



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 10th day of October 2012 and the 13th day of June 2013, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Bernard Francis Evans.

The said Court finds that Bernard Francis Evans aged 57 years, late of 7 Queen Street, Port Albert, Victoria died on the Mallee Highway at Sherlock, South Australia on the 17th day of January 2011 as a result of multiple injuries. The said Court finds that the circumstances of his death were as follows:

1. Introduction, cause of death and reason for Inquest

- 1.1. Bernard Evans was 57 years of age when he died in a motor vehicle collision on the Mallee Highway on 17 January 2011. The location of the collision was 24 kilometres east of the Dukes Highway, Tailem Bend on the Mallee Highway. Mr Evans' vehicle had left the road and collided with a tree. The accident occurred at approximately 9pm that day. A post-mortem examination was conducted by Dr Gilbert of Forensic Science South Australia¹. Dr Gilbert gave the cause of death as multiple injuries and I so find.
- 1.2. At the time of his death Mr Evans was liable to detention under the Mental Health Act 1986 of the State of Victoria. Although the circumstances are not entirely clear, I am satisfied that Mr Evans was evading apprehension by a person authorised under the law of Victoria to apprehend him. Accordingly, I am satisfied that Mr Evans' death was a death in custody within the meaning of that expression in the Coroners Act 2003 and this Inquest was held as required by section 21(1)(a) of that Act.

2. **Background**

- 2.1. Mr Evans had been diagnosed with schizoaffective disorder when he was about 30 years of age. He lived alone in Yarram in Victoria. Yarram is situated some 250 kilometres east of Melbourne. Mr Evans was the subject of a Community Treatment Order in Victoria and was being monitored for that purpose by psychiatrist Dr Agrawal of the Yarram Community Mental Health Service. Mr Evans would attend at the Yarram Community Mental Health Service every 4 weeks for a mental health examination including a risk assessment. He would be issued with a webster pack containing his medications (lithium and olanzapine) and he was generally very compliant with his medication and his attendances at the clinic.
- 2.2. On 13 January 2011 Mr Evans failed to attend a scheduled appointment at the Yarram Community Mental Health Service. A member of the nursing staff, Ms Sidebottom, telephoned Mr Evans at his home and spoke with him. He was stuttering and incoherent and spoke rapidly for some 15 minutes. Ms Sidebottom knew these symptoms meant that Mr Evans was suffering from an exacerbation of his illness. She notified Dr Agrawal of what had occurred and Dr Agrawal revoked the Community Treatment Order which had the effect of requiring Mr Evans to come into the clinic for treatment. Effectively, he was liable to apprehension at that point. Neither Ms Sidebottom nor Dr Agrawal had any concerns that Mr Evans might be suicidal or at risk of self-harm. He had never exhibited any such tendency in the past. It seems that efforts were made to apprehend Mr Evans that day. In fact, he did attend at the Yarram Community Mental Health Service but left before he could be detained. An ambulance was dispatched to his home however, because of other priorities, the ambulance had to be diverted. Staff notified the Victorian Police of the situation.
- 2.3. In the result, Mr Evans was not apprehended in Victoria. The next sighting of Mr Evans that is known to have occurred was at approximately 3pm on the Riddoch Highway, Straun, just out of Naracoorte in South Australia. Mr Evans was seen standing near Mosquito Creek at that location and was spoken to by several employees of the South East Natural Resources Management Board who were in the

¹ Exhibit C2a

vicinity for a meeting. Mr Evans' behaviour as described in the accounts of that group was unusual, but not sufficiently so to cause them undue alarm².

- 2.4. The next reporting sighting of Mr Evans was at approximately 7:45pm at the Coonalpyn Hotel, Coonalpyn. Ms Walter, the Bar Manager of the hotel, had a conversation with a man who was subsequently identified as Mr Evans³. She described some unusual behaviour and that Mr Evans spoke very rapidly and made some inappropriate references. He left the hotel and his behaviour was sufficiently odd to cause Ms Walter to make a note of the registration number of his motor vehicle. She decided to ring the Coonalpyn Police Station but her call was diverted to an automated service. She tried a second time with the same result. She did not think the episode was sufficiently serious to make an emergency call and so did not pursue the matter further.
- 2.5. The collision occurred approximately an hour after the sighting at the Coonalpyn Hotel. The Major Crash Investigation Unit conducted a careful investigation of the collision site. The evidence revealed by that investigation shows that no attempt was made by Mr Evans to brake or take evasive action to slow his vehicle when it drifted off the road and in the lead up to the collision. The investigation showed that Mr Evans' vehicle moved gradually from the westbound traffic lane across the eastbound traffic lane and off onto the northern side of the road. The gradual movement was consistent with the driver having fallen asleep. The vehicle travelled for approximately 158 metres from the point at which it left the road to the point of collision with the tree. The damage was extensive and consistent with a collision at high speed. There was no evidence to suggest that the collision was a deliberate act and the investigators drew attention to the fact that there were a number of other large trees that had been bypassed in the 158 metres journey from the side of the bitumen. Had Mr Evans been deliberately intending to harm himself, it would have been more likely that he would have directed the vehicle towards one of those trees. It seems clear that Mr Evans had fallen asleep at the wheel.
- 2.6. Mr Evans' brother, Mr John Evans, attended at the hearing of the Inquest in this case. He was able to inform me that it was his belief that his brother was travelling to Adelaide to visit him as he lives in Adelaide. Mr John Evans had noted that a number

² Exhibits C5a, C6a

³ Exhibit C8a

of items had been purchased by the deceased at Mount Gambier which appeared to be gifts⁴ suitable for his brother's teenage children.

- 2.7. Mr Evans' brother postulated that the deceased would have been very tired from having driven a considerable distance to the point of collision.
- 2.8. In my opinion, it is likely that the deceased had fallen asleep after driving for many hours. It is true that he had had a known break at the Coonalpyn Hotel and also at Mosquito Creek, but no doubt these were not enough to revive him sufficiently.
- 2.9. Mr Evans' brother expressed concerns about the efforts made by the Yarram Community Mental Health Service to locate his brother. I have noted those concerns but express no opinion one way or another as this Court has no power to make recommendations affecting agencies of another State.

Key Words: Death in Custody; Psychiatric/Mental Illness; Motor Vehicle Accident

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

Seal the 13th day of June, 2013.

State Coroner

Inquest Number 26/2012 (0097/2011)

⁴ Games, books and videos