



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 11th and 18th days of March 2011, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Gregory William Pretty and Mostyn Edward Kerry Walker.

The said Court finds that Gregory William Pretty aged 54 years, late of 66a Watson Avenue, Enfield, South Australia died on the Aldgate to Strathalbyn Road, Flaxley, South Australia on the 16th day of January 2010 as a result of multiple injuries.

The said Court finds that Mostyn Edward Kerry Walker aged 50 years, late of 9 Staffa Street, Broadview, South Australia died on the Aldgate to Strathalbyn Road, Flaxley, South Australia on the 16th day of January 2010 as a result of chest injuries.

The said Court finds that the circumstances of their deaths were as follows:

1. Findings of Inquest

- 1.1. Gregory William Pretty and Mostyn Edward Kerry Walker both died on 16 January 2010. Mr Pretty was 54 years of age and Mr Walker was 50 years of age.
- 1.2. Both men died when their motorcycles collided on the Aldgate to Strathalbyn Road at Flaxley. The incident occurred at about 11am on the day in question. Both men were riding motorcycles that were travelling in opposite directions from each other. The collision occurred when both vehicles met head on. Mr Pretty was one of a group of motorcyclists riding together that morning. Mr Walker was riding his motorcycle

alone. It appears that neither was aware of each other's presence on the road at any time prior to the collision.

- 1.3. Both men died at the scene.
- 1.4. Autopsies were performed in respect of both men's remains. Dr John Gilbert, a forensic pathologist at Forensic Science SA, performed the autopsy with respect to Mr Pretty. In his report¹ Dr Gilbert expresses the cause of death as multiple injuries that included skull fractures with scattered cerebral and brain stem contusions, spinal fractures with spinal cord transection as well as multiple rib fractures with extensive lung contusions, bilateral haemothoraces and right upper and lower limb fractures. I find the cause of Mr Pretty's death to have been multiple injuries.
- 1.5. Mr Walker's autopsy was performed by Dr Cheryl Charlwood, a forensic pathologist at Forensic Science SA. Dr Charlwood expresses the cause of death in her report² as chest injuries that included large internal haemorrhages caused by a large laceration to the aorta. There was also traumatic damage to the heart and to the right pulmonary vein. There was obvious impact related damage to the upper chest region including bilateral upper rib fractures and a fracture to the sternum. I find the cause of Mr Walker's death to have been chest injuries.
- 1.6. In neither man's case was there any natural disease that could have caused or contributed to the death. Accordingly, I am satisfied that neither man experienced any medical episode that might have caused or contributed to an inability to control the motorcycle that he was riding. Mr Pretty's partner who provided a statement to the investigating police³, states that Mr Pretty's health was very good. Mr Walker's father, Mr Leonard Bruce Walker, who provided a statement⁴, states that his son had no medical conditions and took no medication. He wore glasses.
- 1.7. At the time of the collision neither man had alcohol or any other common drugs in their respective bloodstreams.
- 1.8. Both motorcycles were extensively damaged as a result of the collision. The motorcycles were examined by a police motor mechanic, Mr Christopher Graham.

¹ Exhibit C3a

² Exhibit C4a

³ Exhibit C1a

⁴ Exhibit C2a

The motorcycle ridden by Mr Pretty was a Honda CB750 that was built in 1971. According to the evidence Mr Pretty had been in possession of the motorcycle for some time and had maintained it and restored it. The mechanical inspection of the motorcycle established that it was in a reasonable condition prior to the collision. There was nothing mechanically wrong with the motorcycle that would have contributed towards or caused the collision.

- 1.9. The motorcycle ridden by Mr Walker was a much newer motorcycle, having been built in 2007. It was a Kawasaki ZX1400 motorcycle. The mechanic concluded that this motorcycle had also been in reasonable condition prior to the collision. There was nothing mechanically wrong with the motorcycle that would have contributed towards or caused the collision.
- 1.10. Both riders were experienced. Mr Pretty was a champion motorcycle rider in the 1970s and 1980s and in those times he enjoyed a large measure of notoriety. Mr Pretty's ability to control a powerful motorcycle cannot be questioned. A statement from Mr Walker's father, Mr Leonard Bruce Walker⁵, states that his son Mostyn had been riding motorcycles since he was a child and had possessed the Kawasaki for some time. There is no suggestion other than that Mr Walker was an experienced rider of a motorcycle. There is no evidence that the collision was caused, or contributed to, by a lack of experience or competency to handle a powerful motorcycle.
- 1.11. At the time of the collision the weather was fine and dry.
- 1.12. Mr Pretty was riding with a group of riders of which he was the lead rider. There is no evidence that the separation of the motorcycles in his group was inadequate. Mr Walker was riding alone. Other than the two motorcycles in question, the traffic was light or virtually non-existent at the location of the collision. Neither rider was overtaking another vehicle at the time of the collision.
- 1.13. It is necessary to say something about the road in question. The Aldgate to Strathalbyn Road is a winding rural road that extends in a generally north-south direction. The road was constructed of bitumen. It consisted of one traffic lane for each direction of travel. At the point of the collision the north and south carriageways

⁵ Exhibit C2a

were divided in the centre by a single broken white line. For southbound traffic, which was the direction in which Mr Pretty was travelling, the road involved a moderate left-hand bend that straightened for a distance, followed by a tight right-hand bend before straightening out, followed by a moderate right bend and then another moderate left bend. The collision occurred on the exit of the first right-hand bend. The bend where the collision occurred involved a tight banked corner. The low point of the road was on the inside or western side of the road. The high point of the road was on the outside or eastern side of the bend. The difference in height was about 1 metre. There were no significant bumps, undulations or damaged sections in the road surface at that bend. The road was bordered on its eastern side by a gravel verge. The road was bordered on the western side by a grassed verge. The southbound lane of the road was 3.5 metres wide and the northbound lane varied from 3 to 5 metres at the approximate point of impact and north around the bend taken by Mr Pretty. For Mr Pretty the bend involved a right-hand cornering manoeuvre and for Mr Walker a left-hand manoeuvre.

- 1.14. The speed limit for the section of road on which the collision occurred was 80 kilometres per hour. There were no advisory speed signs erected at the relevant bend. I infer from the fact that there was no such sign that it was considered that the bend could be taken at the speed limit of 80 kilometres per hour from either direction. Regardless of that, excessive speed was not a factor in this collision.
- 1.15. Rule 129 of the Australian Road Rules stipulates that a driver on a road must drive as near as practicable to the far left side of the road. This rule does not apply to the rider of a motorcycle⁶. However, Rule 132 of the Australian Road Rules stipulates that the driver on a road without a dividing line must drive to the left of the centre of the road⁷, and stipulates that a driver on a road with a dividing line, as was the case here, must drive to the left of the dividing line⁸. There are exceptions to this rule that do not apply in this case⁹. Rule 132 applies in its operation to the riders of all vehicles including motorcycles. In the circumstances that existed in this case, both motorcyclists would have been obliged by this rule to keep to the left of the dividing line. Legally, the riders could occupy any position within their respective halves of

⁶ Australian Road Rules, Rule 129(2)

⁷ Australian Road Rules, Rule 132(1)

⁸ Australian Road Rules, Rule 132(2)

⁹ For example, when overtaking

the road, although for obvious reasons a prudent motorcyclist would generally avoid riding too close to the centre of the road.

- 1.16. The collision was witnessed by two members of Mr Pretty's riding group. Mr Nicola Spagnoletti was a long time friend of Mr Pretty and had ridden with him on many occasions. Mr Spagnoletti himself was an experienced motorcycle rider of some 25 years. He was very familiar with the section of the road in question. On 20 January 2010, four days after the incident, Mr Spagnoletti provided a statement to the police¹⁰. On 13 March 2011 Mr Spagnoletti swore an affidavit attesting to the fact that the contents of the statement that he had given to the police in January 2010 was true to the best of his knowledge, information and belief. Mr Spagnoletti was second in the group of riders riding behind the lead rider, Mr Pretty. Mr Pretty was riding about 30 to 40 metres in front of Mr Spagnoletti. In his statement Mr Spagnoletti describes the approach to the right-hand bend in question. He states that vision through the bend was fairly good, but there were some trees and tall grass that obscured it to a degree. He looked for oncoming traffic but did not see any. Mr Pretty's motorcycle leaned to its right as it entered the right-hand bend. Mr Spagnoletti then describes what he saw:

'As I looked to my right I saw PRETTY out of my peripheral vision. He was leaning over to his right and entering a right bend. He was around the middle of the road, maybe even on the incorrect side of the road a bit. It looked to me like he was going to "straight line" the corner, to cut the corner. It was hard to see exactly where he was as the road was quite bumpy, because my bike and helmet were shaking and I could only see PRETTY out of my peripheral vision. I didn't see how far over onto the wrong side of the road he went.

I could always see PRETTY's motorbike, but only just because of the corner and the grass. I could see the back wheel.'¹¹

- 1.17. Mr Spagnoletti states that he did not see the actual collision as he could not see the whole of Mr Pretty's motorcycle, only the rear of it. However, he saw the aftermath of the collision. Of note is the fact he did not see the brake light of Mr Pretty's motorcycle come on. Mr Spagnoletti suggests that the group of motorcyclists were travelling at about 80 kilometres per hour.
- 1.18. Mr Trevor Wasley was also in Mr Pretty's group of riders. He has ridden frequently with Mr Pretty. Mr Wasley provided a statement to police on 22 January 2010¹². He

¹⁰ Exhibit C8a

¹¹ Exhibit C8a, pages 2-3

¹² Exhibit C6a

swore an affidavit on 1 March 2011 stating that the contents of his statement to the police were true to the best of his knowledge, information and belief. Mr Wasley believes that he was the third rider behind Mr Pretty and Mr Spagnoletti. He could see that Mr Spagnoletti was riding closer to the edge of the road than was Mr Pretty. He suggests that Mr Pretty and Mr Spagnoletti were reasonably close together. This lends support to the fact that Mr Spagnoletti was situated close enough to Mr Pretty to enable him to see how Mr Pretty was situated on the road. Mr Wasley himself observed Mr Pretty enter the right-hand bend and that at that point Pretty was close to the centre white line. Mr Wasley states that as Mr Pretty started riding through the right-hand bend:

'He may have gone slightly over the white line into the other lane.'

As Mr Wasley rode through a left-hand, he looked across the bend and saw a black motorcycle approaching from the other direction. At that point the view of oncoming traffic was somewhat obscured by tall grass, trees and a shed. Mr Wasley's immediate thought was that 'it wasn't going to be good' for Mr Pretty. He believes that Mr Pretty would not have seen the approaching motorcycle as he was further into the bend. He describes the collision as involving the two motorcycles hitting head on to the right side of the centre-line, meaning that Mr Pretty's motorcycle was situated to the right-hand, or incorrect, side of the centre-line for him. Later in his statement Mr Wasley states that he did not know why Mr Pretty was riding 'that close to or just over the centre white line'. He states that Mr Pretty was not one to take unnecessary risks. He suggests that the motorcycles in his group had been travelling at a speed of about 70 kilometres per hour.

- 1.19. None of the other members of Mr Pretty's group of motorcyclists claim to have seen the collision. They were further back in the group.
- 1.20. The evidence of Mr Spagnoletti and Mr Wasley is consistent insofar as it suggests that Mr Pretty was probably on the incorrect side of the road at the time of the collision, albeit not by very much. It also appears from their statements that from the behaviour of Mr Pretty's motorcycle, he may not have seen Mr Walker's motorcycle at all or until it was too late to avoid a collision. In this regard it will be remembered that Mr Spagnoletti at no stage saw Mr Pretty's rear brake light come on.

1.21. I refer to the report verified by affidavit of Mr Christopher Hall¹³ who is a mechanical engineer. Mr Hall consults as a mechanical engineer in the field of motor vehicle accident reconstruction. He holds an Honours Degree in Engineering (Mechanical) from the University of Adelaide. He has been consulting in this field since 1980. His principal area of engineering practice involves the examination of the circumstances surrounding motor vehicle accidents and providing opinions as to how the accidents occurred. This includes a reconstruction of the speeds of vehicles involved. He has given evidence in courts of law on matters involving speed estimations, lines of sight, time/distance/speed relationships, motorcycle dynamics, motorcycle stability, rider control, stopping distances, skid marks and road surface gouge marks. Mr Hall examined the circumstances of this accident. In doing so Mr Hall attended the accident site. Mr Hall was asked to provide a report for the purposes of Allianz Australia Insurance Limited. The report covered the following aspects of this accident:

- What were the likely approach speeds of the motorcycles?
- Where did the collision occur with respect to the centre-line of the roadway?
- From the physical evidence and the geometry of the roadway, were there indicators that either of the riders road in a manner which contributed significantly to the collision?

1.22. One of the matters that naturally occupied Mr Hall's attention was a reconstruction of the approximate point of impact and whether either motorcyclist had been on the incorrect side of the road. Mr Hall concluded that the geometry of markings on the road created by the motorcycles following impact, and the relationship between distances from the centre-line and how the marks were created, tended to suggest that at the point of collision it was more likely that Mr Walker's Kawasaki was on the correct side of the road than was Mr Pretty's Honda. His observations did not preclude the collision as having occurred on the centre-line, but in his view it was less likely that the collision occurred on the correct side of the road for Mr Pretty's Honda.

¹³ Exhibit C11a

1.23. Mr Hall set out a number of conclusions at the end of his report that included the following:

- The motorcycles collided in a near head-on condition while upright.
- The damage to the motorcycles and their rest positions were consistent with an approach speed for each of approximately 60 - 70 kph.
- At that speed, the riders could have easily negotiated the bends within their correct lanes with a low to moderate amount of lean.
- Due to the limitations in the line-of-sight, it would not have been possible for either rider to distinguish that the other rider was on the incorrect side of the road or riding on the centre-line until they were within 40 - 50 metres of each other.
- Any action by a rider recognising that the other rider was on the incorrect side of the road was unlikely to have been successful in the short time available.
- It is not possible to determine accurately where the collision occurred, but based on the directionality of the surface markings, it can be concluded that the collision occurred around the centre-line area of the road.
- Based on the nature of the markings on the road surface and the manner in which they were produced, on the balance of probabilities, it was more likely that Mr Walker had been riding on the correct side of the road and that Mr Pretty had ridden across the centre-line while negotiating the bend.¹⁴

1.24. It will be observed that Mr Hall's conclusions regarding the respective positions of the two motorcycles on the road are consistent with the observations of Mr Spagnoletti and Mr Wasley. In my view it is safe to conclude on the balance of probabilities that Mr Pretty's motorcycle was on the right, or incorrect, side of the centre-line when the collision occurred and that Mr Walker's motorcycle was to the left, or correct, side of the centre-line. I so find. It may well be that Mr Pretty was only marginally on the incorrect side of the road. Mr Walker may have been close to the centre-line, but I am satisfied that he was on the correct side of that line. There was nothing unlawful about Mr Walker's motorcycle's position on the road. Mr Pretty's position on the incorrect side of the centre-line is consistent with Mr Spagnoletti's impression that Mr Pretty was cutting the corner on the inside of the bend. Mr Pretty may not have seen Mr Walker's motorcycle. There is no evidence that Mr Pretty deliberately exposed Mr Walker to risk of a collision, but the collision and the two deaths could have been avoided if Mr Pretty had remained to the left of the centre line as he was obliged by law to do.

1.25. I conclude that speed was not a factor in this collision.

¹⁴ Exhibit C11a, page 21

- 1.26. I conclude that in all probability neither rider had time to avoid the impact.
- 1.27. It is appropriate to raise a further matter by way of a footnote to this tragic incident. As alluded to earlier, Mr Pretty had been a champion motorcyclist of considerable notoriety. On the day of the fatal incident an article concerning the deaths of the two men appeared on the Adelaide Now news website. The article identified Mr Greg Pretty as a motorcycle racing 'legend', a champion rider and former SA Sports Star of the Year. The article referred to the other motorcyclist as a 51 year old man from Broadview who was otherwise not identified. The article extensively quoted the statements of a police spokesman who was attached to the SAPOL Major Crash Investigation Unit (MCIU). The spokesman was quoted in the following terms:
- 'The Honda was heading south on the correct side of the road, the Kawasaki was coming this way (north) and veered on to the incorrect side of the road for whatever reason, and killed both of them. Clearly this collision today is a result of someone driving outside their skill level. If people continue to do that, no matter what the police do or what members of the public do, the road toll will continue to climb.'¹⁵
- The article also quoted the police spokesman as having said that the rider of the Kawasaki, now known of course to have been Mr Walker but not identified at that point in time in the article, had made a 'very grave error' that had 'cost two lives'. The article went on to refer in positive terms to Mr Pretty's undoubted abilities as a rider but said nothing of the kind in relation to the other deceased motorcyclist. The quoted remarks of the police spokesman disparaged the other motorcyclist.
- 1.28. The following day, Sunday 17 January 2010, the exact same article appeared on page 6 of the Sunday Mail. It repeated the observations of the MCIU spokesman. It will be seen that the comments attributed to the spokesman must have been offered to the media on the day of the collision and at a time before any proper investigation into the matter could be completed.
- 1.29. Although Mr Walker was not identified by name in either the Adelaide Now or the Sunday Mail versions of the article, no doubt those acquainted with the late Mr Walker would have known that he was the other deceased rider.
- 1.30. The assertions attributed to the police spokesman have not been publicly corrected since they appeared in the media in January 2010.

¹⁵ Exhibit C18

- 1.31. The assertion made by the police spokesman to the clear effect that blame for the two deaths could be laid at the feet of the other motorcyclist and not Mr Pretty was premature and wrong. The uncorrected account of the accident as described by the police spokesman was if anything the antithesis of the manner in which the accident occurred.
- 1.32. This Inquest would have been largely unnecessary had police refrained from making any public statement about this accident before the facts were established.

Key Words: Drivers-Error, Motorcycle

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

Seal the 18th day of March, 2011.

Deputy State Coroner