

# WHISTLEBLOWERS ACTION GROUP QLD INC

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## PRESS RELEASE

### HEARTACHE IS IN STORE FOR TONY FITZGERALD

Whistleblowers are relieved that Tony Fitzgerald has now returned to the processes that he left to others to complete some twenty years ago.

His observations of the betrayals of the processes that he left for Queensland are accepted and endorsed. The matters that he described, however are but the tip of an iceberg, the political tip, of practices and systems now ensconced in how Queensland is governed.

There will be heartache for him when he comes to the full realization of what has been done to the 'Fitzgerald Reforms'. This heartbreak will be strongest when he sees that the corruption of his intended reforms have all been done in his name.

The vehicles for his reforms were the watchdog bodies and watchdog processes that he recommended.

The concerns that he enunciated on Tuesday night have all developed under the 'watch' of these watchdogs. A health worker from the Bundaberg region was one of the Senate whistleblowers, back in 1994. Repeated disclosures from other nurses and doctors have been made to watchdog authorities since, such as to the Public Service Commission, the Ombudsman / Information Commission, and the CJC / CMC. Despite those disclosures, the wrongdoing in health blossomed into the Bundaberg Hospital scandal 10 years later.

WAG is an organization giving assistance to whistleblowers. From that position we have seen the patterns of growth in the organization of alleged wrongdoing across the government. That same vision has been given to the watchdogs, who have done very little to arrest these developments, certainly less than the effort and actions provided by some of the members of WAG.

Tony Fitzgerald has seen the wrongdoing in the use of the Cabinet exemption under FOI laws, with public servants trucking huge tomes of materials to Cabinet to render those documents secret. In this way has the Cabinet and the Parliament been misused and abused. But does Tony Fitzgerald know how bad this abuse of Parliament has become:

- Does Fitzgerald know, for example, about the decision in *Lindeberg v Family Services*, where the Ombudsman / Information Commission decided that, if a criminal act was detected in documents subject to the Cabinet FOI exemption, that evidence of a criminal act would still qualify for the FOI Exemption. Is it this protection from disclosure, enunciated by the Ombudsman / Information Commission watchdog, unchallenged by the CMC, that renders the Cabinet exemption more attractive?
- The destruction of evidence required for intended legal proceedings is another practice that denies accountability. The practice allegedly was initiated by the Goss Cabinet, but, by the number of allegations now on the record, it may be a common practice in which automatic destruction processes can easily disguise a deliberate act.
- Does the corruption fighter know about the defamatory material, authored about a hospital whistleblower by a group of frontline managers in the Health Department, rushed to the Minister in Parliament so that it could be read to the Parliament and thus have the unfounded defamatory material obtain Parliamentary Privilege

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Does Tony Fitzgerald know about the bipartisan parliamentary oversight committee (PCMC) acting in a 'majority' fashion along Party lines, instead of a bipartisan fashion, to prevent allegations of corruption against the government from being independently examined.

Tony Fitzgerald has seen the politicization of his reforms at the Parliamentary level. He may not be aware of the extent of allegations of politicization of the public service including the watchdog bodies, down to the level of frontline manager.

Tony Fitzgerald has disclosed his observations of what could be favours of a commercial nature being traded by politicians and former politicians. He may not be aware of the allegations, made by ordinary citizens, of favours, extended to some, that have been of a justice nature or law & order nature.

The methods and mechanisms allegedly used by the watchdog authorities, that Fitzgerald recommended to be established or to be enhanced in Queensland – may be new to Tony:

**The 'Post Office' trick**, a criticism originally made of the Ombudsman's Office (the Office receives a disclosure about a Department, and the Office just posts it back to the Department, exposing the identity of the whistleblower, and avoiding investigation) – this now appears to be a documented protocol approved between the CMC and Agencies.

**The Catch 22 mutual referral trick**: the Ombudsman refuses to investigate a disclosure because the disclosure alleges official misconduct (a CMC responsibility), and the CMC refuses to investigate the same disclosure because it is maladministration (an Ombudsman responsibility) – neither of them investigate the wrongdoing

**The use of rogue legal opinion** that is contrary to or contradicts High Court decisions, thereby causing the true law not to be applied

**Punitive transfers** of whistleblowers to positions reporting to much junior personnel, or to desks in corridors, or to corridors without desks, occur without intervention by the CMC, even where investigations involving the CMC have criticized the practice with respect to an individual

Tony Fitzgerald has described the glossing-over of corruption at the Parliamentary level, but he may not be seeing the systemic non-enforcement of breaches of legislation administered by watchdogs that his reforms established.

The alleged refusal by watchdogs, such as the Ombudsman / Information Commission and the Queensland Industrial Relations Commission, to acknowledge their obligation to refer suspected official misconduct to the CJC / CMC, may demonstrate a contempt by these bodies for the Fitzgerald reforms.

Fitzgerald may have to, in time, acknowledge that what practices exist now within the CMC and other watchdogs is the opposite to what he intended. Continuing efforts, such as that by WAG before the Connolly-Ryan Inquiry, to have the CMC disbanded, and its actions investigated by a special prosecutor, is not an attempt to dismantle his reforms. It is an attempt to remove a regime that became a corruption fighting dud.

That will be Tony Fitzgerald's greatest heartache.