrational" and suggesting no-one reply to his queries as it will just encourage him.

A second investigation in 1992, forced by Mr Lindeberg's agitating, finds the same result. Conducted by a barrister engaged by the CJC, the investigation is challenged by claims of bias and tampering of a tape of an interview (reports on the tape identify part of the recording has been lost but are inconclusive).

An internal CJC memorandum shows that the inquiring barrister has links to the Labor Party.

A May 1994 letter from the then-CJC chief to the Opposition reveals the barrister was recommended by one of the CJC's own officers - a past executive member of the Labor Lawyers Association. But the CJC chief dismisses concerns about either man's political affiliations.

Morris and Howard's 1996 report says it is open to conclude criminal offences by public servants.

A secret November 1996 CJC "highly protected" report - a response to the barristers' findings - says that based on memorandums between director-general Ms Matchett and the minister Warner, all 18 members of the Goss cabinet are open to the same criminal culpability if the barristers are right.

The CJC rejects the Morris-Howard view, but says: "Memoranda from Matchett to Warner strongly suggest the knowledge which Morris and Howard deem sufficient to inculcate the departmental officers involved was shared by the politicians who gave the order to shred the documents."

Mr Peter W Wellington

Member for Nicklin

Parliament House

BRISBANE

Re : this 10 par extract from a comprehensive news article on the "Shredding , Mar 1990" , by

MICHAEL WARE , a journalist with the C-Mail ;

(last 10 pars , plus some comment earlier detail)

Statements by members of Goss ALP government :

" (the shredding was done) . . . to reduce the risk of legal action against all the parties involved".

Hon Anne Warner , Minister , DFSAIA , 1990 - 1996 , 18 Mar 1993

"What possible motive could Anne Warner and the other 17 ministers have had to cover up a mess left behind by the former National Party government"?

Hon Wayne Goss , Premier of Queensland , 1990 - 1996 , 1996

Some clarity could result should former P C J C Chairman , Mr Peter Beattie , have released all Cabinet documents relevant to these compound matters.

The extracts from the Michael Ware article cited show considerable uncertainty remains to be resolved. What do the statements by the C J C (Mr Frank Clair), that on p16 of exhibit 661 , Connolly/Ryan CoI , and the last par of the article reproduced here , actually mean ?

We submit that the following scenario of events , or a significantly similar construct , actually occurred leading to the decision to destroy the Heiner Inquiry material (the shredding) , and the destruction of it.

. . . (2)

The accumulated materials of the Morris/Howard Report , Kevin Lindeberg's submissions and evidence , evidence submitted to the several Senate Committee hearings , evidence submitted to the Connolly/Ryan CoI , and other relevant evidence , probably contain the remainder of the actual story :

- * the decision to destroy the material by the Jan/Feb conjunction 1990 ;
- * the processes leading to the destruction of the material , Mar 23 - 1990 (Cabinet decision Mar 5 - 1990 etc) ;
- * the cover-up of the decision to destroy the material and the destruction ;
- * the consequent activities of Kevin Lindeberg and others , the investigations and hearings , the behaviours of the parties to the processes ;

The Scenario : Towards mid to latter 1989 , an informal agreement is reached (of events) between certain union officials , whose unions represent various John Oxley Youth Centre staff , that an equally informal strategy be initiated to provoke an informal inquiry/ /complaints process to achieve alterations to management procedure at JOYC , and also probably alterations to operations and changes of management staff ;

: this informal process was initiated by submission of complaints relating to management and practices at the JOYC to the then D-G of DCS/DFS by a relevant union official. The complaints were solicited from JOYC staff ;

: the then D-G of DCS/DFS required any complaints relating to the JOYC to be formally submitted and in writing prior to a formal inquiry procedure being instituted ;

: the complaints were of sufficient gravity to cause the Cooper Coalition government of Queensland to institute a formal inquiry into the management and operations practices at the JOYC , this to be conducted by retired magistrate , Mr Noel Heiner , 13 Nov 1989 ;

: the change of government in Queensland , Dec 2 - 1989 , resulted in Mr Wayne Goss becoming Premier , and he owed his majority political support to the heavyweight union referred to in Michael Ware's C-M article ;

* it was an official of the other union with a common interest in the application of informal pressure to achieve changes to management and operations at the JOYC who submitted the staff complaints to the then D-G of DCS/DFS in 1989 ;

(Union disposition : QPOA and QTU for investigation // inquiry)

(: QSSU and AWU against investigation // inquiry)

: the incoming Goss ALP government was left with no alternative but to kill the Heiner Inquiry and destroy the accumulated evidence in order to protect political co-operation within the ALP through the factions with their union power bases ;

NOTE : that the Queensland branch of the ALP maintains utter reliance on factional co-operation (four [4] factions) to maintain discipline within the union and non-union power bases of the factions : what the ALP calls power sharing.

Union officials , parliamentarians (and councillors to a slightly lesser degree) , and particularly government and committee members must maintain ALP factional affiliation.

Non-factional members of the ALP have little , if any , voice or influence on policy formulation and application or government strategies , or opposition strategies.

The 10 par extract , and other sections of Michael Ware's C-M article indicate years of indecision , denial of evidence , and avoidance of commitment to a real investigation of the Lindeberg allegations and the Heiner Inquiry material destruction : the Shredding , Mar 23 - 1990.

We respectfully submit that only an open and thorough commission of inquiry will resolve the ever increasing volume of the core matters , and related matters , and bring justice for Kevin Lindeberg and his family , and all affected by these odious events.

NOTE : the behaviour of the Queensland Information Commissioner/Ombudsman or Ombudsman/Information Commissioner , Mr Fred Albietz , must be examined with relation to these matters.

It is doubtful that without the tenacity , determination , courage , and sacrifice by Kevin Lindeberg , and the efforts by journalists Mr Bruce Grundy , Michael Ware , Drena Parrington , and Chris Griffith , in pursuit of the JOYC matters , the NEERKOL Orphanage matters , and other matters of child and youth care in other institutions , sufficient evidence to cause the institution of the Forde Inquiry into institutional child/youth abuse , would ever have received public recognition , and certainly would not have accumulated.

For your consideration and action ,

Yours faithfully ,

NOEL TURNER

for the QPR Group

Aug 18 - 1998

Postal address : P O Box 545

LUTWICHE 4030 Q

Ph : (07) 3857 2704

CABINET members in the former Goss Labor government could all face a private prosecution by a whistleblower alleging they perverted the course of justice by shredding documents - the so-called Heiner "Shreddergate" affair.

Documents obtained reveal former union official Kevin Lindeberg intends to apply for leave through the Supreme Court to prosecute the entire Labor Cabinet which met on March 5, 1990.

The Cabinet meeting ordered the shredding of evidence given at a November 1989 inquiry into the management of Brisbane's John Oxley youth detention centre, conducted by retired magistrate Noel Heiner.

The documents were destroyed on the grounds the inquiry was not properly set up, witnesses were not indemnified and that their evidence was possibly defamatory.

The Heiner affair has been an ongoing controversy, having been referred to the Criminal Justice Commission and also coming under scrutiny by the Senate Select Committee on Public Interest Whistleblowing in 1995.

Letters written by Mr Lindeberg's legal representatives, Ryan and Bosscher solicitors, were sent yesterday to Attorney-General Denver Beanland, the Director of Public Prosecutions, Royce Miller QC, Police Commissioner Jim O'Sullivan and the Secretary of Cabinet.

The letters state Mr Lindeberg's intention to apply for leave through the Supreme Court to prosecute the Cabinet and a former senior public servant.

It would be alleged the Cabinet ministers attempted to pervert the course of justice by ordering the shredding of the documents, and that the public servant also allegedly breached Section 129 of the Criminal Code.

Premier Rob Borbidge commissioned an inquiry into the matter by barristers Tony Morris, QC, and Eddie Howard after the Coalition came to power in 1996.

However, they found the inquiry would not be able to question Mr Goss or his ministers, as this breached parliamentary privilege, and an assessment could not be made as to whether the 1990 Cabinet had committed any criminal offence because current Labor leader Peter Beattie refused to hand over the relevant Cabinet documents.

No comment was available from Mr Lindeberg or his solicitors last night.

COURIER - MAIL

BRISBANE

+WEDNESDAY, MARCH 4, 1998

Shredding lawsuits for Goss ministry

WEB/NET ADDRESS FOR Heiner

shredding info :

WWW: http://www.uq.oz.au/jrn/twi/top10.html

" The Weekend Independent "

THE HIGHLIGHTED PARAGRAPH 1

should be compared with the statement in Queensland Parliament by the then DFSAIA Minister, the Hon Anne Warner, on Mar 18 - 93 :

" (the shredding was done) . . . to reduce the risk of legal action against all the parties involved "

It seems quite clear from accumulated evidence (Morris/Howard Report 96, submissions & exhibits in the 63rd Report of the Senate Committee of Privileges 96, submissions to the Connolly/Ryan COI 97 and other material), that the intention to destroy the Heiner Inquiry material was formed by various of the players, by the Jan/Feb conjunction 1990.

Facilitating this intention with a plausible form of lawful status and parliamentary (Executive) approval may have proved a more difficult task for them, but the objective of the intention was ultimately achieved on Mar 23 - 1990. (May 22 & 23 - 1990 confirmed, got the desired result).

The Chronology of Events contained in Exhibit 5 (Senate Privileges 63rd Report Pp 33/40, Peterson for Lindeberg) provides a precised history of significant occurrences between Sept 14 - 1989 and May 30 - 1990. Comprehensive details of this history can be confirmed by consulting the Morris/Howard Report. Note that the Peterson document was submitted to the Senate Committee of Privileges (Sept 5 & 9 - 1996) before the Morris/Howard Report was presented (Oct 8 - 1996).

Note that destruction of the Heiner Inquiry material produced two (2) significant affects :

- * the elimination of the capacity for any persons adversely affected by the material from taking any action in their interest(s) ;
- * the elimination of considerable material capable of being analysed to provide a picture of the real functions of a principal youth treatment institution of Queensland at a particular point in its history ;

1

2

3

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Additional comment : some extra data may assist with clarifying perspective :

Submissions to Connolly/Ryan C O I 1997 :

- * From Kevin Lindeberg : Exhibit 394 ; published by Connolly/Ryan
May 1997 ;
: suppressed by Connolly/Ryan
July 1997 ;
- * From C.J.C ,
(Frank Clair) : Exhibit 661 : C.J.C response to 394 ,
published by Connolly/Ryan ,
freely available for public
discussion and comment ;

Nature of the Heiner Inquiry material : original complaints and 100 hours
or so of taped interviews with in
excess of 45 witnesses , and other documentary evidence.

As Kevin Lindeberg claims/asserts , several consequent actions related to the
shredding of the Heiner Inquiry material , could , with the shredding , be
unlawful by being in contravention of the Constitution , the Law and our
Criminal Justice system.

Noel T.



LEGISLATIVE ASSEMBLY OF

Queensland

Parliamentary Criminal Justice Committee

33.

Reference:

8 July 1997

Chris Tooley, Noel Turner and Lee Nightingale
Representatives of the Queensland Political Reform Group
C/- 194 Dowding Street
OXLEY QLD 4075

Dear Representatives

Re: Heiner / Coyne / Lindeberg matter

We refer to your letter dated 5 May 1997, received in the Committee secretariat on 19 June 1997.

We note your request that we *represent and support the urgent need for a full Commission of Inquiry into the Heiner / Coyne / Lindeberg matter.* ~~As you are aware Messrs Morris QC and Howard, two prominent legal counsel considered all aspects of this matter and submitted a report to the Premier and Cabinet. We do not intend to repeat that process.~~

Having considered this report the Premier has recently accepted advice from the Director of Public Prosecutions that no charges should be laid against any person in relation to this matter. ~~We do not intend to recommend a further inquiry at this stage.~~

Thank you for drawing to our attention the articles published in *The Weekend Independent*.

Yours sincerely

Hon Vince Lester MLA
Chairman



Copy for Noel

32.

AUSTRALIAN SENATE
CANBERRA, A.C.T.

COMMITTEE OF PRIVILEGES

PARLIAMENT HOUSE
CANBERRA, A.C.T. 2600
PHONE: (06) 277 3360
FAX: (06) 277 3199

30 May 1997

Mr Chris Tooley, Mr Noel Turner
and Mr Lee Nightingale
Queensland Political Reform Group
C/- 194 Dowding Street
OXLEY QLD 4075

Dear Sirs

I am pleased to advise that on 29 May 1997 the Senate endorsed the Committee's finding contained in its 63rd report, entitled *Possible false or misleading evidence before Select Committee on Unresolved Whistleblower Cases*, a copy of which I sent to you on 5 December 1996.

A *Hansard* extract of the debate on the motion to endorse the finding is enclosed, for your information.

Yours sincerely

Senator Robert Ray
Chair

TEXT OF PARA 27. OF 63rd REPORT:

ACCORDINGLY, THE COMMITTEE OF PRIVILEGES HAS DETERMINED THAT
NO CONTEMPT HAS BEEN COMMITTED BY THE CRIMINAL JUSTICE COMMISSION
IN RESPECT OF THE MATTER REFERRED TO IT ON 25 JUNE 1996.

ROBERT RAY
CHAIR



31.

AUSTRALIAN SENATE
CANBERRA, A.C.T.

COMMITTEE OF PRIVILEGES

PARLIAMENT HOUSE
CANBERRA, A.C.T. 2600
PHONE: (06) 277 3360
FAX: (06) 277 3199

63RD REPORT

CHAIR'S TABLING STATEMENT

5 DECEMBER 1996

The matter was raised by Senator Murphy, as the former chair of the Select Committee on Unresolved Whistleblower Cases. The questions raised by Senator Murphy concerned allegedly misleading evidence given by the Criminal Justice Commission (CJC) about the number and availability, of advices given by the Queensland Crown Solicitor, and awareness of documents held by the Queensland Department of Family Services and Aboriginal and Islander Affairs (DFSAlA), in relation to what came to be known as the Heiner documents case. The correspondence and associated papers forwarded to the President by Senator Murphy had been provided to him by Mr Kevin Lindeberg and Mr Peter Coyne, both of whom had been involved in the Heiner documents matter.

The Committee, having examined a significant number of documents, including submissions from both Mr Lindeberg and the CJC, has concluded that the CJC was unaware of the existence of certain documents referred to by Mr Lindeberg and Mr Coyne.

Reasons for the Committee's conclusions are outlined in its report. As a result, the Committee has concluded that no contempt has been committed by the CJC in respect of the matter referred to it.



QUEENSLAND POLITICAL

REFORM GROUP 30.

C/O 194 Dowding Street,
Oxley,
Brisbane,
4075.
5th. May 1997.

TO: The Chair of the Parliamentary Criminal Justice Commission,
The Honourable Vince Lester,
C/O Parliament House,
Cnr. George and Alice Streets,
Brisbane,
4000.

Dear Mr. Lester,

Our Community Group wishes to draw to your attention the contents and purpose of a special eight page section of the Weekend Independent Newspaper dated April 1997. This newspaper is produced monthly by students and staff of the Department of Journalism of the University of Queensland. A copy of this eight page section is attached.

The form and substance of this material is that of an inquiry initiative by the students and staff including the editor Mr Bruce Grundy, of the Weekend Independent Newspaper. This is based on evidence published to date.

We request that you as chair of the P.C.J.C. represent and support the urgent need for a full Commission of Inquiry into the Heiner/Coyne/Lindeberg matters founded on the form and substance indicated in the eight page section attached.

Additionally we draw your attention to a front page article from the same April edition of the Weekend Independent Newspaper. This article raises the matter of the probability of the former Goss Queensland Government misleading the Queensland Governor. A copy is attached.

We also draw your attention to the soon to be released May edition of the Weekend Independent Newspaper which carries the following information:

1. A recent submission on the Heiner/Coyne/Lindeberg matters by the former Queensland Police Commissioner Mr Noel Newnham to the present Connolly/Ryan Commission of Inquiry.
2. The International Archivists meeting in the Hague, Netherlands, on the 18th-20th June to which the Australian Delegate will present the Heiner/Coyne/Lindeberg matters in Queensland for their consideration and possible action.
3. The President of the Federal Senate Margaret Reid on the advice of the Clerk of the Senate Harold Evans has recommended that you as chair of the P.C.J.C. ask the P.C.J.C. to use its powers of investigation to carry out a separate investigation on whether the C.J.C. adequately dealt with the Heiner/Coyne/Lindeberg matters without infringing upon the C.J.C.'s Parliamentary privilege surrounding this matter. The results of this would be referred to the Senate President for action which in turn may lead the matter onto the Senate Committee of

Privileges for consideration and possible action.

Our Group is concerned that the C.J.C. may have given false and misleading evidence to the P.C.J.C. We believe that the C.J.C. should be accountable to the Queensland Parliament through the P.C.J.C. as defined in the CRIMINAL JUSTICE ACT 1989, Section 4.8, Subsection (1) (a) to (f) inclusive; (2) (a) and (b). Additionally our Group is concerned that further inaction by the present Queensland Government will worsen this condition.

We await your early response and anticipate your support of our position. We understand that this is a difficult matter but unless this matter is resolved with justice then our entire system of Democracy in Queensland and Australia will be in trouble. It is indeed a time for steely courage and raw fortitude. We must act for our Country Australia for the Principles of Justice and Human Dignity and for our Future!

Yours Faithfully,

Chris Tooley... *Chris Tooley*

Noel Turner... *Noel Turner*

Lee Nightingale... *Lee Nightingale*

Representatives of the Queensland Political Reform Group.

Copies of this letter have been forwarded to:

1. Mr Bruce Grundy, Editor, the Weekend Independent Newspaper.
2. The Federal Senate Privileges Committee.
3. The Federal Parliamentary Standing Committee on Constitutional and Legal Matters.
4. Senator John Woodley.
5. Private Distribution.

Note: Copies of this letter forwarded to receiptients will not include copies of the relevant pages of The Weekend Independent Newspaper. This information can be accessed through the Internet address WWW: <http://www.uq.oz.au/jrn/home.html>

The Queensland Political Reform Group notes the Premier's statement of June 12th, that the Coalition Government does not intend to proceed with any criminal charges as a result of an Executive/Cabinet decision on the recommendations from the Director of Public Prosecutions, Royce Miller Q.C. re:his review of the Morris/Howard Report into the Lindeberg allegations.

We have received advice from the Chair of the Senate Privileges Committee, Senator Robert Ray, that the Senate has endorsed the Committee's finding of the 63rd Report of the 5th December 1996: viz:"The Committee,, has concluded that the C.J.C. was unaware of the existence of the certain documents referred to by Mr. Lindeberg and Mr. Coyne.,has concluded that no contempt has been committed by the C.J.C. in respect of the matter referred to it", re;the Lindeberg allegations in 1995.

We emphasise that you need to refer to the Senate Privileges Committee, your evidence that the P.C.J.C. has no record of any investigations by the P.C.J.C. into the Lindeberg allegations, and request the Senate Privileges Committee to seek confirmation from the C.J.C. of any evidence of P.C.J.C. investigations or otherwise into the Lindeberg allegations or any part of the Heiner/Coyne matters.

Our Group emphasises that evidence reproduced in the Weekend Independent Newspaper from April 1996 to June 1997, particularly the reproduction of documents obtained through F.O.I. proce dures, indicate that these matters cannot be clearly concluded nor potential crim inal responsibility be soundly discounted without this continuing action by your Committee. We again emphasise our request for a full and open Commission of Inquiry into these matters.

Yours Faithfully,

Lee Nightingale.....
For the Queensland Political Reform Group.



QUEENSLAND POLITICAL

REFORM GROUP 27

TO: Stephen Coates,
Legal Advisor to the Attorney General,
G.P.O. Box 149,
Brisbane, 4000,
25th. April 1997.

C/O 194 Dowding St.,
Oxley,
Brisbane,
4075.

RE: Your response - legal 97/000153 - to our letter of 21st.
December 1996.

We thank you for your letter, but note the excessive time taken between our letter and your response. Enclosed is an extract from the Sunday Mail of March 1997, "Shredding Victim Wins Pay". This section of the article by Chris Griffith "Shredded History", paragraphs highlighted, draws attention to a statement by the Director of Public Prosecutions, Mr Royce Miller which says "...the matter (his review of the Morris/Howard report on the Lindeberg allegations) is now in the Government's hands...".

The final paragraph of your letter of 2nd. April states; "Like any Commission of Inquiry, the actions of the Inquiry into the Criminal Justice Commission can, and have been reviewed by the Supreme Court of Queensland." Could you clarify the difference between the contents of the article, and your response?

Additionally in this article: "Mr. Borbidge's spokesman said the issue could be addressed in State Parliament - if it were to be addressed." Your letter states that "the actions of the Inquiry into the C.J.C. can, and have, been reviewed by the Supreme Court of Queensland." There appears to be considerable discrepancy between these procedures, and we are intrigued by your response that the Inquiry(?) has been reviewed by the Supreme Court.

To quote further from the article: (In reference to the Morris/Howard Report) "Last year Mr. Borbidge said "obviously the situation is so serious that what they've raised in their report cannot be ignored. It would be negligent of the Government to ignore it." The serious nature of the Morris/Howard Report is illustrated by these statements by the Premier and his spokesperson. Your reference to a Supreme Court review of an Inquiry Report, to our understanding, would relate to the Carruthers and/or Connolly/Ryan inquiry into the C.J.C.; AND NOT the Director of Public Prosecutions review of the Morris/Howard Report.

Our letter of the 21st. December 1996 is quite detailed and comprehensive. We do not consider your responding letter an adequate response to our quite legitimate requests for an open and thorough inquiry into the Lindeberg, Coyne, Heiner allegations and documents shredding.

Our request now is that you provide adequate responses to our letter of 21st. of December 1996, and this letter requiring your clarification of the Status of the Director of Public Prosecutions review of the Morris/Howard report, and the identity of the Inquiry Report or Reports currently reviewed by the Supreme Court.

Page 2

Your reply, within one month, will be appreciated.

Yours Sincerely,

Chris Tooley.. *Chris Tooley*

Noel Turner.. *Noel Turner*

Lee Nightingale.. *Lee Nightingale*

Representatives of the Queensland Political Reform Group.

Copies of this letter have been forwarded to:

1. The Federal Parliamentary Standing Committee on Constitutional and Legal Matters.
2. The Federal Senate Privileges Committee.
3. Mr. Bruce Grundy of "The Weekend Independent Newspaper".
4. Senator John Woodley.
5. Private Distribution.

Kevin Lindeberg
20 Lynton Court
ALEXANDRA HILLS QLD 4161
31 December 1996

3824 0708

Mr Lee Nightingale
Convenor
Queensland Political Reform Group
C/- 194 Dowding Street
OXLEY QLD 4075

Dear Mr Nightingale

Re: The Shredding of the Heiner Inquiry documents and related Matters

I am in receipt of a copy of your Group's letter dated 21 December 1996 to Queensland Attorney-General the Hon Denver Beanland MLA regarding the above matter.

Your forthright interest in this important public issue is greatly encouraging.

It is disturbing to note that the legal adviser to the Attorney-General, as late as 27 November 1996, is stating that this matter "...has already been the subject of an exhaustive review by Brisbane barristers." That, as your Group rightly pointed out, is far from the truth, and grossly misrepresents the real situation.

The Morris/Howard Report was a preliminary investigation on the papers held by certain Government agencies to establish whether there was any substance to my allegations. By its own definition, it could never have been "exhaustive." Nevertheless on those papers alone, Messrs Morris QC and Howard concluded that serious criminal offences were open to be found.

The Clarke Memorandum

On 10 December 1996 the Department of Families, Youth and Community Care released further FOI documents to me purportedly because of the tabling of the Morris/Howard Report. These documents had been previously refused access to me for over two years.

Of particular importance was the release of a Departmental Memorandum dated 18 January 1991 to Ms Ruth Matchett written by Mr Gary Clarke Director of Finance and Organisational Services recording the content of a meeting between officials of the Queensland Professional Officers Association and the Department concerning Mr Peter Coyne.

Of critical importance the official record of the meeting states this in part:

"The union officials stated that Mr Coyne had been the innocent victim of the "whole saga" in relation to John Oxley Youth Centre..."

and

"The union officials indicated that if the Department was not prepared to pay Mr Coyne, the Union would proceed down the following paths:

1. Put the entire matter in the hands of the Criminal Justice Commission.
2. Sue the Department for damages on behalf of Mr Coyne.
3. Put the entire matter into the hands of the Public Sector Management Commission." (Underline added)

This document apparently was either not shown to or overlooked by Messrs Morris QC and Howard in their report but on the weight of the evidence they did examine they found that the payment was illegal, a breach of the Criminal Code (Qld), and offered to buy silence.

I respectfully remind you that at the time of this extraordinary meeting held on 10 January 1991 I had already been dismissed by the union using my handling of "the Coyne case" - when I was trying to obtain legal access to public documents for my member. I had unbeknown to the union, Department and Mr Coyne placed the matter into the hands of the Criminal Justice Commission on 14 December 1990, and was back on the union Council fighting to have my entire dismissal debated.

The union and the Department, without question, were well aware of my return to the union Council to have my dismissal overturned as a debate was to be conducted in the first week of February 1991.

As an experienced union official, I have never bargained over corruption to extract monies. The notion is utterly foreign to me - and I suggest to decent unionists and unionism. To do otherwise, is gangsterism by another name.

That aside, there is now indisputable evidence that "a threat" of exposing knowledge or suspicions of official misconduct and/or corruption relating inevitably back to the shredding of the Heiner documents and the related matters (transferring the original complaints back to the State Service Union and shredding photocopies of the original complaints to avoid a known statutory duty) was used by my union to extract public monies from a unit of public administration. The compiling of the final sum was a joint secret exercise by the union and the Department, and ultimately authorised by a Labor Minister of the Crown.

One of the parties to those secret negotiations some weeks later told me that the payment was "a fraudulent concoction." That person has never been interviewed by the Criminal Justice Commission, police, or for that matter by Messrs Morris QC and Howard in their allegedly "exhaustive" review of the matter as described by the Attorney-General's legal adviser.

The Criminal Justice Commission and Queensland Audit Office

The Criminal Justice Commission was informed in early 1991 of the extraordinary "threats" which occurred at that meeting. The Queensland Audit Office was informed comprehensively in mid 1993 about the background to the payment.

The Criminal Justice Commission described the payment and negotiations before the Australian Senate in 1995 as "...commercial negotiations in which payments above and beyond an award are made." It also said to the Murphy Senate Committee that it saw the extra payment as "...nothing particularly unusual."

The Queensland Audit Office could not find any detailed documentation to support the payment, and although finding that the Minister had no lawful authority to authorise that amount and therefore "technically breached" the Financial Administration and Audit Act 1977, it refused to act preferring finally to take Ms Matchett's word over mine.

Ms Matchett, and indeed Mr Clarke, were required by law to report *all* knowledge of suspicions of official misconduct and/or corruption to the Criminal Justice Commission. In this instance, instead of immediately referring the "whole saga" of the John Oxley Youth Centre (ie the shredding etc) to the Commission, they entered into secret negotiations to buy the silence of Mr Coyne, which benefitted not only the Government but also the union because of my sacking.

We now find that not only did the Criminal Justice Commission apparently neglect to access this critically relevant memorandum but neither did the Queensland Audit Office access it and yet both bodies possess the authority and had a clear duty to access such material.

Against this background it is nonsense for anyone to suggest that this matter has been exhaustively investigated. Messrs Morris QC and Howard expressed concern at how such serious criminal offences could have been held within the System in "post-Fitzgerald Queensland." Plainly that concern enlivens your Group as well.

If nothing else, voters and taxpayers have a right to know the whole truth of this matter. Why was the Criminal Justice Commission negligent in its duty? Why did the Auditor-General turn a blind eye to the real motivation behind the payment? Why has the Information Commissioner sat on incriminating evidence for years? Why is the State Archivist still publicly allowing her crucial role as guardian of public records to be undermined in the eyes of the international archives community?

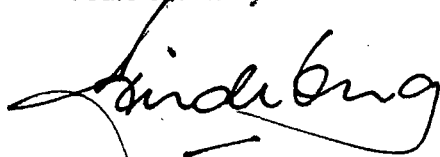
Why is the Borbidge Government so inactive over such demonstrable corruption which it knows has only been partly unearthed?

Why has Queensland's main print media outlet not vigorously pursued the whole truth of this matter?

The pressure from your Group is most welcome. I suggest that it should continue but you must continue to act independently. The issues are much bigger than justice for me however overdue and welcome that will be.

We are confronted with a vast attack on core democratic values. They must be defended by each in his/her own way. Later generations may well adversely judge us by if we allow fear or silence to overtake us.

Yours sincerely

A handwritten signature in black ink, appearing to read "Lindeberg", with a long horizontal flourish extending to the right.

KEVIN LINDEBERG

[P R O O F]

MATTERS OF PUBLIC INTEREST

Whistleblowers

Senator WOODLEY (Queensland) (1.14 p.m.)--I wish today to speak about a matter which I have referred to on a number of occasions previously but want to raise again because of new evidence which is available. I speak about the shredding of the Heiner inquiry documents in Queensland. I am sure, Mr Acting Deputy President, that you would be interested in this. It is a topic I have not visited for some time, primarily out of consideration for the fact that it has been before the Privileges Committee and I certainly did not want to interfere with their deliberations. Also, I have not spoken because I have been waiting for a report to be tabled in the Queensland parliament. That report has now been tabled--or, at least, parts of it have.

On 5 December 1995, the Senate Committee of Privileges tabled its 63rd report, which concerned the possible false and misleading evidence before the Select Committee on Unresolved Whistleblower Cases, of which I was a member in 1995. It was alleged by witnesses, Messrs Kevin Lindeberg and Peter Coyne, that the Queensland Criminal Justice Commission gave such evidence. The Committee of Privileges came to the view that the CJC had not deliberately misled the Murphy committee by withholding important evidence, because the CJC admitted in writing to the Committee of Privileges that it had never before--and I underline 'before'--seen or accessed the material which caused Mr Lindeberg and Mr Coyne to lodge their complaint.

I am not going to debate the view taken by the Committee of Privileges. Obviously, it was quite proper. In any case, it is a very serious matter deliberately to mislead a Senate committee; and, obviously, that was the position taken by the Committee of Privileges. However, I do want to inform the Senate of what an extraordinary admission by the CJC means to the Heiner case, and to link that with the findings of the Morris-Howard report tabled in the Queensland parliament on 10 October this year by the Queensland Premier, Mr Borbidge.

Let me explain to honourable senators what the Morris-Howard report is. It is a report of two independent barristers appointed by the Borbidge government in May 1996 to investigate two unresolved whistleblower cases, one of which was the Lindeberg allegations about the shredding of the Heiner inquiry documents and the payment of public moneys to the sum of \$27,190 to a public servant, Mr Peter Coyne. It was he who was seeking statutory access to the Heiner documents and the original complaints in early 1990.

Messrs Tony Morris QC and Edward Howard were commissioned to look at departmental and criminal justice material, to ascertain the legality of the shredding and the payment, and to recommend whether a commission of inquiry was necessary. I might add that they did recommend a commission of inquiry. Their report was some three months over time for various reasons, but their findings in respect of the longstanding Lindeberg allegations were quite astounding. They found that it was open to conclude that serious criminal offences had been committed over the Heiner document shredding, the disposal of the original complaints back to the union, and the shredding of copies of the original complaints--because it was indeed known that the documents were required as evidence in foreshadowed judicial proceedings.

I remind the Senate that the Heiner inquiry document shredding was ordered by the Goss cabinet on 5 March 1990. The current leader of the Queensland Labor Party, Mr Peter Beattie,

refused the barristers access to the cabinet documents, as such access would breach cabinet confidentiality and the Westminster traditions. The barristers could neither clear nor open up potential criminal charges, because Mr Beattie refused to open the vault.

Mr Beattie had stated on many occasions that the case has been investigated inside out and upside down, and he described the Morris-Howard investigation as a political stunt. I do disagree with Mr Beattie on this occasion. Because the documents were not available, the barristers recommended a commission of inquiry to get to the truth. They indicated that it was open to conclude that serious offences involving destruction of evidence, attempting to obstruct justice, perverting the course of justice, and so on, were far more serious than the matters in the Carruthers inquiry established by the CJC.

The Senate will be interested to know that the CJC was quite sure in 1995 that, when the decision to shred was taken, the Goss cabinet knew that Mr Coyne required the documents, and that it was after he had served notice on the Crown. This was further confirmed in fresh documents to the Committee of Privileges as recently as 3 December this year. But here we are, nearly two months later, and the Borbidge government is still deciding what to do--which I must say the Democrats find quite remarkable and also inexcusable.

The barristers were rightly concerned at how such serious conduct could have been contained in post-Fitzgerald Queensland for six years. They describe the Criminal Justice Commission's investigation as being 'inexhaustive', thus contradicting the statement made so many times that it had been investigated upside down and inside out. For my part, I can still hear the words of then CJC Chairman, Mr Rob O'Regan QC, ringing in my ears telling our committee in Brisbane that this case had been investigated to the nth degree, and that he had personally checked the file and found nothing in it.

We now find that on 16 August 1996 a senior Queensland QC, in a letter to Senator Ray on behalf of the Criminal Justice Commission, made the outstanding admission:

The documents in question have never been seen by the commission, have never been in the possession of the commission, are not now in the possession of the commission and the commission has been unaware of their existence until their existence was revealed by the contents of your letter under reply.

That is the letter to the Chairman of the Committee of Privileges from the CJC. Not prepared to have a conversion on the road to Damascus, the QC on behalf of the CJC says:

It is not now possible to say what course the commission might have taken had it been aware of the existence of those documents.

In other words, the CJC has made a finding of fact on the Lindeberg allegations based on admitted, incomplete evidence and it is not going to do anything about it. What a remarkable state of affairs. The QC further stated that the CJC 'has an obligation to be impartial.'

The same incriminating documents, which, I remind the Senate, Mr Lindeberg always said were hidden in the system, could have been obtained by the CJC. These same documents, examined by barristers Morris and Howard for the first time in six years, led them to make gravely serious charges. These documents were withheld from our committee in 1995 and yet this case is supposed to have been investigated to the nth degree.

But it does not stop there, and this greatly concerns the Democrats because of our commitment

to open and accountable government. The Morris and Howard report found a mystery involving the Queensland Crown Solicitor concerning a final piece of legal advice he gave to the department. Today, I want to tell the Senate that this so-called mystery can be solved. The document exists. It is one that has not been shredded. It is dated 18 May 1990, and the Democrats call on the Queensland government to immediately release it to interested parties but especially to Lindeberg and Coyne.

The significance of this last piece of crown law advice is not lost on the Australian Democrats. We are looking at the possibility of the Crown Solicitor in Queensland actively engaging in the commission of a serious offence to obstruct justice. It is advice which contradicts previous lawful advice he gave on 18 April 1990. I suggest that it is intolerable for this to remain unresolved. The people of Queensland must have confidence in the integrity of the crown law office.

Finally, let me remind the Senate that many thinking people are very concerned at how such prime facie criminal and official misconduct behaviour and injustices could have remained contained in Queensland's public administration for six years. I believe the CJC must explain its role, including the issue surrounding the tampering with evidence and the findings of stipendiary magistrate Noel Nunan in 1993. The police commissioner should explain his role, as must the information commissioner, the auditor-general and others. This affair is too vast for the present Connolly and Ryan inquiry to investigate thoroughly.

The Democrats have heard that the Borbidge government is reneging on its commitment to get to the truth of this sordid affair--only achievable through a commission of inquiry--because it would cost too much. Such an excuse is nonsense and contrary to the principles of responsible government in a democracy. This affair, unless addressed properly and thoroughly by the Borbidge government, may engulf it too, because the integrity of the crown and the state is at stake. These principles are no respecter of political parties or members of parliament. They say today, 'The Borbidge government must stop the delay. Six years of a concerted cover-up is long enough. Six years of injustice for those plainly affected by this affair is long enough for them and their families.'

I believe that Shreddergate, as somebody has called it, is an issue that demands resolution, and I call on the Queensland government to establish the commission of inquiry which it has promised, and to do so forthwith.



QUEENSLAND GOVERNMENT

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

2 APR 1997

18.

In reply please quote: Legal 97/000153

Messrs C Tooley, N Turner and L Nightingale
The Queensland Political Reform Group
c/- 194 Dowding Street
OXLEY QLD 4075

Dear Messrs Tooley, Turner and Nightingale

The Honourable Denver Beanland MLA, Attorney-General and Minister for Justice, has requested that I reply to your letter of 21 December 1996 concerning various matters.

The Report by Messrs Morris and Howard recommended a public inquiry be established to investigate and report on Mr Lindeberg's allegations. However, as noted in my previous letter to you, the matter had been referred to the Director of Public Prosecutions for consideration. The Director is an independent statutory officer.

Like any Commission of Inquiry, the actions of the Inquiry into the Criminal Justice Commission can, and have, been reviewed by the Supreme Court of Queensland.

Yours sincerely

STEPHEN COATES
LEGAL ADVISER



QUEENSLAND POLITICAL

REFORM GROUP 17.

TO: The Attorney-General,
The Honourable Denver Beanland,
G.P.O. Box 149,
Brisbane, 4001.

FROM: The Queensland Political Reform Group,
c/o 194 Dowding Street,
Oxley,
Brisbane, 4075.
21st. December 1996.

Dear Attorney-General,

We have received your response of 27th November 1996 (96/6798) to our letter of 3rd September 1996. We also draw your attention to your response (96/5614) to our previous letter of 21st July 1996.

We note that these responses to our letters of request for a full and open Commission of Inquiry into related circumstances of probable political/administrative corruption of various forms across a range of public sector agencies in Queensland show that you consider our request a minority representation not necessarily having significant community support.

Included with this letter are attachments which should go some way to convince you that our request does have significant community support. What has and continues to be insufficient, in both quality and quantity is public information of these conditions via newspaper and broadcast media.

Now to further detail: Your description of the Morris/Howard Report: (96/6798, paragraph 2). Messrs Morris and Howard emphasise that their review could not be exhaustive because of the limits to their investigative capacity with regard to:

- * call and examine witnesses;
- * gain access to Cabinet documents/records;

their review was confined to existing documents retrieved from Government agency sources. Even so, while they acknowledge these limitations, they are able to recommend that a public inquiry be constituted and conducted into matters arising out of the Lindeberg allegations. (Morris/Howard Report Conclusion: Paragraph 34, Page 217 and Paragraph 38, Page 218). They find that it is open to conclude that several public officials, including a Minister of the Crown, could be successfully prosecuted for criminal and other regulatory offences.

Here we refer you to the Morris/Howard Report: Part 2: The Lindeberg Allegations, Sections D,E,F, Pages 87-142; Part 4: Conclusions and Recommendations, Section A, Pages 203-205; Section C, Pages 209-219; here, further to the quality and quantity of public information: The Morris/Howard Report, Part 1: Section F, Paragraphs 1,2,3, Page 16; the reviewers draw clear attention to standards and limitations as practised with relation to public information reportage.

16.

In this context, the attached editorial extract, (The Weekend Independent, December 2nd. 1996), should give you cause to reconsider your resistance to a full and open public inquiry into corruption in Queensland, particularly when combined with the revelations contained in the The Weekend Independent edition of November 4th. 1996: failure to address drug traffic/trade in Queensland. Further to the The Weekend Independent editorial of December 2nd. 1996, attention is drawn to creation and conduct of the current inquiry into the C.J.C., particularly the behaviour and credentials of the principal commissioner, Connolly Q.C.

Our concern is in two parts:

1. Connolly appears, from media reports, with the assistance of co-commissioner Ryan and Counsel Hanger, to have "Got the Mexican"- namely Carruthers Q.C., the person appointed by the C.J.C. to inquire into the Mundingburra election issues:

* The Coalition/Police Union deal; and

* The A.L.P./Sporting Shooters deal;

for those aware of the situation, this could be a signal that "outsiders"- ie: lawyers not resident nor practising law to the majority of their commitments in Queensland - are not qualified to lead major legal events in Queensland which could be anticipated to have significant affect on the welfare of Queensland commerce and politics.

The "outsiders" qualification was technically removed some 2 or 3 years previous to the present, so our perception is that maybe this occurrence has much to do with maintaining an established practical status quo, despite public commitment to national legal practice reform.

2. In the early period of the Connolly/Ryan Inquiry into the C.J.C., information was leaked from the in camera inquiry relating to the proposed future diminished capacity of the C.J.C. to monitor and deal with organised crime as it affects Queensland;

(See The Weekend Independent, edition of November 4th. - 1996)

(Drugs in Queensland). We do not defend the behaviour of individuals within the Government, the Parliament, the Public Service, Trade Unions or the Private Sector/Public at large, particularly those charged with administration and practice of legal obligations, who become party to and practice corrupt conduct and related activity- ie: failure to report corrupt activity etc. We do support and defend the function of an ongoing C.J.C., without diminished capacity, authority or role, while such an investigative institution is necessary in Queensland, which it so obviously is into the foreseeable future. Some powers and functions of the C.J.C. probably require refinement; some commissioned and employed staff disciplined- but not restructure of the C.J.C. so that its capacity and authority, particularly relating to the drug trade/organised crime and criminally organised prostitution and sex trade, is limited, distorted or diminished. The C.J.C. must also be required in future to have strict membership guidelines similar to the Electoral Commission in order to prevent the politicisation of the C.J.C..

Which brings us to the 63rd. Report of the Senate Committee of Privileges: (December 1996): In conjunction with the Morris/Howard Report, this documentation of exhibits, new evidence presented to the Senate Committee, should absolutely convince you of the urgent need for a full open public inquiry into corruption in Queensland.

* We suggest you consult (exhibit pages) 32-65; (Submission on behalf of Kevin Lindeberg).

* (Exhibit Pages) 77-105; (Submission by Chris Hurley, Archivist, Victoria).

* (Exhibit Pages) 107-115; (Correspondence between Kevin Lindeberg, Senior Police Service Officers, Peter Beattie; and a submission by Des O'Neill).

* (Exhibit Pages) 116-120; (Submission on behalf of the C.J.C. by Walter Sofronoff Q.C.).

* (Exhibit Pages) 176-181; (Responses from Ken O'Shea and Ruth Matchett to request to respond to contents of the 63rd. Senate Report.)

While Morris and Howard do not, with the evidence available to them, question the professional integrity of the former Queensland Crown Solicitor, Kenneth O'Shea, the question now is in the light of new evidence revealed, to what degree he probably compromised the integrity of the Office of Crown Solicitor, and his professional integrity. (Here refer to Legal advice of May 18th - 1990, and other new documentary evidence obtained through F.O.I.). Exhibits 1 and 2, Pages 7-17, of the 63rd. Senate Report, shows the lists of documents made available through F.O.I., with marginal notes (Lindeberg 1114 and 94/222) to identify the (exempted - legal professional privilege) legal advice and related letters: 18th May 1990-(161-166) F.O.I.

The Morris/Howard Report contains a section titled: The "Smoking Gun", paragraphs 68-73, and 74-76; to which the legal advice prepared by Ken O'Shea for Ruth Matchett is critically relevant given the time period- 18th. April 1990 to 23rd. May 1990. A thorough reading and comparison of the Morris/Howard Report with the 63rd. Senate Privileges Committee Report will show a remarkable consistency of evidence, analysis and opinion which should draw inevitably to the full and open public inquiry our group advocates.

Political Behaviour:

Suffice to say that following the election of the 15th. July 1995, the behaviour of all Queensland Parliamentary Parties, particularly that of the key Party Politicians of the A.L.P. and the Coalition, has been "appalling". Employed public officials are displaying like "appalling" behaviour, and this is revealed in the documents cited, and in the print and broadcast media. One particular procedure that you have outlined in your response: 96/6798, Paragraph 2: is that the recommendations put by Morris/Howard will be referred to the Director of Public Prosecutions for action. (Royce Miller Q.C.) This would seem to be a procedure unlikely to inspire much confidence in the prospect of satisfactory resolution of this conflict as Messrs Morris and Howard as well as Ian Callinan Q.C. and Academic Lawyer Alastair MacAdam and others are diametrically opposed to the interpretation of Section 129 of the Criminal Code reached by Royce Miller. We could not support this procedure as it would almost certainly compromise resolution of justice in this conflict.

Deliberate Deception or Acceptable Status Quo?

One specific consistency we draw to your attention is contained in both reports: use of the definition "exhaustive" when describing investigations into the Heiner/Coyne/Lindeberg matters by the P.C.J.C., C.J.C. and other investigators. And now you have used the term to describe the Morris/Howard Report, which description we have noted the authors could not use to define their review. Roland Peterson similarly rejects "exhaustive" as an accurate description of the relevant investigations. (Senate 63rd. Report).

Significantly, Morris, Howard and Peterson have drawn attention to; * the inactivity of the P.C.J.C.;

* the process of limitations adopted in practice by C.J.C. investigators;

* The conflicting interpretations of the State Archivist's powers, duties and responsibilities as presented by the C.J.C., a C.J.C. employed reviewer and others;

* the nature of related reviews of the matters presented by barristers engaged by the C.J.C.;

* the professional behaviour on the part of D.F.S.A.I.A. and Crown Law staff.

The terms Morris, Howard and Peterson use to describe these combined activities range from "coy" to "disingenuous" to "outright deceit".

It would not be helpful if the terms you have used in your letters to us:

* "an article" (in a newspaper),

* "assist with your inquiry" (?) ;

* and now "exhaustive";

are further pieces in what appears to be an intentional process of obfuscation and deception relating to investigation of the Heiner/Coyne/Lindeberg matters. (96/5614 and 96/6798).

Further reasons for open inquiry into corruption in Queensland:

We have a comprehensive list of circumstances already publicised in some detail, which indicates that an inquiry into corruption is fully justified. The Morris/Howard Report the 63rd. Report of the Senate Privileges Committee, and the attachments to this letter should clearly show this.

We will make this list we have prepared available to you in a following letter. Action required of you as the First Law Officer of Queensland is to institute a full and open inquiry into corruption in Queensland based upon comprehensive terms of reference.

Yours Sincerely,

Chris Tooley..... *Chris Tooley*

Noel Turner..... *Noel Turner*

Lee Nightingale..... *Lee Nightingale*

Representatives of The Queensland Political Reform Group.

Copies of this letter and seven attachment pages are sent to:

1. The Federal Parliamentary Standing Committee on Constitutional and Legal Matters.
2. The Federal Senate Privileges Committee.
3. "Freedom to Care" United Kingdom.
4. Mr. Bruce Grundy of "The Weekend Independent Newspaper".
5. Senator John Woodley.
6. Elizabeth Cunningham, M.L.A. Queensland.
7. Private distribution.

13.
THE WEEKEND INDEPENDENT DEC 2-1996

that might be able to be done.

Mr MacAdam also said none of his colleagues could throw any light on the matter.

He said he did not support the view that on the basis of Form 83 of the *Criminal Practice Rules*, legal proceedings had to be pending.

According to a letter dated November 28, 1995, Mr Miller replied to Mr Beanland's request saying that "it is my view that there must be on foot a legal proceeding before this section is capable of application".

But Mr MacAdam said Form 83 of the *Criminal Practice Rules* was not applicable in this situation because it could not override the intention of s129 of the Criminal Code.

"... it is in our opinion open to conclude that at the time when the Heiner documents were destroyed, officers of the Department of Family Services were extremely conscious of the fact that, unless the Heiner documents were destroyed, litigation was a very real and substantial prospect."

Mr MacAdam said the DPP interpretation of s129 was too narrow.

"If you look at the apparent purpose of the section, to say that the proceedings would have to be commenced then you would exclude a lot of inappropriate conduct from the operation of the provision," he said.

He said the easiest way the government could "wrap this whole matter up" was for investigators to be given access to Cabinet documents.

"In some respects you have the principle of not going back and looking back at past governments [but] Mike Ahern and Bill Gunn gave wide access to materials [to the Fitzgerald inquiry]," he said.

"[Opposition leader Peter] Beattie came out with the thing [the shredding] had already been exhaustively inquired into and so did [CJC chair Frank] Clair, but now they look a bit foolish, given what Morris found by just simply going over and looking at the documents."

exemplify a lack of justice in Queensland.

Senator Woodley said the Coalition government prioritised its own agenda over that of the people it was elected to serve.

"I am outraged about this government who will spend as much money as they like pursuing their political agenda through their current inquiry into the CJC — which I support — but then can't spend any money investigating an injustice against ordinary people," he said.

Senator Woodley also said he was "disappointed" with the government's dealings over the Heiner affair and accused the

government of "playing political games".

"I am damned if I know what we can do — if you can't get justice in the state of Queensland what can you do about it — that's my problem," he said.

"We couldn't get justice under the previous Labor government and we can't get justice under this Coalition government, all we can get from them is politics," he said.

"It just doesn't seem that there is any justice for anyone in Queensland — no matter which of the major political parties are in power."

— Sara Bradford

Legal advice may be made public

By Sara Bradford

FAMILIES Minister Kev Lingard has said he will consider the release of certain Crown Law advice relevant to the Heiner document shredding.

The advice in question was provided by the Crown Solicitor to the director-general of the former Department of Family Services on May 18, 1990.

In response to a number of questions from *The Weekend Independent* last week Mr Lingard's office confirmed that the May 18 advice was in fact the advice referred to in an earlier statement by Mr Lingard's office to TWI.

That statement, on June 26 this year, indicated that the Department of Family Services had returned some documents to a trade union on the basis of "legal advice".

TWI had asked the Minister if archivist approval had been sought for the transfer of the documents to the union.

Barristers Tony Morris and Eddie Howard said in a report to the Attorney-General in October that serious breaches of the law may have been committed in relation to the department's handling of the documents.

The barristers also revealed in their report that the documents had been copied before being handed over to the union and that the copies had later been shredded — in contravention of the Libraries and Archives Act.

On April 18, 1990 Crown Law advised Family Services that if they were retained, the documents would have to be shown to a staff member who had threatened legal action against the department.

The documents were handed over to the union five weeks later — four days after the legal advice being sought by TWI was provided.

Dear Mr Lingard,

During the week prior to the 26th of June, this newspaper sought advice from you as to whether the state archivist's approval had been given for the transfer of certain documents from the Department of Family Services to a trade union.

The documents concerned were the original allegations made by individuals against former John Oxley Youth Centre manager Peter Coyne. We were advised on June 26 by your office that the documents had been returned to the union on the basis of "legal advice".

We notice that no detail of this legal advice is mentioned in the recently completed Howard-Morris Report into the shredding of the Heiner documents. We further note that details of advice provided by the Crown Solicitor of April 18, 1990 relating to the existence of the original complaints are covered within the Howard-Morris Report.

We are also aware that additional advice was provided by the Crown Solicitor of May 18, 1990.

We now ask: Was the advice provided on May 18 the legal advice referred to by your office in its response to us on June 26 this year? We further ask: Given the serious matters raised in the Howard-Morris report of possible criminal acts being committed in relation to the shredding and subsequent events, will you now release to us the detail of the legal advice given by the Crown Solicitor on May 18, 1990?

We further ask: If the legal advice referred to by your office on June 26 was not provided by the Crown Solicitor, from whence was it obtained?

To assist, paragraphs 68 - 73 (The "Smoking Gun") of the Howard-Morris Report refer.

With thanks, Sara Bradford, *The Weekend Independent*.

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TOUR CHINA

THIS newspaper has been quite open in its calls for a review of the performance of the Criminal Justice Commission.

Reluctantly — because we have hitherto been a staunch supporter.

But a number of matters, covered at length in earlier editions, caused a change of heart.

We have been vindicated in our stand on those matters.

One of the issues cited by the government for establishing the inquiry into the CJC was media coverage of problems with the CJC's investigations into the shredding of the Heiner documents.

We were responsible for those media reports.

We also pressed the government to carry out its pledge to review the documentary evidence applicable to this case.

The report of barristers Howard and Morris into the circumstances surrounding what we have called "Shreddergate" not only suggests that serious criminal acts may have been committed by various individuals involved in that matter and its subsequent cover-up, but it also severely criticises the Criminal Justice Commission's handling of the investigation involved.

Vindication number one.

Now we learn that after two years of doing nothing the parliamentary watchdog that is supposed to keep an eye on the CJC is at long last considering the matter of the tampered "Shreddergate" tape. And so they should.

Regardless of what they conclude (after such a long time), vindication number two.

And the Senate Privileges Committee is also examining a matter we raised in connection with "Shreddergate" and the CJC.

Again, with no wish to pre-empt any findings, vindication number three.

However there are serious concerns to be raised about the inquiry into the CJC which has been put in place.

One of the two QCs involved comes to the inquiry in the most controversial circumstances.

The timing of it, given the Carruthers kaffle, will do nothing for its credibility.

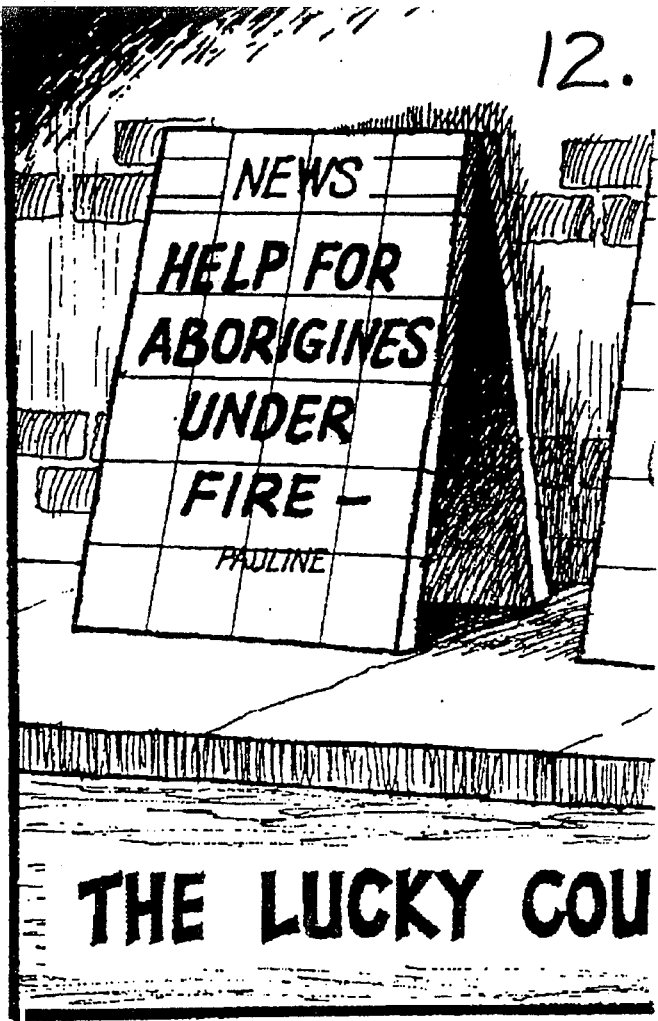
But the real crunch is the inquiry's decision to hold its hearings in camera.

Whatever it finds, good or bad, will simply be open to serious questioning, if not ridicule and contempt.

Throw open the doors. Let in a bit of light — not just on the CJC, but on the inquiry too.

Otherwise, forget it.

Dec 2 - 1998
THE WEEKEND INDEPENDENT



Police list frequently

By Johan Palsson

OFFICIAL figures show that Queensland police have used almost half as many listening devices in a single year as the Criminal Justice Commission (CJC) used in its six years of operation.

Queensland Police used 20 listening devices to aid their inquiries in the period 1994/95 while the CJC has used 43 such devices since 1989.

The figures were given in the Director of Public Prosecutions 1994/95 report and in the CJC's most recent annual reports.

According to the CJC the total number of listening devices used by the Joint Organised Crime Task Force (JOCTF) and the Multi-Disciplinary Teams (MDTs) since 1989 was 43.

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QUEENSLAND GOVERNMENT

11.

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

27 NOV 1996

In reply please quote: Legal 96/6798

Messrs C Tooley, N Turner and L Nightingale
The Queensland Political Reform Group
c/- 194 Dowding Street
OXLEY QLD 4075

Dear Messrs Tooley, Turner and Nightingale

The Honourable Denver Beanland MLA, Attorney-General and Minister for Justice, has requested that I reply to your letter of 3 September 1996, requesting that a commission of inquiry be established into the shredding of the Heiner documents, and other matters.

The issue of the shredding of the Heiner documents has already been the subject of an exhaustive review by Brisbane barristers, Mr Anthony Morris QC and Mr Eddie Howard, who were commissioned by the Coalition Government. Mr Morris and Mr Howard have issued a comprehensive report that has been referred to the Director of Public Prosecutions, who will make an independent assessment of the evidence and determine whether charges should be laid.

The memorandum of understanding between the Police Union and certain individuals is subject to an ongoing investigation by the Criminal Justice Commission. The Criminal Justice Commission will be making recommendations concerning the conduct of the persons involved in due course. If the Commission recommends that charges be laid against those involved, their culpability will be determined by a court of law. Having regard to this, no useful purpose would be served in referring the matter to another inquiry.

The implementation of the recommendations of the Bingham Review of the Queensland Police Service is being advanced by a team overseen by Sir Max Bingham. The fact that open selection process will be conducted for certain positions within the Police Service at some time in the future does not warrant consideration by a royal commission.

Yours sincerely

STEPHEN COATES
LEGAL ADVISER

The SUNDAY SUN

1 OCTOBER 1989 - Page18

held by

John Oxley Reference Library Southbank

Teens handcuffed: MP

Tranquillisers and handcuffs were being used at the John Oxley Youth Detention Centre at Wacol, Labor MP Anne Warner said yesterday.

She said upset staff had called her last week to say a 15 year-old girl had been heavily sedated with drugs usually reserved for psychotics.

Mrs Warner said staff also told her a youth had been handcuffed and left overnight in an enclosed yard.

"The indication is that management cannot adequately control the young people, so they were resorting to drugs and handcuffs," she said.

Mrs Warner said staff were still settling down after a riot early in March.

During the rampage, which resulted in thousands of dollars of damage to the centre, teenagers wielding a pipe and a baseball bat threatened to pack-rape a female staff member.

Mrs Warner said it was time to review security at the centre and ensure proper procedures were carried out when controlling unruly behaviour.

The centre's executive director Mr Ian Peers, admitted handcuffs had been used on Tuesday after a boy and girl refused to settle down and began throwing stones.

"They were handcuffed and placed in the enclosure for a few hours under staff supervision," Mr Peers said.

Staff at the centre were in control of the situation and would not consider the use of drugs as a form of behavioral control, he said.

Hon Anne Warner , Minister , DFSATA , 1990 - 1996

18 May 1993 : " (the shredding was done) . . . to reduce the risk of legal action against all the parties involved "

Hon Wayne Goss , Premier of Queensland , 1990 - 1996

14 Oct 1996 : " Now , we get into government , there's a pile of documents there - I dont't know what was in them , we were never told. "We understand there was a group of junior to middle level public servants who were criticising each other. It just seemed to be , you know , a bit of a brawl "

" What possible motive could Anne Warner and the other 17 ministers have had to cover up a mess left behind by the former National Party government ? ? "



QUEENSLAND POLITICAL

REFORM GROUP 9.

TO:
The Attorney-General,
The Honourable Denver Beanland,
G.P.O. Box 149,
Brisbane,
4001.

FROM:
The Queensland Political Reform Group,
C/O 194 Dowding Street,
Oxley,
Brisbane,
4075.
7th October 1996.

Dear Attorney-General,

Regarding the Queensland Government's recently announced Commission of Enquiry into the C.J.C. our Group asks that you take appropriate action to ensure that the unresolved whistleblower cases; particularly the Coyne/Lindeberg/Heiner shredding case be included in this enquiry.

Our Group believes that the C.J.C. has acted improperly in the handling of the Coyne/Lindeberg/Heiner shredding case. This enquiry is one forum to begin the exploration of these cases.

Yours Sincerely,

Chris Tooley..... *Chris Tooley*

Noel Turner... ~~*Noel Turner*~~

Lee Nightingale... *Lee Nightingale*

Representatives,
The Queensland Political Reform Group.

Copies To:

1. The Federal Parliamentary Standing Committee on Constitutional and Legal Matters.
2. The Federal Senate Privileges Committee.
3. "Freedom to Care" United Kingdom.
4. Mr Bruce Grundy, The Editor, "The Weekend Independent" Newspaper.
5. Senator John Woodley.
6. Private Distribution; to be determined.



QUEENSLAND POLITICAL

REFORM GROUP 8.

TO:

The Attorney-General,
The Hon. Denver Beanland,
GPO Box 149,
Brisbane, 4001.

FROM:

The Queensland Political Reform Group,
C/O 194 Dowding Street,
Oxley,
Brisbane, 4075.
3rd September 1996.

COPY

Dear Attorney-General,

Thank you for your response of 31st July to our letter of 21st July requesting that you and the Coalition Government initiate a full commission of inquiry into the Heiner/Lindeberg/Coyne matters (the shredding of official documentary records) and other matters relating to doubtful Queensland Government administrative and political practices. (Ref: 96/5614 undated).

To clarify what appears to be some misunderstanding; we are referring our request for a full commission of inquiry into the Heiner/Lindeberg/Coyne matters and related matters as above described, to the Attorney-General, the Hon. Denver Beanland, for action by him as the first law officer of the State of Queensland.

Reference of our request to the Premier for action within the authority of the Whistleblowers Protection Act 1994 is not, in our opinion, appropriate for the following reasons:

1. The material included with this letter indicates that there exists at present a sound basis for initiation of a full commission of enquiry into the Heiner/Lindeberg/Coyne matters and related matters without the need of further investigation of the matters in order to establish sufficient grounds for an inquiry. (The opinion describing the relationship between the potential obstructive, even though legal, actions by an individual and future processes of justice - personal litigation etc - and the forty (40) questions described which derive from evidence accrued on these matters to date. Source: The Weekend Independent).

2. As the first law officer of the State of Queensland, you have responsibilities for and duties to the administration of justice within Queensland and the Commonwealth beyond the Political and administrative proprieties of the Queensland Executive and the Party(ies) of Government, and other partisan political considerations.

Our concerns are not confined to the above referred matters. We request that commissioned inquiry be extended to:

1. The Queensland Coalition's (current parties of Government) memorandum of understanding with the Queensland Police Union. We suggest that the evidence presented to and the findings of the Carruthers Inquiry into this matter be included in an extended inquiry into political and administrative misbehaviour.
2. The decision by the Queensland Coalition Executive to selectively apply the recommendation by Sir Max Bingham that top level(s) of administrative police, be required to re-apply for their jobs as commissioned Police staff officers (60 positions).

We view these conditions and developments as, if not examined in full public view, obstructions with potential to further corrupt and deny the pursuit of justice and democracy in Queensland, which will in turn contribute to further corruption and denial of justice and democracy in Australia.

We will be seeking full national and international support for our request for a commissioned enquiry into these matters and any others of relevance.

Yours Sincerely,

Chris Tooley.....

Noel Turner..... *Noel Turner*.....

Lee Nightingale..... *Lee Nightingale*.....

Representatives,
The Queensland Political Reform Group.

Copies To:

1. The Federal Parliamentary Standing Committee on Constitutional and Legal Matters.
2. "Freedom To Care" United Kingdom.
3. Senator John Woodley.
4. Mr. Bruce Grundy, Editor, "The Weekend Independent" newspaper.
5. Private distribution; to be determined.

⊗ SENATE PRIVILEGES C/ITEE ??

*MAGISTRATE NOEL NUNAN
(FORMER CJC CONTRACTOR)
(NOW JUSTICE NOEL NUNAN - TWILLIE)*

*Aug 9 - Aug 22
July 26 - Aug 8/96
SEPT 6-19/96*

*EDWARD HOWARD
ANTHONY MORRIS*

COPY

The Shredding: some of the questions that arise

Serious questions have arisen during our investigation of the Lindeberg/Heiner matter over recent months. Some of those questions are listed below and the necessity for answers is recommended for the appropriate authorities. Unless satisfactory answers are forthcoming, it will be clear The System is now just as corrupt as it was 10 years ago before the so-called Fitzgerald "reforms" appeared.

1. Were all the so-called Heiner documents destroyed?
2. If so, what was the status of other documents highly relevant to this matter that were handed over to a union official?
3. If not, what was the status of other documents highly relevant to this matter that were handed over to a union official?
4. Why were these particular documents disposed of in this manner?
5. To what extent are public records disposed of in this way?
6. Was the existence of these particular documents denied by the department concerned when it knew full well that they did exist?
7. Did anyone in that department mislead a junior officer by advising him such documents did not exist?
8. Who knew of the existence of these documents and what steps were taken to ensure that an officer of the department was not misinformed about their existence?
9. Did the failure of the department to provide these documents to the officer for examination constitute a breach of the Public Service Management and Employment regulations?
10. Had the department been specifically advised by Crown Law that it could not hold such documents without showing them to an officer likely to be adversely affected by such documents?
11. Why was the existence of these documents not revealed for four years, and then only through FOI processes, despite claims by the Criminal Justice Commission that it had investigated the matter?
12. Was the existence of these documents known to the Criminal Justice Commission?
13. If not, why not?
14. If so, why were they not considered to be relevant to the complaints made about this case and which it says it investigated?
15. Does the existence of these documents, or the failure to reveal or uncover their existence for four years, reveal misconduct on the part of any public official?
16. In the light of claims that this matter has been investigated to the "nth" degree, and in light of the need to maintain public confidence in the Criminal Justice Commission, what investigations did the Criminal Justice Commission actually make into the matter of the destruction of the Heiner documents?
17. Did (as claimed by the Criminal Justice Commission) the Parliamentary Criminal Justice Committee investigate the matter of the destruction of the Heiner documents?
18. Was a tape recording made in connection with an investigation by the Criminal Justice Commission into this matter tampered with?
19. If so, how could this occur?
20. Was the tampering effected by someone within the Criminal Justice Commission?
21. If not, how could such an interference be effected by someone outside the Criminal Justice Commission?
22. In the interests of preserving public confidence in the Criminal Justice Commission, what steps did the organisation take to determine who had tampered with the tape?
23. If a tape was tampered with, what steps has the Criminal Justice Commission taken to ensure the absolute security of material gathered in its investigations since that time?
24. Did the procedures involved in the destruction of the Heiner documents meet the requirements of professional practice as espoused by the responsible authority at the time?
25. If so, could a similar set of circumstances arise again?
26. If not, what has changed to create a situation where such circumstances could not arise again?
27. If so, what steps (if any) should be taken to ensure that such an outcome could not occur again?
28. Given that there is considerable disagreement over the matter, did any breach of any section of the Criminal Code or Criminal Justice Act occur in relation to the destruction of the Heiner documents or in relation to any action on the part of any public official thereafter?
29. What was the purpose of a payment of \$27,100 to the public servant at the centre of the Heiner document case?
30. Was this a proper payment?
31. Have other public servants received such payments?
32. Have payments of this nature been made in the order of \$200,000 plus?
33. If so, why and to whom?
34. If not, why was this payment made?
35. Why do police officers in an official investigation find it necessary to inquire whether a complainant can advise them of the Opposition's likely moves in relation to the issue under examination?
36. Why, as the Criminal Justice Commission asserts, is it not an offence under law or regulation for a public official to deliberately mislead another public official (so as to cause harm or detriment to a third party)?
37. Why should such an offence not be established?
38. Why should an offence of misconduct not be established to cover members of Cabinet?
39. In relation to the shredding, did the Archivist receive advice as to the course of action to be followed?
40. If so, from whom?

"THE WEEKEND INDEPENDENT"
AUG 23 - SEPT 5 / 1996
Daily this country's newspaper

COPY

THIS SERIES OF QUESTIONS SHOWS THAT A SOUND BASIS FOR A FULL COMMISSION OR INQUIRY INTO THE HEINER/LINDBERGB/COYNE MATTERS EXISTS WITHOUT FURTHER INVESTIGATION TO ESTABLISH SUFFICIENT GROUNDS. ANOTHER MATTER COMPOUNDING THE URGENT NEED FOR SUCH AN INQUIRY IS THE OLD COALITION MEMORANDUM OF UNDERSTANDING WITH THE OLD POLICE UNION.

Justice — when does it begin?

THE action of the former government in the shredding of the Heiner documents has been defended by that government and the Criminal Justice Commission on two principal grounds: that the documents were no longer needed and thus the Archivist was entitled to destroy them, since she had either a wide discretion or her only concern in preserving documents was their historical value; and that since no legal action had been commenced in connection with the documents, there was no impediment to prevent their being destroyed.

In the last edition we printed a portion of an analysis of the Archivist's role which rejected the view of the former government and the CJC as "non-sense". The detailed 30-page analysis was prepared by the State Archivist of Victoria who concluded his appraisal of the

case by saying the precedent created by the shredding of the Heiner documents was so serious that "it must not be allowed to stand".

In this edition we examine the other claim of the former government, supported by the CJC, that despite being informed that the documents were required for legal action the government was within its rights to destroy them because no legal proceedings had actually been commenced.

A contrary view to that of the government and the CJC was placed by Ian Callinan QC before a Senate committee which considered the matter last year.

There are other contrary views, which we reprint below (from *Criminal Law*, by Peter Gillies, School of Economic and Financial Studies, Macquarie University, published by The Law Book Co.):

The English Court of Appeal in Salvage (1982): "a course of justice must have been embarked upon in the sense that proceedings of some kind are in being or are

imminent or investigations which could or might bring proceedings about are in progress in order that the act complained about can be said to be one which has the

tendency to pervert the course of justice" . . .

By way of contrast, the English Court of Criminal Appeal held in Sharpe (1938) that two persons who had agreed to conceal and destroy evidence of the commission of an offence had been properly convicted of conspiring to commit the offence of perverting justice, although proceedings (a prosecution) had not yet been commenced: "Public justice requires . . . that every crime should be suitably dealt with, and a man who obstructs public justice as soon as a crime is committed and endeavours to avoid the consequence of his wrongdoings . . . is just as guilty of an offence as if he waits until after proceedings are actually pending." Here, proceedings were a tangible prospect, in that unobstructed investigations could result in a prosecution . . .

It is clearly sufficient that the act has a tendency, or potential, to obstruct the judicial process — it need not actually pervert the course of justice. Indeed, it is only because the conduct fails in its intended objective, very often, that the perpetrator or perpetrators are exposed and prosecuted for

their attempt to pervert the course of justice.

That the conduct need only have this tendency, and not necessarily succeed in its objective, even in the short-term, has been stated expressly by the courts. In, for example, the English decision of Vreones (1891) (which concerned the substantive offence), Pollock B. said: "[T]he real offence here is the doing of some act which has a tendency and is intended to pervert the administration of public justice" . . .

The relevant conduct need not be intrinsically "dishonest, corrupt or threatening" in nature, in order to ground liability for either the conspiracy or the substantive offence, provided that in the circumstances of its commission (or in the case of the conspiracy, its projected commission) it tends to pervert the course of justice . . .

The reported decisions do not say very much about the mens rea of the offence other than, simply, that D must act with the "intent" to pervert the course of justice. Must intent in the literal sense be proven — or is it enough that D acts knowing that her or his act has the potential to pervert justice?

In principle the latter should suffice, for otherwise the scope of the offence may be unduly narrowed. This is because frequently D will be acting to bring about some more limited object, with the obstruction, or potential for the obstruction of justice representing an incidental by-product of D's conduct . . .

The essence of the offence is an interference with current or prospective judicial proceedings. Accordingly, D must know at the time D commits the act charged, that proceedings of this type are extant, or D must contemplate that they may be set in train in the future.

D may act within her or his legal rights in acting in a certain way, and yet nevertheless commit the actus reus of the offence with mens rea . . .

The fact that a person may act in exercise of a legal right does not necessarily involve that this conduct cannot incriminate her or him in the offence of attempting to pervert the course of justice (or alternatively, that such projected conduct cannot ground liability for conspiring to pervert the course of justice).

COPY

"THE WEEKEND INDEPENDENT" Aug 9-22 1996



QUEENSLAND POLITICAL

REFORM GROUP

4.

To: Mr. Denver Beanland,
Queensland Attorney-General,
Queensland Parliament House,
Cnr. George and Alice Streets,
Brisbane, 4000.

COPY

From: The Queensland Political Reform Group,
C/O 194 Dowding Street,
Oxley,
Brisbane, 4075.
21st. July 1996.

Dear Attorney-General,

We draw your attention to the attached material of The 'Weekend Independent' Newspaper, editions June 14th., June 28th. and July 12th. The subsequent editions of this Newspaper may also contain further similar evidence which will also illustrate that the previous Queensland Government placed itself above the law.

We believe that the future of a legitimate Political Process in Queensland is at stake.

On behalf of our Group we require no less than a full commission of enquiry with terms of reference sufficient to enquire into all aspects and activities related to the issues raised in The Weekend Independent reportage with special reference to the edition of July 12th. 1996. which establishes the sequence of events and actions by which the destruction of evidence required for personal litigation was achieved. This material was collected and destroyed to reduce if not eliminate liability for the Government of the day.

We believe that such a commission is essential to deal with this situation and we urge you to take immediate action to establish our referred full commission of enquiry.

Yours Faithfully,

Chris Tooley... *Chris Tooley*.....

Noel Turner... *Noel Turner*.....

Lee Nightingale... *Lee Nightingale*.....

Representatives of 'The Queensland Political Reform Group'.



QUEENSLAND GOVERNMENT

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

3.

In Reply Please Quote Ref. No: 96/5614

74009

The Queensland Political Reform Group
C/- 194 Dowding Street
OXLEY QLD 4075

Dear Sir

Thank you for your letter of 21 July 1996 referring to an article in the Weekend Independent Newspaper.

The Attorney-General has asked me to let you know he would like to be able to assist with your inquiry. However, the issues you have raised do not come within his administrative responsibilities. The Honourable Rob Borbidge MLA has administrative responsibility for the *Whistleblowers Protection Act 1994*.

I have taken the liberty of forwarding a copy of your letter to The Honourable The Premier's Office with a request that a reply be forwarded to you direct.

Yours sincerely

DAVID FRASER
SENIOR MINISTERIAL POLICY ADVISER



QUEENSLAND POLITICAL

REFORM GROUP 2.

To: Mr. Robert Borbidge,
Premier of Queensland,
Queensland Parliament House,
Cnr. George and Alice Streets,
Brisbane, 4000.

From: The Queensland Political Reform Group,
C/O 194 Dowding Street,
Oxley,
Brisbane, 4075.
27th. March 1996.

Dear Premier,

Further to our letter of the 6th. March 1996, we wish to give our full support to the petition by Mr. Kevin Lindeberg, first tabled in the Queensland Parliament in November 1995. In this petition Mr. Lindeberg seeks to address the Queensland Parliament to place information of his case on the public record as a precursor for a full Royal Commission of Enquiry.

We also draw your attention to a document (of some thirty pages) recently forwarded to Mr. Lindeberg by the State Archivist of Victoria which gives full support to his position in this sorry episode.

This document also supports an earlier legal opinion put by Ian Callinan O.C., that there has been a breach of Section 129 of the Queensland Criminal Code.

We consider that it is essential to keep this question beyond partisan politics. One obstacle could be illustrated by Queensland Parliamentary behaviour regarding the relationship between the current Queensland Coalition Government and the Queensland Police Union.

We are disturbed that the A.B.C., Criminal Justice Commission and some other media and academics have seemingly ignored what is essentially a very serious and grave matter.

This issue is above partisan politics because it deals with fundamentals such as the integrity of Government and the Rule of Law. We ask you to support the Kevin Lindeberg petition and allow him sufficient time to deliver an address to the Queensland Parliament detailing this serious issue.

Yours Sincerely,

Chris Tooley..... *C. R. Tooley*.....

Noel Turner... *Noel Turner*.....

Lee Nightingale... *Lee Nightingale*.....

Representatives of The Queensland Political Reform Group.
Copies to: 1. Mrs. Joan Sheldon, The Deputy Premier.
2. Mr. Denver Beanland, The Attorney-General.



QUEENSLAND POLITICAL

REFORM GROUP

1.

Noel T. WORKING COPY

COPY

To:
Mr. Robert Borbidge,
Premier of Queensland,
Queensland Parliament House,
Cnr. George and Alice Streets,
Brisbane, 4000.

From:
The Queensland Political Reform Group,
C/O 194 Dowding Street,
Oxley,
Brisbane, 4075.
6th. March 1996.

Dear Premier,

For the past three years and more our group has been watching with grave concern the developments of the possible obstruction of justice flowing from the shredding of the so named "Heiner Enquiry Documents".

Our purpose is to achieve justice for Mr. Kevin Lindeberg through a full Royal Commission of Enquiry headed by a senior legal figure fully empowered to discover the truth about this disgraceful episode.

Such an inquiry could ensure Queensland and other Australian citizens the fundamental justice to which we are entitled by constitutional guarantees and competent government.

Yours Sincerely,

Chris Tooley *Chris Tooley*

Noel Turner .. *Noel Turner*

Lee Nightingale *Lee Nightingale*.....

Representatives,
The Queensland Political Reform Group.

Copies To:

1. Mrs. Joan Sheldon, The Deputy Premier.
2. Mr. Denver Beanland, The Attorney-General.