

# THE FITZGERALD SYMPOSIUM

## An Introduction

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This article introduces the collection of six papers that commemorate the twentieth anniversary of the tabling of the *Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct* ('the Fitzgerald Report'). The report exposed the entrenched corruption among Queensland's political and police leaders, deeply ingrained abuses of process and power, and an inept public administration. It led to the prosecution and imprisonment of key politicians and police. The Fitzgerald Report was notable not just for these direct outcomes, but also for its prescriptions for widespread and enduring reform, which came from Fitzgerald's analysis of the underlying causes of police corruption in Queensland. This article places the Fitzgerald Inquiry in its historical context, and provides a brief outline of the key provisions of the Fitzgerald Report. It concludes with a brief introduction to each of the six articles in this collection. These articles critically examine the aftermath of the Fitzgerald Report and the reforms that Fitzgerald recommended. They ask whether Fitzgerald's blueprint for accountable and ethical government was achieved — or indeed capable of being achieved — and whether it has stood the test of time.

### Introduction

This year marks the twentieth anniversary of the tabling of the *Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct*, which has come to be known as 'the Fitzgerald Report'. It is very hard to explain to anyone who was not in Queensland at the time the cataclysmic effect of this report and the two-year inquiry that preceded it. Prior to the report, Queensland public life had been characterised by backward administration, poor governance, political repression and outright corruption, leading to the state becoming:

an embarrassing national joke — simply the product of police corruption, tawdry sex, draconian regulations and incompetent politicians ... a cynical abuse of power seeped like summer sweat from the pores of the body politic, tainting all those who came in contact with it.<sup>1</sup>

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<sup>1</sup> Schultz (2008), p 11.

The Fitzgerald Inquiry<sup>2</sup> cracked open this tainted body politic. Its 238 sitting days, 339 witnesses and 2,304 exhibits<sup>3</sup> revealed entrenched corruption among political and police leaders, deeply ingrained abuses of process and power, and inept public administration.<sup>4</sup> It led to the jailing of a police commissioner and four ministers of the Crown, and numerous convictions of other police. The former premier was tried for perjury as a result of his evidence to the inquiry, and was only saved from conviction by a hung jury, which later was found to have been tampered with by his defence team.<sup>5</sup>

However, the inquiry was notable not just for these direct outcomes, but also for its prescriptions for widespread and enduring reform. As well as an examination of wrongdoing, Fitzgerald tried to understand the underlying causes that had allowed Queensland to slip into such a morass. His inquiry examined the ‘entire system of government and its shortcomings’, and became a ‘pathologist’ of that system.<sup>6</sup> The third chapter of the report described Fitzgerald’s findings of a manipulated electoral system, ineffective parliament and politicised public service lacking in the type of performance and accountability measures found elsewhere. The report also analysed how the then Queensland Police Force (now the Queensland Police Service) was inefficient and ineffective in responding to crime, as well as being politicised and beset by corruption.<sup>7</sup>

The Fitzgerald Report set out a blueprint for reform, meant to address these deficiencies. The papers in this special issue of the *Griffith Law Review* examine those reforms, and assess the extent to which the blueprint has been achieved, as well as the ongoing influence of Fitzgerald in Queensland and beyond. First, though, to put those papers into context for readers not familiar with Queensland in the 1980s, this introduction revisits history to relate what Queensland was like before Fitzgerald, what happened at the inquiry, and what reforms were recommended in the report. The introduction finishes with a brief overview of the rest of the papers in this collection.

## The Deep North

Joh Bjelke-Petersen became Premier of Queensland in 1968, leading a Country Party–Liberal Party coalition that had already been in power for nearly a decade. Queensland’s government and economy were still dominated by rural interests, and the new Premier brought a socially conservative and religiously based approach to governance. This combination was popular with an electorate in which only 12 per

<sup>2</sup> *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct* (1989).

<sup>3</sup> Fitzgerald Report (1989), p 40.

<sup>4</sup> See generally, Finnane (1988, 2008); Coaldrake (1989, 1992); Coaldrake and Wanna (1988); Prasser (1992); Lewis (1992); Preston and Sampford (2002); Ransley (1993, 2008); Masters (2008); Schultz (2008).

<sup>5</sup> Masters (2008), p 60.

<sup>6</sup> Finn (1994), p 32.

<sup>7</sup> Fitzgerald Report (1989), Chapters 4–7.

cent of the population had completed nine years or more of schooling.<sup>8</sup> Queensland had a history of strong Premiers leading long-lived governments, with the previous administration led by the Australian Labor Party's Vince Gair having only lost office as a result of the 1950s schism in the ALP. As Julianne Schultz observes about Queensland in this period:

For much of the time since white occupation it has been agrarian, sectarian, ill-educated, misogynist, notable for long periods of single party government and politicians with one hand in the till and the other on the ballot box.<sup>9</sup>

Bjelke-Petersen's tenure was shaky at first, but a growing economy coupled with a strong-arm control of his own party and a seemingly innate talent for media management<sup>10</sup> cemented his hold on power. This was also assisted by the zonal electoral system inherited from the Gair government, which during the 1970s and 1980s was further fine-tuned and developed (as discussed in detail by Orr and Levy later in this collection).

Along with a strong economy, centralised government and distorted electoral system, Bjelke-Petersen also inherited a police service already subject to widespread rumours and allegations of corruption. Repeated complaints under parliamentary privilege had led to the National Hotel Royal Commission in 1963–64,<sup>11</sup> which investigated alleged police involvement in illegal drinking and prostitution activities at a Brisbane hotel. Justice Harry Gibbs, a judge of the Supreme Court of Queensland, and later Chief Justice of the High Court of Australia, had found no evidence to support any of the allegations against police, although he did find evidence of illegal activities at the hotel. The inquiry failed to find evidence of police corruption for a combination of reasons, not least because Gibbs chose not to look for it.<sup>12</sup> Twenty-five years later, at the Fitzgerald Inquiry, some of the same police investigated by Gibbs admitted that they had in fact been corrupt at the time of the inquiry and had been guilty of the offences of which Gibbs had found no evidence.<sup>13</sup> In fact, throughout the 1960s and onwards, senior police openly protected prostitution, SP bookmaking and illegal alcohol sales, particularly in Brisbane. This practice had become entrenched under the leadership of Commissioner of Police Frank Bischof, who held office from 1957–69, and who strongly supported the careers of a coterie of police known as his 'bagmen', including Terry Lewis, later to become Police Commissioner.<sup>14</sup>

As well as police corruption, ministers also were reputed to accept bribes from developers and business figures. Following the Fitzgerald Inquiry, one-time Deputy Premier Russ Hinze was prosecuted for corruption but died before trial, while

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<sup>8</sup> Schultz (2008), p 14.

<sup>9</sup> Schultz (2008), p 13.

<sup>10</sup> Masters (2008).

<sup>11</sup> *Royal Commission into Allegations Made Against Members of the Police Force in Relation to the National Hotel* (1963–64).

<sup>12</sup> See Fitzgerald (1991); Ransley (2001).

<sup>13</sup> See Fitzgerald Report (1989).

<sup>14</sup> Dickie (1989); Lewis (1999).

Bjelke-Petersen himself was tried for perjury in relation to his evidence at the inquiry, denying that a \$300,000 cash donation passed to him in a brown paper bag by a Singaporean businessman was a bribe.<sup>15</sup> A later civil defamation trial accepted that industrialist Sir Leslie Thiess had bribed Bjelke-Petersen numerous times.<sup>16</sup>

Accompanying the corruption was a repressive style of government that relied on an increasingly politicised police service to exercise strong social control. This became most obvious in 1971 during the South African Springbok Rugby Union tour. Vocal anti-apartheid protests had occurred in other states, to be pre-empted in Queensland by the temporary declaration of a state of emergency, cancellation of all police leave, and the large-scale mobilisation of police against protesters, resulting in violent clashes.<sup>17</sup> The electorate supported the government's approach in subsequent by-elections, and the government rewarded the police with an extra week's leave, thus cementing a symbiotic relationship.<sup>18</sup> Further protests led to a government ban on street march protests, more violence, and an instruction to then Police Commissioner Ray Whitrod not to investigate or take action against officers who had assaulted protesters.<sup>19</sup>

Whitrod eventually resigned in protest, and was replaced by Lewis, only recently promoted by Cabinet from a junior inspector's position to the rank of Assistant Commissioner.<sup>20</sup> Under Lewis, government cooption of the police for political purposes became entrenched. Bjelke-Petersen's 'law and order' campaigns were electorally popular, as was his determination to protect Queensland from what he saw as social adventurism promoted by Canberra, such as recognition of the rights of Aboriginal people, women and homosexuals; a more progressive education system; and more modern policies on a raft of other topics.<sup>21</sup> Increasingly, the police, led by Lewis, became the weapons of choice in this battle, and Bjelke-Petersen rewarded those who helped him with promotions and iron-clad support. This was aided by the fact that Queensland's Cabinet was intimately involved in low-level decision-making about appointments, promotions and transfers — not just for police, but for the public service generally.<sup>22</sup>

Corruption in Queensland extended beyond police and politicians, to taint the electoral system, parliament and the public service. While the zonal electoral system pre-dated Bjelke-Petersen, his government refined and developed it further until rural votes were weighted at between one and a half and three times that of urban ones.<sup>23</sup> In addition, Cabinet controlled electoral administration via tame and powerless electoral commissioners, and ministers regularly intervened to

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<sup>15</sup> Masters (2008).

<sup>16</sup> Masters (2008).

<sup>17</sup> Schultz (2008).

<sup>18</sup> Dickie (1989), p 20; Lewis et al (2010).

<sup>19</sup> Lewis (1988); Schultz (2008).

<sup>20</sup> Lewis (1988).

<sup>21</sup> Evans (2008).

<sup>22</sup> Fitzgerald Report (1989).

<sup>23</sup> Reynolds (1990).

gerrymander boundaries for their own advantage.<sup>24</sup> The conduct of elections was also tainted, with evidence given at the Fitzgerald Inquiry of how Cabinet minister Don Lane (later jailed for corruption) was able to ascertain the voting behaviour of a potential Chief Justice, and as a result veto his appointment.<sup>25</sup>

Queensland's single house of parliament was completely dominated by the executive. It sat infrequently, and lacked the basic accountability mechanisms that existed in virtually every other Westminster parliament, such as a public accounts committee, public works committee, independent auditor-general and estimates committees.<sup>26</sup> Power was centralised in Cabinet, which exercised control over all levels of administration, but lacked any semblance of proper process or organisation. As Fitzgerald later found, ministers were inappropriately involved in detailed decision-making about government contracts, tenders, land grants and rezonings, which allowed considerable scope for the mixing of private and public interests, including by the Premier.<sup>27</sup>

As well as a controlling but disorganised executive government that had no parliamentary oversight, Queensland also lacked the type of accountability measures developed federally and in other states as part of the new administrative law of the 1970s. There was no freedom of information legislation, but instead a culture of secrecy. Judicial review was still a complex, technical and expensive legal procedure, and there was no general system for determinative review of administrative decisions or requirement for reasons to be given by decision-makers.<sup>28</sup> Finally, the public service was moribund, politicised and marginalised by an interventionist Cabinet. The Justice Department lacked skill and capacity, and was unable to give unbiased advice about government legislation and actions; it was certainly unfit to act as a critic of misconduct.<sup>29</sup>

### Establishing the Inquiry

Following the failed National Hotel Royal Commission, allegations of police corruption continued to bubble under the surface of Queensland public life. Three further, related investigations were established prior to the Fitzgerald Inquiry. In 1975, two senior officers from Britain's Scotland Yard were established as an executive inquiry to examine allegations of police corruption. By the time their investigations were complete, both the reforming Commissioner Whitrod and his supportive Police Minister, Max Hodges, had been replaced. The officers' report was guarded in its findings and kept secret until made an exhibit at the Fitzgerald Inquiry, with Fitzgerald commenting that it 'bore the appearance of an inquiry but lacked openness and was most unlikely to be effective'.<sup>30</sup> In 1976, the Lucas inquiry was established to examine police evidence-gathering. Despite finding widespread

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<sup>24</sup> Coaldrake (1989).

<sup>25</sup> Schultz (2008).

<sup>26</sup> Ransley (1992, 2008).

<sup>27</sup> Masters (2008).

<sup>28</sup> Fitzgerald Report (1989).

<sup>29</sup> Fitzgerald Report (1989).

<sup>30</sup> Fitzgerald Report (1989), p 40.

evidence of verballing or police fabrication of evidence, it had little impact. The 1985 Sturgess inquiry looked at the policing of prostitution, among other issues, and also found evidence of police misconduct; however, as with the previous inquiries, its recommendations were largely unimplemented.<sup>31</sup>

Why did circumstances change in 1987, allowing for the establishment of an inquiry that did have a significant effect? The first factor was the absence of Premier Bjelke-Petersen, away as part of an ill-fated campaign for the prime ministership. A series of articles by journalist Phil Dickie in the *Courier-Mail* and a *Four Corners* television program put together by Chris Masters again alleged police involvement in organised prostitution, gambling and drug trafficking. In his leader's absence, Deputy Premier Bill Gunn acted as Bjelke-Petersen would not have, and announced a full inquiry. His first choice of commissioner, the then head of the failed Police Complaints Tribunal, who was himself later investigated by the inquiry, was overruled by Gunn's advisers, and instead he nominated Tony Fitzgerald QC, a 'cleanskin' in Queensland public life.<sup>32</sup> With negligible experience with police or in criminal law, no doubt he seemed a safe enough choice.

The inquiry was intended to last about three weeks and to report simply on whether there was evidence to support the allegations of misconduct against five police officers. It was expected that the findings would be similar to those of the 1963–64 Gibbs Inquiry. As it transpired, however, the Fitzgerald Inquiry lasted two years. Its terms of reference were expanded twice, extending a narrow investigation into a broad examination of the whole system of government. The *Commissions of Inquiry Act 1950* was amended four times, significantly increasing the coercive powers of all Queensland inquiries. And as the Costigan Royal Commission before it had done, the Fitzgerald Inquiry employed its own investigative staff, numbering nearly 200 at its peak, and developed extensive sources of information and intelligence managed in its own databases.<sup>33</sup>

In addition, Fitzgerald exacted from Gunn unique undertakings that he would be allowed to pursue the investigation as he saw fit, and specifically that he would have sufficient resources, broad terms of reference, independence from the bureaucracy and the power to seek indemnities for key informants.<sup>34</sup> These assurances were tested when Fitzgerald asked for the abrogation of secrecy rules to give him unfettered access to Cabinet documents, and this too was granted to him. The changes to the *Commissions of Inquiry Act* gave Fitzgerald powers to use listening devices (with judicial approval), override secrecy oaths and provisions, summons physical as well as documentary evidence, and inquire notwithstanding that court proceedings on the same issue had been instituted.<sup>35</sup>

As well as these legal and administrative enhancements, Fitzgerald also used a number of other tactics to bolster support for the inquiry. Undoubtedly the most important was the encouragement of whistleblowers to come forward. The

<sup>31</sup> See Lewis (1997), pp 145–47; Fitzgerald Report (1989), Chapter 2; and Ransley (2010) for details of these inquiries.

<sup>32</sup> Dickie (1989).

<sup>33</sup> Fitzgerald Report (1989); Ransley (2001).

<sup>34</sup> Whitton (1989), p 125.

<sup>35</sup> Ransley (1994).

journalists Dickie and Masters had already benefited from police informants,<sup>36</sup> but the inquiry wanted more. Whistleblowers were important for two reasons: first, they provided investigators with a way into the otherwise closed and secretive world of corruption which was otherwise difficult to expose; and second, whistleblowers made a great impact on the media and therefore on the public consciousness. They provided insider accounts of what had been going on, which showed the problem to be real and entrenched, worthy of investigation. They also made for a great spectacle, riveting the public interest. By offering indemnities against prosecution for their own crimes to whistleblowers, Fitzgerald obtained evidence at a very early stage of corruption at the highest level of the police service. The high point of this tactic occurred when Jack Herbert, a senior officer who had absconded after the first few days of the inquiry, was tracked down and returned from London and gave evidence directly implicating Lewis in long-standing corruption, in return for indemnity.<sup>37</sup>

Together with his use of colourful whistleblowers and indemnities, Fitzgerald's general facilitation of media coverage was an enormously influential tactic in maintaining public interest in the inquiry, and political support for it. This support reached an apex when a commitment was obtained from the leaders of all three political parties, prior to the release of the report, that whoever was in government would implement the inquiry's recommendations 'lock, stock and barrel'.<sup>38</sup> This promise to accept all of the inquiry's recommendations, sight unseen, was extraordinary.

## The Report

Fitzgerald delivered the report in July 1989. It summarised the evidence the inquiry had found of systemised police corruption that had existed in Queensland since the 1950s, and the political condoning of that corruption in return for favours and the politicisation of the police. The most immediate effects were the prosecution of numerous police officers, five ministers and the Premier, for conduct revealed during the inquiry. The Police Commissioner was convicted and sentenced to 14 years' imprisonment, and four ministers were also convicted and jailed (Russ Hinze died before the end of his trial). As mentioned earlier, the prosecution of the Premier failed because of a hung jury later found to have been tampered with by his defence team.<sup>39</sup>

But these outcomes were secondary to what Fitzgerald saw as the main purpose of the report: the public exposure of what had been allowed to happen in public life in Queensland, and reforms to strengthen institutions and processes to ensure it would never be repeated.<sup>40</sup> To this end, much of the report was devoted to setting out a blueprint for reform — of the police, government administration,

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<sup>36</sup> Dickie (1989); Masters (2008).

<sup>37</sup> Fitzgerald Report (1989).

<sup>38</sup> Lewis (1997), p 154.

<sup>39</sup> Crime and Misconduct Commission, 'The Fitzgerald Inquiry', [www.cmc.qld.gov.au/asp/index.asp?pgid=10877](http://www.cmc.qld.gov.au/asp/index.asp?pgid=10877); Schultz (2008).

<sup>40</sup> Fitzgerald Report (1989).

electoral system, parliament and public life in general. The centrepiece of the reforms was an acceptance that the inquiry could not do everything, because it had already gone on too long and also because it lacked the expertise or resources for some reform tasks. Its role was to be taken over by other purpose-created bodies. Criminal prosecutions of the corrupt were to become the responsibility of the Office of Special Prosecutor. Two new bodies were recommended to instigate and oversight reform more generally. The Criminal Justice Commission (now the Crime and Misconduct Commission) was to oversee the dismantling and reconstitution of the Queensland Police Service, along with generally overseeing criminal justice reform and policy. It was to have a permanent role in investigating and preventing police misconduct, to ensure future corruption was minimised and properly managed. The Electoral and Administrative Review Commission was to be created to research and recommend reforms to electoral systems, parliament and the general operations of government.<sup>41</sup>

The recognition that lasting reform needed new institutions, and the development of their form and responsibilities, was to be the major aim and achievement of the Fitzgerald Report. This set it apart from any number of royal commissions and inquiries, in Queensland and elsewhere, which had a much narrower vision to investigate wrongdoing, and little understanding of or interest in the broader systemic issues that had allowed wrongdoing to occur or flourish.

Fitzgerald himself, when breaking his 20-year self-imposed public silence about his inquiry, said:

At the end of 1989, in the aftermath of my inquiry, Queenslanders decided they had had enough of the systemic corruption and repression of Bjelke-Petersen and some of his cronies and voted in a new government. Wayne Goss, Matt Foley and others were elected in a spirit of renewal and reform. The Electoral & Administrative Review Commission and the Criminal Justice Commission (after a slow start) did some sterling work, Glyn Davis and Peter Coaldrake set out to redesign and energise the public sector, there was an attempt to modernise the court system and revitalise a moribund judiciary by the establishment of a Court of Appeal and a Litigation Reform Commission and subsequently, when Matt Foley became Attorney-General, the welcome, long overdue, appointment of female judges ...

Under Beattie, Labor decided that there were votes to be obtained from Bjelke-Petersen's remaining adherents in glossing over his repressive and corrupt misconduct. Tacitly at least, Queenslanders were encouraged to forget the repression and corruption which had occurred and the social upheaval which had been involved in eradicating those injustices. Younger Queenslanders know little of that era and are largely ignorant of the possibility that history might be repeated.

Ethics are always tested by incumbency. Secrecy was re-established by sham claims that voluminous documents were 'Cabinet-in-confidence'. Access can now be purchased, patronage is dispensed, mates and supporters are appointed and retired politicians exploit their connections to obtain 'success fees' for deals between business and government. Neither side of politics is interested in these issues except for short-term political advantage

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<sup>41</sup> Fitzgerald Report (1989).

as each enjoys or plots impatiently for its turn at the privileges and opportunities which accompany power.<sup>42</sup>

The papers in this collection examine the aftermath of the Fitzgerald Report and the reforms Fitzgerald recommended. They ask whether Fitzgerald's blueprint for accountable and ethical government was achieved or capable of being achieved, and whether it has stood the test of time.

Charles Sampford argues that the most lasting legacy of Tony Fitzgerald is the set of reforms introduced in Queensland following the EARC process that he recommended. Sampford suggests that the EARC-led reforms developed a new model for combatting corruption, one that did not rely on a single law and/or a single institution; rather, the EARC process systematically remodelled and strengthened existing public institutions, and where it identified gaps, it created new institutions. The result was a set of mutually supporting and checking institutions, agencies and laws that worked together to improve the standards of government and to combat corruption. This approach, subsequently dubbed a 'national integrity system', has been influential internationally, particularly in the OECD, and has been championed by Transparency International.

Sampford observes that research suggests the ultimate success of a national integrity system will depend on the relative strength of the national corruptions systems that oppose it. The national integrity system must not just prosecute corrupt individuals, it must also disrupt the corruptions system. Sampford argues that one of the consequences of the Fitzgerald Inquiry is that 'the corruptions system in Queensland is no more', having been destroyed by the inquiry's exposure of a system of corrupt deals and payments. Building on the Inquiry's methodology of granting immunities, Sampford proposes a model to 'alter expectations and incentives that are sufficient to encourage significant numbers of individuals to desert the corruption system and assist the integrity system in exposing and destroying it'.

Tim Prenzler, in his assessment of the post-Fitzgerald reforms in the political process, criminal justice and the police, takes a more critical view of the Fitzgerald Report and its impact. The Fitzgerald Inquiry found that police corruption was the product of corruption in government — the gerrymandered electoral system, and the lack of many standard curbs on executive power. Despite a range of important reforms emanating from EARC's recommendations, Prenzler argues that these masked deeper structural problems that the Fitzgerald Report failed to address: a bias towards the major parties in the single member electoral system; the failure to establish transparency in government decision-making; a derogation from the principle of appointment on merit; the narrowness of the jurisdiction of the CJC and CMC; and the politicisation of policing. The Fitzgerald Report was critical of the criminal justice system as being piecemeal, fragmented and under-resourced, and lacking the necessary data to focus and evaluate enforcement strategies. It also characterised the criminal justice system as hypocritical (prohibited activities being widely practised with the knowledge of the authorities) and beset by excessive delays at all stages in the process of investigation and prosecution. Prenzler argues,

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<sup>42</sup> Fitzgerald (2009).

however, that since the Fitzgerald Report, despite some significant reforms (for example, in relation to homosexuality and gambling), major hypocrisies and inefficiencies remain in the operation of the law, and there is a regressive approach to crime reduction with an excessive reliance upon imprisonment. In policing, Prenzler argues that the Fitzgerald vision of community policing was not implemented at the local level, and that the pre-1989 model of police investigating police largely remains in place. He suggests that many of the post-Fitzgerald problems in politics, criminal justice and policing can be explained, at least partially, by a gap between the Fitzgerald Report's vision and its specific recommendations. The report left too much open to interpretation, or compromised key principles of accountability in outlining the proposed systems. The second contributing factor, Prenzler claims, is the power culture of the Australian Labor Party.

Scott Prasser and Nicholas Aroney are also pessimistic about the legacy of the Fitzgerald Inquiry. They argue that while the Inquiry was highly unusual in focusing on constitutional, political and administrative processes as the underlying causes of corruption and maladministration in Queensland, it did not address the need for change in Queensland's political and constitutional framework. As noted above, the details of reforms were not outlined in the Fitzgerald Report itself, but were to be developed by the EARC and the CJC. Prasser and Aroney argue that the Fitzgerald Inquiry did not understand that proposed changes could not be implemented and sustained if Queensland's particular form of Westminster democracy, with a unicameral parliament and executive domination, remained intact. They show that the new agencies were grafted on to the existing system of government, which itself had been labelled by the inquiry as the basic cause of maladministration and corruption. Prasser and Aroney suggest that, despite considerable restructuring of institutions, the way in which Queensland governments have operated since the Inquiry has remained largely unchanged. The underlying problems remain — the extra-parliamentary institutions designed to deal with the symptoms have not addressed the underlying causes of 'Queensland's easily corrupted system of government'.

The Goss Labor government wound up the EARC after four years — despite the Fitzgerald recommending that the EARC should provide an 'enduring independent process to review and recommend the necessary electoral and administrative laws and guidelines and procedures'.<sup>43</sup> David Solomon examines the way in which the EARC's recommendations were addressed by the Goss government, and the interaction between the EARC, the Goss government, and the parliamentary committee that was empowered to request the EARC to undertake reviews other than those outlined in the Fitzgerald Report. He critically assesses the reasons advanced by the parliamentary committee for the abolition of the EARC. He suggests that the government's decision to abolish the EARC after it completed the tasks demanded of it by Fitzgerald may have been, at least partially in each case, the result of 'reform fatigue', and the reluctance of the government to resource an independent body that told the government what it should be doing. Solomon concludes with a discussion of alternative ways of using external bodies, and an

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<sup>43</sup> Fitzgerald Report (1989) 370.

examination of the recent use by the Bligh government of independent review panels to advance reforms originally proposed by the EARC — Freedom of Information and the creation of the Queensland Civil and Administrative Tribunal.

Graeme Orr and Ron Levy examine the question of how the Fitzgerald Inquiry, which began as a limited investigation into police corruption, expanded into a rewriting of public law in Queensland. They do so in the context of Queensland electoral law, and in particular the ‘malapportionment of the electoral map’. They place this issue in a larger historical and international perspective. Very little of the Fitzgerald Report was devoted to the electoral system, and Fitzgerald delegated to the EARC the task of reforming Queensland electoral law. The EARC’s reforms were not ground-breaking, but rather adopted the then standard Australian model of one vote, one value within a 10 per cent tolerance, overseen by an independent electoral redistribution commission, and with optional preferential voting and moderate campaign finance regulation. Orr and Levy analyse the historical intricacies and paradoxes of the Queensland gerrymander and compare it with similar experiences in South Australia and Quebec. They argue that the manipulation of the electoral map was unnecessary to maintain the Country/National Party in office or ‘as a legal subterfuge evading constitutional constraints’. Rather, they argue that the Queensland governments in the pre-Fitzgerald era constructed a form of ‘agrarian chauvinism in which the signalling of anti-democratic values inherent in the zonal system was an important rhetorical component’.

As we suggested earlier in this introduction, and as AJ Brown reminds us, although the Fitzgerald Inquiry had a long genesis, a key event involved a public-interest whistleblower, Queensland police officer Jim Slade, who ‘off the record’ confirmed to ABC *Four Corners* journalist Chris Masters that a story that Slade had been offered a bribe was indeed correct. Brown notes that this pivotal role of whistleblowing in the process leading to the inquiry, and in the future of public integrity systems, was recognised in the Fitzgerald Report. The EARC in 1991 produced an authoritative guide to legislative design of public-sector whistleblowing protection provisions, which led to the enactment of the *Whistleblowers Protection Act 1994* (Qld) — then the world’s leading whistleblowing protection provisions, at least in some key aspects. Drawing on recent empirical research, Brown then argues that the 1994 Act has been overtaken by whistleblowing protection legislation in other Australian jurisdictions and overseas, so that now public employees have lower levels of confidence in the legislation, and lower levels of trust in the likely reaction of their employers to whistleblowing, than is the case in other Australian states. The Queensland legislation has lower average comprehensiveness in agency whistleblowing procedures compared with other Australian states. In particular, Brown argues that reformed Queensland whistleblowing protection legislation should include a framework for oversight and coordination, including a designated agency with a clearinghouse and quality assurance role for individual investigations, and responsibility to promote and support best-practice agency whistleblowing programs. There should also be better protection of public disclosure (for example, to the media) for whistleblowers, a responsibility on public sector employers to protect and support employees who report wrongdoing, and processes enabling

employees who suffer detriment as whistleblowers to seek effective restitution or compensation. Brown concludes by observing that the next challenge is to extend whistleblowing protection to employees and citizens in non-government sectors.

These six articles show how important, complex and fragile the impact of the Fitzgerald Report has been on contemporary Queensland, and provides a series of frames to understand contemporary debates and reforms within the state. Debate will continue about whether the Fitzgerald Inquiry 'cured' corruption and misconduct in Queensland — or, perhaps less ambitiously, whether it led to a set of institutions and systems that could prevent and respond to such problems and prevent them from spreading. Recent events in Queensland and elsewhere suggest that this is an issue of recurring and vital importance. If nothing else, the Fitzgerald Report provided insights into the issue, and canvassed a set of possible solutions. For this reason, its twentieth anniversary is a milestone well worth marking.

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## Legislation

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