

The Courier-Mail InsideMail

WEEKEND EDITION

You go to a public hospital. You expect to be cared for. That's the government's responsibility. Already it's clear it doesn't always happen.

Hedley Thomas reports on the scandal ripping apart Queensland Health. And the man charged with curing the . . .

STICKINESS IN THE SYSTEM

IN THE heady days of the Fitzgerald inquiry, Queensland's last major public expose of systemic rot, an inexperienced young lawyer with a prodigious work ethic took a privileged near-ringside seat.

It was almost 20 years ago when Tony Morris started to witness the first unlikely stirrings of a revolution in Queensland's criminal justice system and the overarching political structure.

Tony Fitzgerald, QC, had begun digging into a subterranean culture of corruption, identifying the roots and pulling them into the glare of public exposure.

"He was my mentor," Morris told *The Courier-Mail* in an interview after his appointment to head the Commission of Inquiry into Queensland Health and Dr Jayant Patel.

"My first full-time job in the law was as his associate when he was a Federal Court judge. When he left the Bench to return to the Bar, I was in chambers with him for several years, including the entire period of the Fitzgerald inquiry.

"During the course of that inquiry, I also appeared before him on behalf of one of the interested parties."

Morris has always been an unabashed admirer of Fitzgerald. But back then, the impressionable young pupil discovered how much could be achieved as the inquiry overcame attempts to sabotage its work and undermine its leader, and then produced the evidence which would jail politicians and a bent police commissioner, unpick the National Party's grip on the levers of power and reset Queensland's criminal justice system.

Now, Morris says, "there is no inquiry conducted anywhere in the country that does not take Fitzgerald as the precedent to work from". Although Morris adds that "without in any way criticising the Fitzgerald inquiry, there are occasions . . . where a leaner and more cost effective operation is both feasible and necessary".

A growing number of Labor politicians fear the inquiry that began with Dr Death will be their Fitzgerald.

As Premier Peter Beattie stresses, the

handling of fundamental issues such as public health moves votes. The effect of emotive evidence, day after day, from nurses, doctors and patients describing the symptoms of an ailing Queensland-wide system, which worsened as its political masters overlooked faults and encouraged "spin" of reality, is a potent prescription for electoral backlash.

A direct link between dead or harmed patients and Queensland Health and Beattie Government inaction (until *The Courier-Mail's* revelations last month) is already being exploited by an emboldened Opposition with huge highway billboards declaring "Labor is killing Queensland".

"The problem has been around for a long time but all this happened on our watch," Beattie says. "I'm not going to make excuses for it. What happened here, in many senses, outrageous. I'm appalled by it. I think the damage to the Government has been significant, particularly in key areas. But I'm not worried about our political hide because we have

to take the high ground here and simply say, 'We have to fix this up'."

"If, in the end, the people of Queensland are still unhappy with us, then they'll vote us out. But what we have to do is keep our nerve in the sense of saying, 'What is our moral duty here? What is our obligation?'"

When Beattie told his Cabinet he had decided to appoint Morris to run the Commission of Inquiry on a daily fee of \$5000 plus GST, at least two of his senior ministers, reputedly Deputy Premier Terry Mackenroth and Energy Minister John McKell, expressed reservations. The legal grapevine insists Attorney-General Rod Welford was not consulted before Beattie had made up his mind.

In prior legal engagements with a political flavour, Morris had been linked to the Liberal Party. He would "never be a benign commissioner".

And, like Fitzgerald before him, the expectation of lawyers and Labor hacks alike is that Morris will keep the inquiry

running for as long as there remains relevant evidence to explore.

The fear in the Labor Party that few hospitals (in few electorates) would be left untouched despite terms of reference focused on the scandal at Bundaberg was reinforced on Thursday when Morris disclosed "documentary evidence in respect of issues at Hervey Bay and Maryborough, at Nambour, at Charters Towers, and at the Gold Coast".

"Other matters of potential interest have been brought to the attention of the commission from Cairns, Townsville, Mackay and Rockhampton," he said. "No doubt the number of towns and cities which require some scrutiny will increase . . . as the inquiry progresses."

Beattie won't be drawn on who said what in Cabinet last month but he concedes: "There are some people . . . in the party who think I was mad to appoint him."

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It's being called the rebirth of radio, and even the Pope is doing it **P30 >>**



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InsideMail

Relentless search for truth

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"There are two things we're obsessive about — one is equal opportunities for education and the other is health services. This wasn't a cynical exercise, it's a philosophical exercise in the sense that we had to get someone who would take the cleaners to the system."

"We are not dealing with someone here who is going to be snowed."

"We are dealing with someone who will be absolutely ruthless in getting to the truth. This is potentially as damaging for a government as Fitzgerald. It's not about corruption — we're an honest government — it's about health. Health is the most significant vote-changer of any issue."

"So in terms of politics, of course it's an enormous threat to us which is why there is nervousness around my appointment of Tony Morris. I don't have any regrets about it. I knew exactly what I was doing when I appointed him."

"I warned all my colleagues, 'there will be a lot of pain out of this'. Politically, we will get bashed."

An iconic lawyer, Morris's diverse inter-

By personally turning up... to serve a subpoena... he made a bold public statement

ests range from Gilbert and Sullivan, to a loyal St Bernard canine, modern and ancient history.

He amazed colleagues by establishing an Internet site, lauded by some as the world's most useful legal site (www.lesserpeta.com).

By adding modern flourishes to the Fitzgerald template, Morris has an inquisition model which, so far, exudes openness and makes other commissions look plodding and almost clandestine.

He has so far shaped public opinion by releasing Queensland Health documents linking Patel to at least 67 deaths, describing complaints of bullying, blame and vilification and evidence of attempts to "shoot the messenger" in a department that employs one in 50 people in the state.

By personally turning up at the Gold Coast Hospital to serve a subpoena, instead of authorising \$22.50 on a process server, he made a bold public statement. His case with technology serves the public's curiosity with a Bundaberg Base Hospital Commission of Inquiry Internet site (www.bhci.qld.gov.au) updated daily, online access to exhibits, rulings and statements. His decision this week, unprecedented in Queensland, to permit TV and radio broadcasts of proceedings is founded on a view that "if people are given an opportunity to see and hear what



EVIDENCE... Barry Johnson died four days after Patel operated, from top, Jayant Patel, Bundaberg Hospital, and widow Cheryl Johnson

goes on at the inquiry, I am optimistic this will increase their confidence in the Commission's independence from the Government, including Queensland Health and other governmental bodies."

And... "if people can see and hear proceedings of the inquiry from the comfort of their own lounge rooms, the prospect of giving evidence will be a less daunting one."

He still relies on elegantly-bound legal books, but believes "a lawyer who insists on using only medieval technologies, in conducting a courtroom battle on a client's behalf, is no match for the lawyer who embraces everything which is offered by computers, the Internet and other forms of digital technology."

Under the pseudonym "The Official

Bystander", Morris pens Bar News articles which raise chuckles and eyebrows. Biographical notes about Fitzgerald, the youngest silk in Australia at 34 (until Morris got silk at 39), praise "wisdom, persistence and moral courage".

He mocks himself in another piece, describing his mind as a "down-market antique shop, crammed from the floorboards to the ceiling with useless bits of old junk" and "some of (this) junk is very valuable, although others are unable to see its worth."

But on any view, most of it is totally useless — and very hard to get rid of."

The piece actually dealt with quantum physics, the Apollo 11 moon landing, electromagnetics, World War II code-

breaking at Bletchley Park and the rote learning at his one-teacher school (Ascot State Primary), and of "the Sunshine Route — a list of cities and towns along the Queensland coast from Brisbane to Cairns".

He forensically dissected the infamous trial of Queensland bushrangers, the murderous Kenniff brothers, who robbed Morris's great-grandfather's store in Yuleba in 1898 or 1899. Says one leading QC: "You could never call him a one-dimensional lawyer. He's a guy whose intellectual and physical capacity to be across so many different issues is like something from an Edwardian era. He's got a metabolism and a thirst for work which is very different to the rest of us."

"He'll keep going around the clock for days at a time to finish a weighty legal submission, then start a historical research project for a lecture on something that happened 100 years ago, then down tools to appear before a parliamentary committee."

"He'll get up at a Bar dinner to recite The Man From Snowy River. He has a great sense of theatre and occasion."

But he has also been the subject of professional jealousy. There will be other lawyers waiting and watching his inquiry and probably hoping that he trips up.

As Morris said this week: "Just like the Fitzgerald inquiry two decades ago, the credibility of this Commission of Inquiry hangs from the gossamer thread of public opinion."

Beattie swears life on inquiry's power to heal

Hedley Thomas

HOW do you finesse a political masterstroke from a public scandal? Time will tell if Premier Peter Beattie's decision to set up inquiries, which will recycle politically painful revelations in public hearings throughout Queensland for months to come, was an act of genius.

But for now he's determined to stress to Queensland Health that every secret, every damning report, must be directed to Tony Morris, QC, heading a Commission of Inquiry and Peter Forster, who is running a review of the management and its systems.

"You can't hide anything," says Beattie. "Tony Morris has the power to get anything he wants. There's no point going through the pain and the revelation unless at the end of this we end up with a

better system. That's the whole purpose of having an inquiry."

For seven months a health minister in the Goss government, and for seven years, as Premier, an outspoken promoter of Queensland Health which he has described as world's best, Beattie concedes there have been serious shortcomings for years.

The complaints about public health are not new. But in the wake of the scandal over Dr Jayant Patel, the director of surgery at Bundaberg Base Hospital, the stories of patients and whistleblowers the length and breadth of Queensland have a new currency.

In Bundaberg, plaintiff lawyers have struck a mother lode. Medical negligence litigation is being rejuvenated as the weaknesses of Queensland Health are laid bare. Investigators representing the Crime and Misconduct Commission, Health Rights Commission

and Morris inquiry are taking hundreds of statements and thousands of documents.

Beattie, an advocate of the potential for nurse practitioners to perform more tasks and free up the time of overworked doctors, says whatever happens, fundamental reforms are inevitable.

But with the geographical dispersion of a growing and ageing population with higher expectations for health care, Queensland's challenge is more difficult.

Beattie accepts that parts of the health system are unwell but his people, he insists, "are doing an extraordinary job".

Beattie was in Japan on a trade mission when the Patel scandal erupted. Until it was discovered through a simple Google search that he should never have been registered in Queensland because his harmful and incompetent surgery had caused him to be disciplined and struck off in

the US, the Beattie government had been comfortable defending its most notorious overseas-trained doctor.

"The thing that annoys me more than anything about this, let me be very blunt, is that you could actually get on a bloody website and find out what happened — and the Medical Board couldn't," he says.

"And that was the crucial point when I decided there was going to be an inquiry... this is about life and death. A government can't play with people's lives."

In documents tendered to the Morris inquiry this week Patel has been linked with at least 67 patient deaths, but the figure is not indicative of his culpability — many patients were seriously ill and would have died irrespective of who operated.

As a result of briefings with senior Queensland Health staff, including Chief Health Officer

life

HYPNOBIRTHING PURE AND PAINLESS?

P6-7

Social and Economic Development Services for Young People

The Department of Communities has funding available for Social and Economic Development Services for Young People (SEDS) in the Far North Queensland (Mareeba) region. These services will address the needs of 12-25 year old young people by assisting them to achieve a sense of belonging in their community and develop social and personal skills for independent and successful community living.

Information packages are available by phoning (07) 4039 8429 or at www.communities.qld.gov.au

Funding submissions must be lodged with the department by 5:00pm on 25 July 2005.

Manufacturers, Importers, Retailers INFORMATION SESSION

Understanding the new national Water Efficiency Labelling and Standards Scheme

Do you manufacture, import or sell washing machines, dishwashers, showers, toilets, urinals or tapware? Then you may be affected by the Australian Government's new Water Efficiency Labelling and Standards (WELS) Scheme.

The WELS Scheme is a new national programme that will require a range of water using appliances or products to carry a WELS water rating label. Similar to the current energy rating label, the WELS label provides consumers with important water efficiency information. The more stars on the label the more consumers can save on their water and energy bills.

Under the WELS Scheme, washing machines, dishwashers, showers, toilets, urinals and certain types of taps will need to be registered with the WELS Regulator and labelled before they can be supplied or sold. Registration and labelling will start from 1 July 2005 but will become mandatory from 1 July 2006. Suppliers will also be able to voluntarily register and label certain flow control devices.

If you want more information about the WELS scheme and how it will affect your business, please come to the full-day WELS information session on:

Friday 1 July from 10am until 12.30pm (presentation) and 2pm to 5pm (detailed discussions)

Rydges South Bank Brisbane
Corner of Grey and Glenelg Streets

In the morning, there will be a presentation and general questions on the WELS Scheme, while in the afternoon participants will have the opportunity to discuss specific concerns. Lunch provided.

You can register for the information session online at www.waterrating.gov.au or by calling (02) 6274 2025.

Disability Action Week Award nominations now open

The Disability Action Week Awards are an opportunity to recognise individuals, groups and organisations that contribute to people with a disability having a better quality of life.

Nominees are people who help make Queensland a more supportive place for people with a disability through the services they provide, the way they do business or the examples they set.

In 2005 people and organisations can be nominated in the following categories:

- Individual
- Community Organisation
- Employment
- Media
- Transport
- Building Accessible Housing and Environments
- Government
- Education and the Arts
- Private Enterprise

Nominations close Friday 17 June 2005

For further information and award nomination guidelines: Phone 3224 7535. TTY 1800 010 222. email actionweek@disability.qld.gov.au Visit www.disability.qld.gov.au/actionweek

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