



# CORONERS COURT OF QUEENSLAND

## FINDINGS OF INQUEST

**CITATION:** **Inquest into the death of  
Bryan Hodgkinson**

**TITLE OF COURT:** Coroners Court

**JURISDICTION:** Bundaberg

**FILE NO(s):** COR 2017/1744

**DELIVERED ON:** 18 December 2018

**DELIVERED AT:** Mackay

**HEARING DATE(s):** 28 October 1988  
17 April 2018  
23 – 24 October 2018

**FINDINGS OF:** Magistrate D J O’Connell, Coroner

**CATCHWORDS:** CORONERS: Inquest – Finalisation of adjourned 1998 inquest, circumstances of the cause of death, identification of the person or persons responsible, utility of the *Coroners Act 1958* to a modern coronial investigation and the *Coroners Act 2003* transitional provisions

**REPRESENTATION:**

**Counsel Assisting:** Mr J M Aberdeen

**Mr Anthony Beer:** Mr C Callan (instructed by Charltons Lawyers)

**Family of  
Bryan Hodgkinson:** Mrs Doris Hillier (sister of Bryan Hodgkinson)

## Findings

### Bryan Hodgkinson

- [1]. On 8 September 1987 Mr Bryan Hodgkinson was located deceased with very severe injuries beside a rural road in bushland about thirty kilometres south from the city of Bundaberg. He was a taxi driver who had been working that evening. His injuries indicated he had been seriously assaulted with a blunt object causing head injuries and also stabbed a number of times. His taxi was located abandoned in a suburban street on the southern side of Bundaberg that morning.
- [2]. An inquest into the circumstances of his death was part heard in 1988 and adjourned to a date to be fixed. The coroner who heard that inquest has since retired, and the State Coroner, under the *Coroners Act 1958*, directed that a new coroner complete<sup>1</sup> the inquest, accordingly it was the resumption of the 1988 adjourned hearing.
- [3]. No person has ever been charged with Mr Hodgkinson's murder, although Mr Anthony Beer was charged with certain offences arising out of the incident but they were dismissed after a committal hearing due to insufficiency of evidence.

### **Tasks to be performed**

- [4]. My primary task under the *Coroners Act 1958* is to make findings under section 24, where there is sufficient evidence to enable findings to be drawn. This inquest involved events which occurred nearly thirty years ago and so, understandably, some witnesses may have had their recollection diminished, but there was a significant amount of investigation conducted by the police at the time of the incident, and since.

### *Factual Background & Scene evidence*

- [5]. I will state very briefly the background circumstances of Mr Hodgkinson's death as I note it has already been covered in the earlier findings<sup>2</sup> from the 1988 inquest. Mr Hodgkinson was found deceased in clearly violent circumstances beside a rural road more than 30 kilometres south of Bundaberg. The taxi he had been driving that evening was found abandoned, parked in the street, in a suburb on the south side of Bundaberg late the same morning. No person has ever been charged with his murder although Mr Anthony Beer was charged with certain offences arising out of an alleged involvement that evening involving the unlawful use of the taxi, robbery with actual violence, and being an accessory after the fact to murder. Those charges were dismissed at a committal hearing.
- [6]. The police investigation has always remained open with a significant review conducted by the police in 2014 but there have been no new developments and no further person charged.

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<sup>1</sup> s. 27 Coroners Act 1958

<sup>2</sup> If that is the correct term for reasons published from what was an adjourned inquest

- [7]. Mr Hodgkinson's injuries were found at autopsy to be, broadly stated, blows to the skull and numerous stab wounds to the neck and chest. A considered analysis of the autopsy report findings and review of the scene photographs, which are graphic, leads to the conclusion that the blows to the head were the more significant injury and which occurred first and then he was stabbed a number of times which, due to the nature of the injuries, indicate he may have been stabbed whilst lying on his back, perhaps unconscious or even deceased<sup>3</sup>.
- [8]. There was not found at the scene any blunt weapon or knife but the opinion of the forensic pathologist was that the repeated<sup>4</sup> blows to the head could have been caused by a tyre lever or similar. It was conceded, and stated for the first time, at the committal hearing of Mr Beer that it could even have been the flat edge of a rock that caused the head injuries. The stab wounds were by a sharp-bladed knife of considerable length, and perhaps at least a 18 centimetre length blade<sup>5</sup>.
- [9]. It is clear that Mr Hodgkinson had died in particularly violent circumstances. Certain blood splatter markings on the outside of his vehicle, with a complete absence of blood inside the vehicle, indicated it had occurred after he had alighted from the vehicle. There was insufficient forensic evidence to conclude whether he had been assaulted on the driver's side of the vehicle, or near the boot area, as there was evidence of a blood smear or droplets in both locations.
- [10]. There was not found any forensic evidence of any value inside the vehicle such as blood, hair sample, or fingerprints to indicate who the assailant or assailants were.

#### Work history and movements that evening

- [11]. Whilst Mr Hodgkinson worked as a taxi driver he also did work which included, by reputation, being an accomplished photographer. As a taxi driver he was considered responsible, reliable, and always followed particular taxi operator rules. One of these rules was that each time a taxi was leaving the built-up area of Bundaberg the driver would radio the base to notify them that they were leaving town. In addition, because Mr Hodgkinson regularly worked nights he had a number of acquaintances who also worked nights and each time they saw each other as they drove around the streets they would give a friendly wave. One person Mr Hodgkinson would regularly wave to was a friend who worked doing security officer duties and drove his work vehicle around the streets of Bundaberg at about that time.
- [12]. Mr Hodgkinson's movements that night were that he was rostered on and working a shift as a taxi driver. There is nothing at all unusual with his work up until about 12.30p.m. at which time he went to collect a fare at a house<sup>6</sup> and radioed that there was no person there. Despite some focus on this at the inquest I do not think anything turns on that incidence. After that time he went and refuelled his vehicle so clearly he was not under

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<sup>3</sup> The stab injuries show little evidence of blood seeping and the pathologist thought there were a contributing factor, but did not cause the death.

<sup>4</sup> The autopsy said five of which four were severe see exhibit A3A.

<sup>5</sup> One stab wound was this depth

<sup>6</sup> Reportedly a 'Mr Sykes'

any duress. This was before 1.00am. Just before, or at around, 1.00a.m. his taxi was seen travelling south on Barolin Street and passed his friend Mr Spann who worked as a security officer. Mr Spann indicated that Mr Hodgkinson did not give him a customary wave and look or acknowledgment as he normally would, but just gave a small acknowledgement<sup>7</sup>. He said that Mr Hodgkinson was looking straight ahead and there appeared to be, on his best recollection at the inquest, a passenger in the taxi in the front seat<sup>8</sup>. Mr Spann's evidence could not give any adequate description of the passenger, and I accept it is difficult to be in any way precisely accurate when recalling evidence of an incident which occurred 30 years earlier and are merely two vehicles passing each other in the street. There is nothing really to be gained, nor is there any great detriment, in over-analysing the possible height, age, or features of the passenger due to the duration of the passage of time and the circumstances in which he had to observe the passenger. All he can recall accurately was there were a passenger<sup>9</sup>.

[13]. What I can draw from the incident is that it is reasonable to conclude that Mr Hodgkinson may have then been under duress or coercion as he did not give his customary wave to his acquaintance. He also had his gaze firmly fixed forward, and did not radio his base that he was leaving town even though he was then on the road directly leading south from Bundaberg and was approaching the limits of the built-up residential area.

[14]. On Mr Spann's evidence, I cannot conclude who the person in the taxi was.

#### Evidence and theories raised

[15]. Evidence was given that Mr Hodgkinson had no particular enemies nor persons who may wish to do him harm. He was simply an ordinary family man working a number of jobs. A suggestion was made in the inquest by Mr Spann, who appeared to be quite reluctant to voice his concern, was that Mr Hodgkinson may have been murdered due to his inadvertent connections to the salacious night-time activities of a particular seedy element then claimed to exist in Bundaberg. Mr Spann indicated that the seedy element consisted of persons who participated in séances in graveyards and in relation to Mr Hodgkinson he may have been taking photographs of couples, perhaps more, in salacious sexual activities at what Mr Spann said were termed "special parties". Mr Spann could not give any details to support his contention other than he said that occasionally Mr Hodgkinson would state that he had to do photography at a "special party"<sup>10</sup>.

[16]. The theory he was suggesting was that Ms Paula Peters was a person who attended these "special parties" and that she was a person known to participate in bondage sex. Of course, Ms Peters' body was found around the time Mr Hodgkinson was murdered (later that same morning) and the evidence was that her body may have been deceased for a short period of time, perhaps around a week or little more, and that she had died due to a consensual bondage tryst which had gone horribly wrong. Her body had been found in a cane field, still bound. The person said to be responsible for her death was Mr Paul

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<sup>7</sup> In his statement he said he waved but in evidence resiled from this to a more muted acknowledgement

<sup>8</sup> His initial statement exhibit A7 said one passenger

<sup>9</sup> He said in his statement one passenger, but that does not preclude a person trying to hide their presence from view.

<sup>10</sup> And there was no real probative evidence at all to support the suggestion that Mr Hodgkinson was in any way involved in any illegal or distasteful activities.

Sutherland who was tried and convicted of the manslaughter of Paula Peters. Mr Sutherland gave evidence at the inquest and did not seek privilege from giving evidence, rather he answered questions fully, including admitting his involvement in the death of Ms Peters in their sexual tryst gone wrong, and what he did, including how he transported her body to the cane paddock where she was found. He also detailed his movements immediately afterwards which was to leave Bundaberg by having his father drop him on the highway and he hitch-hiked to Brisbane where he moved house regularly, simply staying with multiple acquaintances for a day or two at a time before returning to Bundaberg on the afternoon<sup>11</sup> that Mr Hodgkinson's body had been located. Mr Sutherland, I observed, answered questions willingly within the reason of what he could recall after thirty years. The theory was developed that Mr Sutherland may have been responsible for Mr Hodgkinson's death due to Mr Hodgkinson being a person who could identify Mr Sutherland as being a sexual partner of Ms Peters at their "special parties", or that Mr Sutherland could be identified by Mr Hodgkinson as perhaps<sup>12</sup> Mr Hodgkinson was the taxi driver who last saw Ms Peters and Mr Sutherland together when they caught a taxi to Ms Peters' residence where she had her final encounter with Mr Sutherland.

- [17]. An alternate theory of the person responsible for Mr Hodgkinson's death was a Mr Gary Rasmussen. Mr Rasmussen died of an illicit drug overdose on 7 October 1993<sup>13</sup>.
- [18]. Evidence was, and I accept, that Mr Rasmussen was a man prone to extreme violence and with a very quick temper. Numerous witnesses confirmed this but each said that he was a person who could defend himself, or be the aggressor, simply by using his fists and he was never observed to use a knife, except on just one occasion. It was generally said by witnesses that Mr Rasmussen had no requirement at all to use a knife because he was so good with his bare hands when fighting. The theory developed was that Mr Rasmussen was "out to get" Mr Hodgkinson because Mr Hodgkinson at one time had 'chatted up' one of Mr Rasmussen's lady friends. No witness could adequately detail any such incident or when it occurred. The development of the theory was that this particular evening Mr Rasmussen simply decided he would 'get' Mr Hodgkinson and so flagged down his cab at a taxi rank (which means the taxi operator despatcher would have no record of the taxi request). It was said that Mr Beer accompanied Mr Rasmussen on this occasion and they went in the taxi together.
- [19]. Mr Beer was charged with certain offences, as I detailed earlier, after his de facto allegedly had been told by Mr Beer that he, Mr Beer, had been in the taxi at the time Mr Hodgkinson was killed. What is alleged to have happened was that Mr Rasmussen said to Mr Beer that he was going to 'get' Mr Hodgkinson, and together they hailed his taxi in town and were driven out of Bundaberg on the pretence that Mr Rasmussen had to collect a bag. When the taxi stopped down the rural side road (off the major thoroughfare) as directed, Mr Rasmussen told Mr Hodgkinson to open the boot of the taxi. As Mr Hodgkinson stepped out, Mr Rasmussen told Mr Beer to 'cover your ears and don't look back'. After a short while Mr Rasmussen got back into the cab and told Mr Beer to drive the cab with him back to Bundaberg. Mr Hodgkinson was left behind but Mr Beer did not know precisely what had happened to him as he had not alighted from the taxi.

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<sup>11</sup> He said he distinctly remembers hearing the news on the car radio as he was approaching Bundaberg

<sup>12</sup> I say 'perhaps' as there was no conclusive evidence he was the taxi driver, but there were not many in Bundaberg at that time who regularly drove night shifts.

<sup>13</sup> Exhibit D6

- [20]. Mr Beer is alleged to have said this to his then de facto partner, in broadly these terms, and the same terms each time. It was allegedly said on numerous occasions and at times when he was affected by alcohol and/or cannabis, but also whilst he was sober. He also stated this when, whilst sober and after prompting by her for him to recall what happened, on an occasion when she was wearing a recording device placed there by police. Significantly when he repeated the circumstances on this occasion he was not affected by alcohol or drugs. There was a suggestion to me in Addresses that Mr Beer's mind is affected by some type of alcohol or drug acquired injury or syndrome, or mental health, but when pressed on the point it was conceded that there was no evidence at all presented at the inquest, nor was it ever realistically suggested, that Mr Beer had any recognised alcohol or drug acquired brain injury nor suffered any particular mental illness which would account for the incident he told of. There was also no reason he may have been 'big noting' himself as he only told his de facto, and her evidence was that she thought he was being very genuine when he told her. I accept that he believes what he said is true but the reliability of it is another question.
- [21]. Of interest is that when Mr Beer was required to give evidence he claimed privilege on the basis his evidence may tend to incriminate him. As this was an inquest under the *Coroners Act 1958* he was excused from giving any further evidence. I will comment on this later as it raises an issue as to the continuing utility of the 1958 Act.

#### Resolution of the available evidence

- [22]. In doing what I can with the evidence presented, and the limitations on the requirement to give evidence imposed by the *Coroners Act 1958* (and the family must accept that Mr Beer was simply exercising his right to claim privilege as he is quite entitled to do), as Mr Hodgkinson suffered injuries of a very violent nature which can only logically be concluded was an act of murder, it means that the required standard of proof I must reach to conclude that a person is responsible for his death is very high even though it is the civil standard on the *Briginshaw* test<sup>14</sup>.
- [23]. There was not put to me that there was any other member of the public who may have any motive to murder Mr Hodgkinson in such a violent way, other than Mr Rasmussen or Mr Sutherland. Accordingly the possibility of any other member of the public is eliminated in my mind.
- [24]. Putting the evidence in very short compass for each of the persons of significant interest it revealed that Mr Rasmussen was a person predisposed to serious violence, but usually not using a knife, although he had injured a person with a meat cleaver whilst assaulting them. His claimed alibi was disputed by those who he said he was with (Mr Marshall and Mr Fox), he did live at Elliot Heads for a time and would have passed the death scene when travelling to Bundaberg, Mr Beer's alleged statement that a rock was used to strike Mr Hodgkinson in the assault (a factor not publicised and only first conceded by the pathologist at the committal of Mr Beer), and that Mr Rasmussen's friend, colloquially known as 'Gayle' lived in the street where the taxi was located, where all factors which tended to point to his direct involvement in Mr Hodgkinson's death. Against that Mr

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<sup>14</sup> *Briginshaw v Briginshaw* (1938) 60 CLR 336, per Dixon J at 360. I have set out fully in the findings of Rachel Joy Antonio at paragraphs [13] to [25] of that decision inclusive what the required standard of proof is so I will not repeat it here.

Rasmussen would rarely use a knife, as he simply had no need to, and there was precious little evidence of sufficient weight from anybody that he knew Mr Hodgkinson, or that he was involved in robbery ever. After Mr Hodgkinson's death was reported he did not leave the Bundaberg area.

- [25]. In relation to Mr Sutherland whilst he was convicted of the crime involving the death of Miss Peters, and admitted to his involvement, he claimed he was in Brisbane at the time Mr Hodgkinson was killed. This was corroborated by a number of people (as was his leaving Bundaberg about a week earlier), and he claimed to have returned to Bundaberg on the afternoon that Mr Hodgkinson's body was found. Mr Sutherland's actions after Miss Peters' death was to leave the Bundaberg area, but he travelled to the Bundaberg area on the day Mr Hodgkinson died. He did not leave upon becoming informed of Mr Hodgkinson's death. The street where the taxi was located is within walking distance to where Mr Sutherland then lived. Whether Mr Sutherland had ever used a knife in any attack is unknown, but there was never a suggestion he had. The suggestion that perhaps he had a motive to kill Mr Hodgkinson because perhaps Mr Hodgkinson was the taxi driver who last saw Mr Sutherland together with Miss Peters was at best merely speculative, as was the suggestion that Mr Hodgkinson has attended 'special parties' that Mr Sutherland and Miss Peters were involved with. Mr Sutherland also freely gave evidence, and never sought to claim privilege.
- [26]. In consideration of all of the evidence presented at this inquest, very regrettably, I am left with a doubt as to which of the two main persons of interest was responsible for Mr Hodgkinson's death. Accordingly I cannot reach the required high level of probability that I must say that a specific person is responsible for Mr Hodgkinson's death, but in my mind the two theories proposed to me, one that involved Mr Paul Sutherland and the one that involved Mr Gary Rasmussen, each had their strengths and their weaknesses, which on the available evidence I cannot resolve satisfactorily.
- [27]. In my view it is very unfortunate for the family who seek answers that under the 1958 legislation Mr Beer is not compelled to give evidence, this is particularly so when he allegedly made certain statements as to what occurred that evening. Of some significance to my mind was that in the statements he made he suggested that Mr Rasmussen used a rock to strike Mr Hodgkinson. That type of 'weapon' was never terminology, nor a theory, advanced by police but was first acknowledged or raised as a possibility (as the weapon to cause the injuries to Mr Hodgkinson's skull) at Mr Beer's committal by Professor Anthony Ansford, the pathologist who conducted the autopsy. It was a circumstance not then being considered as a possibility, and was never publicly stated as in the minds of the police nor broadcast by them in any information they published (possibly because the police did not consider it), at the time that Mr Beer made his statements to his de-facto Ms Chapman that a rock was used by Mr Rasmussen.
- [28]. Accordingly, there are a number of comments and observations I make due to the inquest being unable to provide answers to the family. Finding answers for the next of kin is the very essence of a modern inquest.
- [29]. Firstly, the *Coroners Act 1958* was replaced by the *Coroners Act 2003*. It is now 15 years since the 2003 Act has been in place and I consider<sup>15</sup> it is finally time to repeal the

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<sup>15</sup> As a 'rider' as the term is expressed in s.43(5A)

transitional provisions of the 2003 Act which provides that for deaths to which the 1958 Act applied (including inquests part-heard, or to be re-opened), that the old Act is used. There should simply be a line now drawn that all inquests now convened shall be conducted under the 2003 Act no matter when the death occurred. There will be precious few deaths affected, but these are clearly the ones which are the ‘hard core’ of cases which cannot be resolved by the use of ordinary police investigatory powers. These cases require something additional to their investigation in an effort to resolve them and give the families the answers that they deserve. The *Coroners Act 2003* has the enhanced coronial procedures to obtain the truths sought. The families deserve this, the public deserves this, and so I will recommend that this issue be placed before the Attorney-General as soon as possible for consideration, and implementation. Such a change may well assist to resolve some of the most lingering mysterious cases which still exist in Queensland<sup>16</sup>.

- [30]. Secondly, I cannot leave the inquest without making a comment on the police investigation. I am well aware of the benefit of hindsight and so make no criticism of the initial investigation or that up until 2014. Naturally the investigation slowed after it appeared to have ‘hit a wall’. A thorough review occurred in 2014 by Detective Sergeant Wiggins. The review is a credit to that officer in how comprehensive it was. He was clearly very diligent. His detailed review contained a number of recommendations for further investigation. His review was then sent “up the chain of command” where, and I state this very briefly, more senior officers simply ‘rubber-stamped’ that those further investigations should occur but the reality is no-one did anything. Worse, senior officers actually simply rubber-stamped the earlier rubber-stamp recommending that further investigations should progress<sup>17</sup>, but still nothing occurred.
- [31]. It was only when the matter reached the Coroners Court of Queensland through the insistence of the deceased’s sister, Mrs Hillier, that the necessary investigations occurred. It may be that nothing was lost in those few years, but there is no explanation, possibly because there is no adequate explanation, as to why the Queensland Police Service did not move the investigation forward other than paying lip service to agreeing for action to be taken. This was perplexing after the genuine efforts of Detective Sergeant Wiggins for the review.
- [32]. Accordingly, I will refer the matter of the continued application of the *Coroners Act 1958* to the Attorney-General for consideration as to provide an amendment to the *Coroners Act 2003* to ensure that all inquests (including inquests part-heard, or inquests to be re-opened), no matter when the death occurred, now come within the ambit of the 2003 Act<sup>18</sup>. I trust this issue is addressed very promptly for the sake of the families and the public still seeking answers from pre-2003 Act ‘reportable deaths’.

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<sup>16</sup> The *Whiskey-au-Go-Go* investigation comes to mind. I wonder aloud whether anything meaningful will be achieved unless persons are compelled to give evidence. By now most next of kin are well past the position of prosecution as their goal, they merely wish to ascertain the truth, as does the public.

<sup>17</sup> The file is marked in such a way. There is a *Yes Minister* air to their actions (or is it inactions?).

<sup>18</sup> I appreciate the 1958 Act does not have the express term of Coroner Comments or Recommendations as they are presently termed, but the observations I have made about the utility of the transitional provisions I consider does not fall within the operation of s.43(5) and is within s.43(5A) as a ‘rider’.



## **List of Inquest Issues Answers**

### **Coroners Act s.24(1): 'Findings'**

[33]. Dealing with the list of issues for this inquest the answers are as follows:-

[34]. **Issue 1.** My primary task is the information required by section 24(1) of the *Coroners Act 1958*, namely:

- a. I confirm that Mr Bryan Hodgkinson has died,
- b. The identity of the deceased person - Mr Bryan Hodgkinson,
- c. When, where and how the person died – Mr Hodgkinson died on 10 September 1987, off (on the entrance road to Pearson's Memorial Home, and now termed 'Pearson's Road') Woodgate Road, Goodwood, via Bundaberg, Mr Hodgkinson died due to head injuries received in an assault committed by a person or persons who are unknown.

### **Coroners Act s. 24(1)(d) 'Persons to be charged with murder, manslaughter, etc'**

[35]. There was no suggestion that there was any sufficient evidence to charge any person for any Criminal Code offence.

**Magistrate O'Connell**

Central Coroner

Bundaberg

18 December 2018