



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 19th day of April 2007, and the 16th day of May 2007, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Martin John Philp.

The said Court finds that Martin John Philp aged 24 years, late of 5 Goldingham Street, Taperoo died at Port Road, Cheltenham, South Australia on the 24th day of September 2005 as a result of blunt force chest trauma. The said Court finds that the circumstances of his death were as follows:

1. Introduction and reason for Inquest

- 1.1. Martin John Philip was born on 25 May 1981 and was accordingly 24 years of age at the time of his death on 24 September 2005. Mr Philp was involved in a collision between his motorcycle and a car at Port Road, Cheltenham shortly after 10:15am that day. Mr Philp died at the scene and his cause of death was given by Forensic Pathologist, Dr Cala as blunt force chest trauma and I so find.
- 1.2. 24 September 2005 was a Saturday, and at about 10:15am that day Senior First Grade Constable Michael Pedler from Northern Operations Motorcycles Section was performing laser detection duties on Port Road, Alberton. According to a statement given by Senior Constable Pedler which was admitted as Exhibit C25a in these proceedings he detected a Honda motorcycle travelling at 106 kilometres per hour towards his position. He made an attempt to stop the motorcycle by stepping out onto the roadway. The motorcyclist failed to obey Senior Constable Pedler's direction to stop. Instead the motorcycle accelerated towards Senior Constable Pedler who was forced to move quickly from the roadway to protect his own safety.

- 1.3. Senior Constable Pedler returned to the side of the road and using his radio advised police communications that he had detected the motorcycle travelling at a speed of 106 kilometres per hour. He gave a partial registration number and description of the motorcycle and its direction of travel.
- 1.4. Attachment “D” to Exhibit C19a is a compact disc of the radio communications on channel DS07 of the Government Radio Network from 1000 hours to 1200 hours that day. Senior Constable Pedler was operating on that channel, and I have listened to the relevant communications recorded on that compact disc. Shortly after reporting the speed of the motorcycle and the fact that it had failed to stop, Senior Constable Pedler can be heard advising police communications that he had just been waved down by some people further down the road. Senior Constable Pedler then can be heard stating “Perhaps he has just 201’d it”. I believe that a “201” is police jargon for an accident.
- 1.5. It is clear from all the evidence that the motorcycle detected by Senior Constable Pedler was the blue Honda 600cc motorcycle registration number YYB-334 which was being driven by Mr Philp that morning. The evidence is also clear that Mr Philp must have known that he had been detected by Senior Constable Pedler, and that the latter was attempting to flag him down. According to Senior Constable Pedler’s record of interview, Exhibit C25a, Senior Constable Pedler was wearing a reflective vest in accordance with police General Orders so that he would be clearly visible.
- 1.6. At about this time, a number of members of a Ford motor car club were attending a function at the premises of Maughan Thiem Motors, Port Road, Cheltenham. These premises were located a short distance along Port Road from the point at which Senior Constable Pedler was operating his laser detection device and on the same side. The collision between Mr Philp’s motorcycle and a white Ford station wagon registration number VCA-231 occurred on Port Road immediately adjacent to those premises. A number of the members of the Ford motor car club who were attending the function were eyewitnesses to the collision.
- 1.7. I summarise the evidence of the eyewitnesses as follows:
 - (a) Kelly-Gaye Teague was a new car sales person employed by Maughan Thiem. She had just assisted a customer with a purchase of a new car and had waved the customer off from the premises. As she stood on the footpath of Port Road she heard the sound of the Honda motorcycle colliding with the Ford station

wagon about 50 metres north of her location. She made a statement a copy of which was tendered as Exhibit C5a in these proceedings.

- (b) Ken Haurua was a sales consultant employed by Maughan Thiem. He made a statement which was admitted as Exhibit C6a in these proceedings. He was in a Hyundai sedan and travelling south on Port Road towards the premises of Maughan Thiem after purchasing petrol for the car. He stopped the car in the left lane of Port Road in front of Maughan Thiem to give way to a white Ford station wagon. He observed that the white Ford station wagon was stationary in the left lane of Port Road but then he saw the Ford station wagon indicate to the right and slowly move into the right lane of Port Road. He saw that the Ford station wagon was in the middle of Port Road when the Honda motorcycle collided with it. He did not see or hear the Honda motorcycle prior to the collision.
- (c) Peter John Matthews was a member of the motor car club. He made a statement which was admitted as Exhibit C7a in these proceedings. Brett Andrew Watkins was a member of the club who made a statement which was admitted as Exhibit C8a in these proceedings. Judy Ann Reeves-Deering was a member of the club who made a statement which was admitted as Exhibit C9a in these proceedings. William Michael Green was a member of the club who made a statement which was admitted as Exhibit C10a in these proceedings. Robert Lindsay Evans was another member of the club who made a statement which was admitted as Exhibit C11a in these proceedings. Each of these witnesses was at the premises of Maughan Thiem watching a “dyno” test of a car. They each heard the loud sound of the Honda motorcycle and gained the impression that it was accelerating rapidly. They saw it pass from the north to the south at a speed that was estimated between 120 and 140 kilometres per hour. Mr Green saw the motorcycle collide with the right hand side of the Ford station wagon.
- (d) Phillip John Ford and Matthew James Johnson were members of the Ford car club and made statements which were respectively admitted as Exhibits C12a and C13a in these proceedings. They stated that they heard and saw the Honda motorcycle travelling toward the city on Port Road at a speed they

estimated to be between 100 and 150 kilometres per hour. Mr Ford saw the motorcycle collide with the right hand side of the Ford station wagon.

- (e) Nicholas Philip Bull is a fleet manager employed by Maughan Thiem who made a statement which was admitted as Exhibit C15a in these proceedings. He was standing outside the Maughan Thiem premises with the members of the Ford car club watching a demonstration when he heard the revving of the motorcycle. He looked toward Port Road and saw the Honda motorcycle travelling at a speed he estimated at 160 kilometres per hour. He then saw the motorcycle brake and stop revving. He saw the Ford station wagon on Port Road which was on an angle across the road. He then saw the Honda motorcycle collide with the right side of the Ford station wagon at a speed he estimated at between 80 and 100 kilometres per hour.
- (f) Hayden John Pfeiffer was a motorist driving toward Adelaide along Port Road, Cheltenham that morning. He made a statement which was admitted as Exhibit C14a in these proceedings. He stated that he observed a motorcycle policeman performing laser detection duties on Port Road. Mr Pfeiffer drove past the police officer and noted that he was aiming the laser gun along Port Road behind Mr Pfeiffer's vehicle. Mr Pfeiffer looked in the rear vision mirror of his vehicle and saw the police officer step out onto the roadway of Port Road. Mr Pfeiffer thought that the police officer took about three steps which took him into the centre of the left traffic lane. At that time Mr Pfeiffer's attention was attracted to a motorcycle that was travelling along Port Road towards Adelaide. When he first saw the motorcycle it was swerving around the police officer. He had not seen the motorcycle before it swerved around the police officer. He stated that the swerve was quite sharp and that it was obvious that the motorcycle was travelling very quickly. The motorcycle then overtook Mr Pfeiffer's utility on the right hand side and he estimated that it was doing around 160 kilometres per hour as it passed his vehicle. He stated that from the sound of the engine of the motorcycle it was accelerating at a very fast rate after it had passed him. Mr Pfeiffer stated that he realised that the motorcyclist was, to use his words, "doing a runner from the police". He noted that the time according to his mobile telephone was 10:16am and observed the rear number plate of the motorcycle to be

YYB-334. He then saw a white Ford Falcon station sedan travelling across the Adelaide bound traffic lanes of Port Road from the left side of the road to the right side of the road and towards the centre plantation. This car was approximately 200 to 300 metres ahead of Mr Pfeiffer when he first observed it. The Ford station sedan was travelling slowly, at approximately 10 kilometres per hour, and was at an angle across the road of approximately 45 degrees. Mr Pfeiffer observed the motorcycle collide with Ford station wagon and stated that “a split second” before it hit the Ford he saw smoke which he thought was from the tyres of the motorcycle under hard braking. The motorcycle collided with the right side of the Ford near the pillar between the front and rear doors.

Mr Pfeiffer observed the Ford to be jolted by the impact, and that it continued across the right hand lane and into the centre plantation on Port Road where it collided at low speed with a tree. Mr Pfeiffer saw the motorcycle fall on its right side and stop on the right side of the roadway almost adjacent to the point at which it had hit the car. The motorcycle rider stopped next to the motorcycle. Mr Pfeiffer noted that the motorcycle and the rider came to rest near a stobie pole, but he did not think that they had hit the pole.

- 1.8. Senior Constable Sheldon Lovell is a member of Major Crash Investigation Unit within South Australia Police. He was involved in the investigation of this incident and made a statement which was admitted as Exhibit C20a in these proceedings. According to Senior Constable Lovell, Mr Philp was the holder of a full class “C” drivers licence and a permit class “RD”. This allowed Mr Philp to drive a car and ride a motorcycle with an engine capacity not exceeding 250cc. Mr Philp had held his “C” licence since 27 November 2000 and his “RD” permit since 30 June 2005. It was the latter which permitted him to ride a motorcycle. He had held it for just short of three months at the time of his death. It is noteworthy that the permit permitted him to drive a motorcycle with an engine capacity not exceeding 250cc, yet the Honda motorcycle which he owned and was riding at the time of the collision was more than double that capacity at 600cc.
- 1.9. According to the statement of Senior Constable Lovell, a blood sample was taken from Mr Philp during his post mortem examination. This was analysed and according to Exhibit C4a, a toxicology summary report prepared by Mr Chris Kostakis of the

Forensic Science Centre the analysis revealed that Mr Philp had approximately 14 ug tetrahydrocannabinol (THC) per litre of blood and 11-nor-9-carboxy-THC. This was not a high level of marijuana but indicated recent use.

- 1.10. According to Senior Constable Lovell¹, Mr Philp's wallet was removed from his clothing in an effort to obtain an identification of Mr Philp. Two plastic bags were found within the wallet, one of which contained traces of 3,4-methylenedioxymethamphetamine, commonly known as "ecstasy". The other bag contained 0.03 grams of methylamphetamine.
- 1.11. A number of the witnesses whose evidence has already been referred to stated that they made observations of Mr Philp at the scene. From this evidence it is plain that Mr Philp died during, or very shortly after, the collision.
- 1.12. Section 3 of the Coroner's Act 2003 provides that a death in custody includes the death of a person where there is reason to believe that the death occurred while the person:

'(c) was evading apprehension by a person referred to in paragraph (b)'.
- 1.13. Senior Constable Pedler was a person authorised to apprehend or hold a person who was detected exceeding the speed limit. From all of the evidence it appears reasonable to conclude that Mr Philp was under the impression that Senior Constable Pedler was likely to pursue him or cause others to do so, and Mr Philp accelerated his motorcycle to even higher speed than that at which he was detected with a view to evading apprehension by Senior Constable Pedler or any other member of the police force. Accordingly, Mr Philp's death falls within the definition of "death in custody", or that part of it referred to above, and this Inquest was required to be held pursuant to section 21(1)(a) of the Act.
- 1.14. Acting Deputy Commissioner Graeme Barton ordered a Commissioner's Inquiry to be held into the circumstances surrounding the death of Mr Philp on 24 September 2005. Inspector Trevor Lovegrove was directed to conduct the investigation. A copy of the report resulting from his investigation was tendered as Exhibit C19a in these proceedings. Inspector Lovegrove made no criticism of the actions of Senior Constable Pedler. He found that Senior Constable Pedler was conducting his laser detection duties in accordance with police General Orders and was acting lawfully in

¹ Exhibit C20a

all respects. I agree with Inspector Lovegrove's conclusions. There is no doubt that Senior Constable Pedler acted appropriately at all times, and his actions in no way contributed to Mr Philp's manner of driving which resulted in the collision with the Ford station wagon.

- 1.15. Investigating officers interviewed the driver of the Ford station wagon, Mr Stanley Taylor. Mr Taylor was alco-tested and was found not to be under the influence of alcohol. It was arguable that Mr Taylor should have given way to the oncoming motorcycle being ridden by Mr Philp. However, on the evidence it is most unlikely that Mr Taylor could reasonably be expected to have observed the motorcycle in sufficient time to avoid the collision because of the extremely high speed at which the motorcycle was travelling. A number of other witnesses did not see the motorcycle immediately before the collision. Mr Taylor himself did not see it. In my opinion, Mr Taylor acted reasonably in effecting the manoeuvre he was engaging in at the time, namely an attempt to find a parking place near Maughan Thiem Ford.
- 1.16. After the collision, Mr Taylor lost control of his vehicle and collided with a tree on the "plantation" in Port Road at low speed. He was shocked, and was taken by ambulance to the Royal Adelaide Hospital where he was treated for relatively minor injuries. No charges were laid against Mr Taylor in relation to these events. I think it clear that the motorcycle was not in Mr Taylor's line of vision when he began to execute the manoeuvre of crossing Port Road.
- 1.17. I should add that I confirm what in my opinion is obvious on the evidence, namely that Senior Constable Pedler was not in fact pursuing Mr Philp at the time of the collision, and had made no attempt to do so. However, it is plain from the evidence for the reasons already referred to that Mr Philp must have thought that Senior Constable Pedler might give chase, or that some other police officer might do so, and his intention was to evade apprehension at the time of the collision. No doubt Mr Philp must have appreciated that he had just been detected exceeding the speed limit in an extremely substantial and serious manner. It was in his interests not to be pulled over. In my opinion, the responsibility for this high-speed collision must rest with Mr Philp himself. I do not see the need to make any recommendations pursuant to section 25 of the Act in this case.

Key Words: Death in custody; Motor cycle; Motor vehicle accident; Reckless driving.

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 16th day of May, 2007.

State Coroner

Inquest Number 9/2007 (2631/05)