

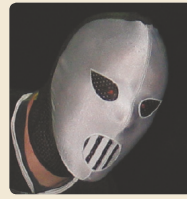
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Destroying evidence 2005 – Hospital Royal Commissioner warns:

Don't shred a thing!

BUNDABERG hospital deaths Royal Commissioner Tony Morris QC has warned anyone destroying material likely to be of interest to his inquiry could face the full force of the law – a jail term.

Mr Morris said he would have no hesitation recommending the prosecution of anyone who destroyed material relevant to his inquiry.

He also said he was not unaware of the connection between his warning and the

outcome of an investigation he conducted in the mid-90s in which he had recommended a full inquiry be held into the destruction of evidence by a group of politicians and bureaucrats.

At the time Mr Morris and his co-investigator Edward Howard said there was prima facie evidence the destruction and related actions of some of those concerned had involved numerous breaches of the law.

However, the government of the day accepted other advice that questioned whether the public interest would be served by setting up such an inquiry.

No inquiry was established.

In 2004, a citizen who destroyed evidence by guillotining four pages of a notebook suffered the full force of the law and was given a suspended jail term.



more page 2 Tony Morris QC

Destroying evidence 1990 – Former High Court Chief Justice says:

Politicians' excuse 'erroneous'

Alyssa Betts

EMINENT Australian legal authority and former Chief Justice of the High Court, Sir Harry Gibbs, has said a long-defended interpretation of the law by successive Queensland governments to excuse a number of politicians and bureaucrats who shredded evidence was "erroneous" – and any resolution of the matter now lay in the hands of the Governor.

The former Chief Justice's view was expressed in a letter obtained by *The Independent Monthly*.

It follows the revelation in the last edition of *The Independent Monthly* that 18 months ago the Governor sought information from the government on an apparent breach of the Rule of Law in which politicians and bureaucrats were treated differently from a citizen in similar cases.

Various state legal authorities, including the Criminal Justice Commission, a former DPP, a now-serving magistrate and the now-State

Coroner, have relied on an interpretation of s 129 of the Criminal Code to argue potential evidence could be shredded, legally, up to the point a judicial proceeding related to that evidence actually commenced.

Others have strenuously rejected their view.

In his letter, Sir Harry said last year's sentencing of a Baptist pastor, who had guillotined evidence five years before a trial concerning that evidence had been instigated, had "authoritatively" shown that former Cabinet Ministers and high-ranking officials relied on an incorrect interpretation of the law.

"There can now be no doubt that the advice given to the Queensland Government and the view accepted by the Criminal Justice Commission, that s 129 of the Queensland Code ... applies only when the Judicial Proceeding has actually commenced, was erroneous," Sir Harry said.

"It follows that if the evidence establishes

beyond doubt that the Queensland Cabinet on the 5th March 1990 knew that legal proceedings were likely, and that the material which it ordered to be shredded might be required in evidence in those proceedings, there is at least a prime face case that those members of the Cabinet who ordered the shredding were in breach of the law."

Records tabled in parliament show that the Cabinet was aware the potential documents involved were required for a judicial proceeding.

Ministers were advised a firm of lawyers was seeking the documents for just such a proceeding.

However, the destruction of the documents was approved and subsequently carried out.

The House of Representatives Legal and Constitutional Affairs Committee of Inquiry into Crime in the Community last year said in its report that it was "beyond doubt" that the Ministers had "knowingly removed the rights of at least one prospective litigant".

In his letter Sir Harry went on to conclude that: "... the matter now rests with Her Excellency, the Governor, who has apparently, in her discretion, requested information concerning some of these events".

However, constitutional lawyers and academics are divided over the Governor's capacity to deal with the matter.

Former Queensland Solicitor for Prosecutions and current Adjunct Associate Professor of Law at Bond University, David Field, said the Governor had a duty to ensure that the Rule of Law was maintained in Queensland.

"One aspect of the Rule of Law is, of course, that it applies equally to all people, and that a Cabinet Minister can no more go shoplifting than your average housewife for example," Professor Field said.

"It doesn't matter who you are, you must obey the same laws the rest of the community have to obey."

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Public dental patients facing five-year wait for treatment

Dahlia Hassanien

QUEENSLANDERS have the worst teeth in the country, and no wonder, according to the dentists.

They say public patients could be waiting up to five years for just a check-up.

Australian Dental Association (ADA) Queensland Branch President Michael Foley said the demand for dental treatment was overwhelming and Brisbane clinics were not increasing their services, staffing or funding to satisfy the

growing number of patients.

And if patients had no choice but to wait a few years for treatment of their dental problems, their teeth were just going to get worse in the meantime, he said.

"It's a disaster, anything can happen in that amount of time, that's why we end up extracting so many teeth," Dr Foley said.

Dr Foley said conditions were even worse in rural areas, and the government was not training enough dentists to meet demand.

The University of Queensland's School of Dentistry told *The*

Independent Monthly that the current quota was just 45 students per year.

"Our quota is restricted due to facilities; we only have so many dental units and labs available. We would love to expand but that requires funding for facilities to create extra physical space and clinics," *The Independent Monthly* was told.

Dr Foley said because of low training numbers in Queensland, the state was forced to turn to overseas dentists.

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Queensland parliamentary library staff Sarah McCallan (left) and Roylene Mills (right) admire Mike Nicholas's portrait of Irene Longman, the state's first woman MP. The painting was commissioned to celebrate 100 years of women's suffrage in Queensland.