

CITATION: *Inquest into the death of Christopher Limerick* [2001] NTMC 70.

TITLE OF COURT: Coroner's Court

JURISDICTION: Tennant Creek

FILE NO(s): A67/2000

DELIVERED ON: 16 October 2001

DELIVERED AT: Tennant Creek Magistrates Court

HEARING DATE(s): 12, 13, 14, 15 June 2001
25, 26 July 2001

FINDING OF: Mr Greg Cavanagh SM

CATCHWORDS:

CORONERS – INQUEST
Disappearance, Missing Persons Inquiry,
death, possible crimes in connection
therewith.

REPRESENTATION:

Counsel:

Assisting:	Mr Jon Tippett
Northern Territory Police	Mr Michael Grant
The Family of the Deceased	Mr David Bamber
Mr Walter Turnbull	Mr John McBride

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IN THE CORONERS COURT
AT TENNANT CREEK IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. A0067/2000

In the matter of an Inquest into the death of

**CHRISTOPHER LIMERICK
ON OR ABOUT 8 OCTOBER 2000
AT TENNANT CREEK**

FINDINGS

(Delivered 16 October 2001)

Mr CAVANAGH:

THE NATURE AND SCOPE OF THE INQUEST

1. Christopher Limerick (“the deceased”) was found dead by family members at the bottom of an open cut mine known as Noble’s Nob Mine on Thursday, 26 October 2000. This mine is situated close to the township of Tennant Creek.
2. Section 12(1) of the *Coroners Act* (“the Act”) defines a “reportable death” to mean a death that:

“appears to have been unexpected, unnatural or violent, or to have resulted directly or indirectly from an accident or injury”.
3. For reasons that appear in the body of these Findings, the death fell within the ambit of that definition and this Inquest is held as a matter of discretion pursuant to s15(2) of the Act.
4. Section 34(1) of the Act details the matters that an investigating Coroner is required to find during the course of an Inquest into a death. That section provides:

“(1) A coroner investigating –

- (a) death shall, if possible, find –
 - (i) the identity of the deceased person;
 - (ii) the time and place of death;
 - (iii) the cause of death;
 - (iv) the particulars needed to register the death under the Births, Deaths and Marriages Registration Act;
 - (v) and relevant circumstances concerning the death.

(2) A coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.

(3) A Coroner shall not, in an investigation, include in a finding or comment a statement that a person is or may be guilty of an offence.”

5. Section 34(2) of the Act operates to extend my function as follows:

“A coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.”

6. Further, sections 35(2) and 35(3) are relevant as follows:

“(2) A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.

(3) A coroner shall report to the Commissioner of Police and the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act* if the coroner believes that a crime may have been committed in connection with a death or disaster investigated by the coroner.”

7. The public Inquest in this matter was heard at the Tennant Creek Magistrates Court on 12, 13, 14 and 15 June, and 25, 26 July 2001. Counsel assisting me was Mr Jon Tippett. Mr Michael Grant sought leave to appear on behalf of the Northern Territory Police. I granted leave pursuant to s40(3) of the Act. Mr David Bamber sought and was granted

leave to appear on behalf of the family of the deceased. Mr John McBride sought and was granted leave to appear on behalf of Mr Walter Turnbull. The family of the deceased were in attendance during the Inquest.

8. Twenty six witnesses gave evidence during the Inquest and a further seventy statements and exhibits were received. This evidence enables me to make the following formal findings as required by the Coroners Act.

FORMAL FINDINGS

- (a) The identity of the deceased was Christopher Limerick, an Aboriginal male born on 9 March 1980 at Tennant Creek in the Northern Territory.
- (b) The time and place of death was at Noble's Nob Mine, Tennant Creek on or about 8 October 2000.
- (c) The cause of death was unable to be determined.
- (d) The particulars required to register the death are:
 - 1. The deceased was a male.
 - 2. The deceased was of Aboriginal Australian origin.
 - 3. The death was reported to the Coroner.
 - 4. The cause of death was not able to be determined despite a full post-mortem examination.
 - 5. The pathologist viewed the body after death.
 - 6. The pathologist was Dr Michael Zillman of the Royal Darwin Hospital.
 - 7. The father of the deceased is Angus Limerick (Snr) and the mother of the deceased is Margaret Ngulwai.

8. The usual address of the deceased was 8 Blackmore Court, Tennant Creek, in the Northern Territory of Australia.
9. The deceased was unemployed at the time of death.

RELEVANT CIRCUMSTANCES

9. The deceased was an Aboriginal Australian. He was born at Tennant Creek on 9th March 1980. He was the second eldest child of Angus and Margaret Limerick. He had three brothers, Brian aged 22 years, Angus Jnr aged 16 and Mark aged 12 years, he also had one sister, Geraldine aged 17 years. He also had a step-brother Ricky Green and two step-sisters Maree and Penny Green. At the time of his death he was living with Ricky Green and Maree Green at 8 Blackmore Street, Tennant Creek. He also spent time at his parents outstation, Illawarra, which is approximately 250 kilometres north east of Tennant Creek.
10. As a young child he grew up with his family at Alexandria Station. His father was born in that region and the deceased was raised speaking the local Aboriginal language of the area together with the English language. In the 1980's the family moved into Tennant Creek so that the children could continue their education. The deceased attended one of the local primary schools and later he went to Yirrala College in Alice Springs. He did not complete his education and returned to Tennant Creek. He had the reputation of a very good sportsman in his teenage years participating both in Australian Rules Football and basketball.
11. At the time of his death the deceased was not in receipt of an income. He had been enrolled in the Community Development Employment Program (CDEP), however, he was not working at the time of his disappearance. He did not have any formal trade or work qualifications. It appears that he often depended on his family for support, something they were happy to do in the normal Aboriginal way. He did not have any serious health

problems although heavy drinking and smoking resulted in him suffering a number of bronchial episodes which saw him hospitalised for treatment. In the days before his disappearance he spent a week in hospital from 28 September till 5 October 2000 for treatment of an infected finger, alcoholism and mild pneumonia.

12. His alcoholism led him to begin to engage in behaviour that brought him to the attention of the police. This behaviour commenced in about 1995 and the deceased had a history of petty thievery and unlawful entry of buildings in and around the Tennant Creek township. I agree with the submission of Counsel that this behaviour indicated that he was “a nuisance about town rather than a person that stole for significant personal gain”. The fact that his offending was, almost without exception, related to the use of alcohol and that he was an alcoholic, supports the contention that the offending was undertaken mainly to meet his needs for alcohol.
13. The body of the deceased was discovered by a group of his relatives at the bottom of the open cut mine known as Noble’s Nob Mine which lies 14.5 kilometres to the east of Tennant Creek. The body was found on Thursday 26 October 2000. The deceased had been reported missing to police by his step-sister on the late afternoon of 8 October. I am satisfied on the evidence that the last confirmed sighting of the deceased was on Saturday 7 October 2000 by Mr Ashley Ernest Frost. The sighting was at the lookout site overlooking the Noble’s Nob Mine. The deceased was observed to be apparently in a disorientated and dehydrated state.
14. For a number of reasons much mystery and suspicion surround the death of the deceased. An actual cause of death was not able to be determined by the Forensic Pathologist due to the physical decomposition of the body. Furthermore he was a person not known to visit the mine site where his body was found. He did not own nor have access to a motor vehicle. I heard from members of his family that they knew of no reason whatsoever

for him to be in the area where his body was found. It is highly unlikely he walked the distance. The mystery of his death gave rise to much suspicion and rumour within the Tennant Creek community. Allegations were made against police who were stationed in Tennant Creek at the time and a number of other persons who did reside or continued to reside in the Tennant Creek community including the proprietor of the town's largest private security firm (Mr Walter "Skimbo" Turnbull).

15. The tensions within the town engendered by suspicions in relation to the death were obvious to be seen within the court during the first couple days of the Inquest. There appeared to be close attention to seating arrangements with the courtroom divided between family and friends of the dead aboriginal man on one side of the courtroom, with friends and business colleagues of Turnbull on the other. By the close of the Inquest this appeared not to be so; some suspicions had been allayed and tensions broken. No doubt, the lack of evidence to substantiate the involvement of the police and/or Mr Turnbull in the disappearance and death helped in this regard. I note that counsel for the family in final submissions expressly withdrew any such allegations.
16. Maree Green (the step-sister of the deceased) told me (Transcript p.111):

“What went on there and in light of what you have heard you do not say now that it is the police that is in any way involved in your brother's disappearance, do you?---No.”
17. As I have stated, Mr Bamber in final submissions on behalf of the family also made the same concession. In my view, there is no evidence that the police in Tennant creek had anything to do with the disappearance and death of the deceased.
18. Mr Walker "Skimbo" Turner gave evidence, and I found him to be a credible and reliable witness. He denied any involvement in the disappearance and death of the deceased and I believe him. In addition

there was no real or direct evidence to that effect. There is evidence of disharmony between them, and of recent threats to kill by Turnbull, however, on all of the evidence such things do not necessarily lead to any adverse inference in terms of the death. As to suggestions in the evidence of (a) Turnbull being unduly involved with police in interrogating persons from time to time at the Noble's Nob area, (b) of Turnbull's unfairly picking up juvenile suspects and "obtaining" their help to solve crimes and (c) Turnbull being (in some people's eyes) too close to the police, I do not think these matters are germane to the issues that fall to be decided by me. I make no finding in relation to them.

19. The night before the disappearance of the deceased, (on 6 October 2000) the evidence establishes to my satisfaction that he was seen and apprehended at the residence at 191 Patterson Street, Tennant Creek. Associated with this fact is an earlier incident at the same address (on 29 August 2000). The evidence established that the deceased was apprehended by a Mr Keith Murdoch, a resident at this address, on 29 August 2000 unlawfully entering the premises. Mr Murdoch gave chase and a short time later the deceased was located and arrested by police. On all the evidence it appears that the defendant had visited this particular house for purposes of endeavouring to find alcohol. The house was tenanted by three men including Mr Murdoch who were all known to be heavy drinkers.
20. On the evening of 29 August 2000, and after his apprehension by police, the deceased was transferred to the Tennant Creek Hospital due to having infected fingers. These particular fingers had been broken during an earlier incident of unlawful entry at the El Dorado Motel on 27 July 2000. During this particular incident the deceased was apprehended by Mr Walter Turnbull, a private security guard, within the bar area of the El Dorado Motel with a garbage bin full of liquor. Mr Turnbull caused two fingers of the deceased to be badly broken during this apprehension.

21. The deceased remained as an in-patient at the Tennant Creek Hospital until his discharge on Thursday 5 October 2000. It is relevant to note that the deceased had bail obligations to appear at Tennant Creek Court on the 24 October 2000, his bail obligations included obliging him to report to the Officer In Charge of the Tennant Creek Police Station each Monday, Wednesday and Friday between 8.00am and 4.00pm. He failed to report in accordance with those conditions which later led some to believe his disappearance may have been due to him trying to evade police. After the discharge on 5 October 2000 from the hospital, the evidence suggests that the deceased stayed with his family alternating between the Blackmore Street residence and Wuppa camp. On Friday 6 October 2000 he visited a relative, Christopher Shaw, in the morning. Christopher Shaw had some friends from Alice Springs with him and the deceased began drinking with them throughout most of the day. Later on in the day he spent some time with his father, after which his father drove him into town and dropped him off. Later in the evening he was driven by his father to Wuppa camp and continued to drink with relatives.

22. Later again in the evening the deceased left the camp and walked back into the township of Tennant Creek. Apparently he had had an argument with a friend. He was seen in Tennant Creek wearing dark knee length shorts and a yellow coloured shirt. He did not appear to have any footwear and was not wearing any kind of cap or hat. People who saw him that evening observed that he appeared affected by alcohol to quite some extent. Eventually he went to sleep in the bedroom of the premises occupied by a relative Christopher Shaw. This may have been around the time of 8:00 or 9:00 o'clock in the evening. Dorothy Williams, the deceased's aunty, says that she looked into the bedroom later on in the evening at around 10:30pm and noticed that the deceased was not there and that the flyscreen of the window had been pushed out.

23. Evidence was given by various witnesses about events at the premises situated at 191 Patterson Street, Tennant Creek at around 10:30pm on Friday 6 October 2000. Mr Graham Walker who lived adjacent to this house had just returned home after having a few beers with a friend. He resided in a caravan on a site which was positioned near the back fence and close to the back door of the house situated at 191 Patterson Street. I found Graham Walker to be a confident and credible witness, and I accept his evidence. He told me of overhearing a loud and heated argument between a young man and two or three older men. Apparently the young men had just been caught entering through the back door of the house. Mr Walker recognised the voice of the one of the older men as that of “the kiwi bloke”. There is no doubt that “the kiwi bloke” was Mr Keith Murdoch who lived in the house, was the only New Zealander in the house and whose voice and identity were known to Mr Walker. Mr Murdoch asked the young man why did he keep on coming there? The young man sounded scared and frightened. The young man was threatened with the use of a “pelican pick” (a mining tool). The argument and noise went on for over 10 minutes.
24. Mr Graham Walker told me of a conversation he had the next day with Keith Murdoch and I quote (transcript p.98):

“MR TIPPETT: You spoke to the person who lived next door at 191 the following morning, Saturday morning you told the police, do you remember that?---Yes, that’s right.

That conversation was started by you because of that commotion you had heard the night before in his premises?---Yes, that’s right. As he walked past I said, ‘You had a bit of trouble there last night,’ and as far as I can remember he said, ‘Yes, nothing I couldn’t handle though. I think that was about it. He wandered off because we were having a smoko out the front. He wandered off down the street and came back probable 10 or 15 minutes later.

You also told police and I ask you whether you can recall this: ‘It is hard to remember what else he said but it was something like, “He must be a slow learner”.’ Do you remember those words or words to

that effect being said by the gentleman you spoke to?---Yes, that's right. Obviously whoever was there had been there before and he wasn't welcome. "

25. Mr Ian Walker (the brother of Graham) also gave evidence and told me about a passing conversation he had with Keith Murdoch (the day after the night-time events described by Graham). I quote (transcript p.89):

“Was there any discussion between you and he, that is the Kiwi bloke and yourself after Graeme had told you about the events of the night before?---Just casually. When I was out the front of the workshop. He was walking past and I said G'day to him and I just said to him, 'Have you had any more visits from the bloke that broke into your place,' and he said, 'No, I don't think he'll come back.' That was all.”
26. In my view as I have already said, the young man referred to as a “slow learner” by Keith Murdoch was the deceased.
27. One of the occupants on the house at 191 Paterson Street on the night of 6 October 2000 was a Mr Robert Bender. He gave evidence that indicated that he was at home at the relevant time but did not hear anything untoward or take part in any incident involving the apprehension of the young man. However, he did give evidence that Keith Murdoch told him that he (ie. Keith Murdoch) had chased an aboriginal person out of their yard. Mr Bender's evidence suggested that this conversation referred to an incident on the night of 6 October although there is some confusion about this. Unfortunately, I am unable to place much weight on Bender's evidence as I formed the view that he was an unreliable witness.
28. Mr Sonny Read gave evidence to me. He was a sometime resident of 191 Paterson Street, and drinking partner of Murdoch. He denied being involved in any incident to do with the disappearance of the deceased. Although he did give evidence of a conversation with Murdoch and I quote (transcript p.277):

“You say he did not tell you anything about the details of what had happened?---All I remember is Murdoch said, ‘Someone got chased off,’ the first time and the second time, ‘Someone broke in,’ okay.”

I could not establish from his evidence whether the two instances related to the deceased on 29 August and 6 October. I am unable to place much weight on Read’s evidence as, similarly with Bender, I found him to be an unreliable witness. Both Bender and Read did confirm the existence of a “pelican pick” at the premises situated at 191 Paterson Street, and the fact that it was kept adjacent to the back door.

29. Mr Keith Murdoch gave evidence at the Inquest. He knew the deceased and was able to recall the incident that occurred on the evening of 29 August 2000. He admitted that he was home at 191 Paterson Street, on the night of 6 October 2000. He cannot remember any incident relating to the deceased on 6 October. He cannot remember anything like the sort of things related by the Walkers (both in relation to actions and conversations). Strangely, and in my view suspiciously, he did not deny outright his involvement in an argument with the deceased (or any intruder) on the night of 6 October. Rather, Mr Murdoch’s response to persistent questioning was a litany of “I don’t know”, “I don’t remember, I don’t recall” which culminated with an aggressively toned “I don’t know nothing, all right!”
30. He knew of no reason why the Walkers would fabricate conversations with him or tell untruths about him.
31. In my view Mr Murdoch gave his evidence in a cavalier and disingenuous fashion. He appeared to me to be selective in his memory of events and statements that he had made to police about events. In my view he did confront and threaten the deceased on the night of 6 October in the fashion outlined by Mr Graham Walker (and corroborated by conversations between Graham and Ian Walker with Murdoch the next day). Mr Murdoch

was determined to protect himself and his (unknown) associates from being accused of anything in relation to this confrontation.

32. Officers of the Northern Territory Police Force situated in Tennant Creek were notified that the deceased was missing by Maree Green, the sister of the deceased. They were notified at around 5:00 on Sunday afternoon the 8th of October 2000. The family of the deceased were concerned about the disappearance and the evidence shows that they did everything they could to assist the Police with the search. They passed on relevant information from time to time. Unfortunately some of this information suggested that the deceased was, in fact, alive and in various other places both in the Northern Territory and interstate. The family complains that the police efforts in the early stages were not urgent or sufficient.
33. What is sufficient in terms of effort in searching for missing persons may well be a matter of degree and depend on the eye of the beholder (viz. The worried family or objective professionals). What can be said is that the police did not have any idea (and could not be expected to have such an idea) of a crime or serious crime being committed in connection with the disappearance in the early stages. Accordingly, I do not criticise the police for not pursuing the matter with the same degree of vigour as, say, a homicide investigation. Of course all that changed with the discovery of the body.
34. On about 14 or 15 October 2000 Mr Ashley Frost visited an outstation and spoke to a relative of the deceased, Ms Joy Priest. During that conversation, Mr Frost recalled that he had seen a person of a similar description to the deceased when he was at the Noble's Nob Mine site on Saturday 8 October 2000. Ms Priest showed him a photograph of the deceased and Mr Frost confirmed that the person in the photograph was similar to the young man that he had seen at the lookout at Noble's Nob

Mine. Ms Priest told me in evidence of what Mr Frost had said in relation to the appearance of the deceased and I quote (transcript p.114):

“What did you do when Mr Frost told you this?---I asked him about the condition of the boy. He said to me when he walked over to him he looked like he was dehydrated and disorientated and that when he walked back towards under the shade he was staggering back towards the shade.

Did Mr Frost tell you what time of day this was he made these observations?---No time but he did say it was very hot (inaudible).”

35. Evidence was also given by Mr Maxie Priest who corroborated that of his wife Joy.
36. Mr Ashley Frost gave evidence at the Inquest and stated that he thought the date that he saw the deceased was more likely to be Sunday the 8th of October, however, on balance I am of the view that it was Saturday the 7th of October (and which is in accordance with his conversation with the Priests). Mr Frost went out to the mine in the late afternoon of a very hot day. Indeed, he went there to view bush fires. Mr Frost was a recently appointed Public Servant Health Professional from Victoria and had only been in the Northern Territory for a little while. The deceased got up from under the shade of the look out structure and approached Frost’s motor vehicle. He was wearing only a pair of shorts and had nothing on his feet. The deceased made motions indicating that he needed a drink. That need was not met by Mr Frost. The deceased was left to his own devices by Mr Frost at the lookout tower and Mr Frost drove off without turning off the motor of his car or lowering the car windows.
37. Mr Frost told me that the deceased looked intoxicated although there was no evidence of alcohol or signs of drinking. He concluded that the deceased was looking for alcohol, he concedes that the conclusion was wrong in hindsight. He was cross-examined and I quote (transcript p.136, p.137, p.138):

“The gentleman gestured for some drink from you?---Yes, not water, as one scurrilous journalist tried to misrepresent.

He gestured for something to drink. You understood that he was gesturing for a drink?---A drink of some sort.

THE CORONER: It might have been water, you do not know do you?---Yes, yes, it was for a drink yes.

MR McBRIDE: You did not feel intimidated by the situation did you?---I was a little bit. Although there was fairly clear vision I was relatively new at Tennant Creek and there was a lot of stories about things that can happen and I was sort of vaguely aware that the ground dropped off in various areas and I wondered if there were other people there. That wasn't my immediate thought, I just thought it strange - well not strange but I just wondered if that was sort of normal. Although it was out of town it wasn't that far out of town.

You would agree that it was probably not normal to come across a man all on his own in the afternoon of a very hot day in a remote location away from Tennant Creek township gesturing to you for a drink. That wasn't normal at all, was it? ---Well in hindsight it definitely wasn't.

No, that situation that you came upon that you described, and that you agreed with me you came upon was far from being a normal situation that, as a general manager of a health service, you would expect to come across?---Perhaps I didn't know what to expect.

In any event, you did not take the trouble to even open your window of your motor vehicle, even a couple of inches, and ask of this gentleman what he, in fact, did want?---Well the conversation ended when he turned around and walked away.

There was no conversation was there?---No, there was a hand signal.

A gesture?---A gesturing conversation.

You did not converse with this gentleman did you?---Not face to face.

You did not take the trouble to open your window even slightly to ask him whether he was in need of anything?---That's correct.

Is it true to say that you were troubled enough by what you saw that when you got down to the road, Peko road, you thought about the situation further?---Correct.

But you did not return to see whether or not your troubled mind could be allayed by asking this gentleman if he was all right?---Well correction, it wasn't a troubled mind, it was just an enquiring mind. It was an event that happened and I was thinking - -

You were troubled by it, were you not?---I was wondering yes.

You were troubled by the situation. It was a situation that if you found yourself in you would be concerned., in the middle of nowhere without any obvious transportation, in very hot circumstances, temperatures in excess of 30 degrees, 35 degrees perhaps. If you were gesturing to someone for water - - - ?---In a pair of shorts.

In a pair of shorts without a hat?---Well I wouldn't have turned and walked away. That really - if I was thirsty and isolated out there I wouldn't have turned away and just accepted it with a shrug of the shoulders and a shake of the head.

Why did you not put your window down even slightly if you were concerned about an attack by this dishevelled gentleman and ask him what he wanted?---I wasn't in any fear of immediate attack, as you put it.

Well if you were in no fear of immediate attack, what prevented you from opening your window and asking this semi naked gentleman, in very hot conditions in the middle of nowhere, who was gesturing you for a drink, and you understood all that and observed all that, whether he was okay. What prevented you from asking him that one question, `Are you okay?`? ---Well that's a good question.

Can you answer it?---Nothing, apart from the fact that he, as I said, turned around and walked away. I suppose I would have had to hop out of the car to do that because, as I said, I was on the wrong side of the car and all that but the relevance is really when you come to look at the magnitude of it all.

The location where your car came to a stationary position, close by the observation tower, it is quite an open expanse of ground, is it not?---Yes.

There was nothing for you to drive in your car up closer to the observation tower, if you were any distance away, and open your

window and speak to somebody seated, or lying or standing by or on or underneath the observation tower, was there. There was nothing preventing you driving to a position where you could communicate?---If I had thought at the time he was after water or in any way in distress I would have done that and I certainly didn't at the time.

No, but with respect, you knew he wanted a drink?---Correct.

After you left the Noble's Nob area did you return to Tennant Creek?---Yes.

Did you go home?---No I drove through the town. I can't remember where I was going, probably might have been going into work or something.

Did you not think to go to the police station and advise them that there was a gentleman in the condition that you have described at a remote location at Noble's Nob mine in the middle of the hot summer sun. Did you not think to go to the police station and report that fact?---The thought did cross my mind but again it was one of those unfortunate things that, as I said I went over the circumstances in my head and unfortunately it weighed the other way.

So the thought did cross your mind to go and report this gentleman that you observed at the mine site to police. Is that your evidence?---It's one of the many thoughts I had.

You chose not to do that?---I chose not to”

38. Just exactly why Mr Frost did not get out of his vehicle, or at least make an inquiry as to the needs of the deceased, are not clear (even I think to Mr Frost). Mr Frost says in effect that he thought the deceased was asking for alcohol and to some extent was a danger. However, there was nothing to suggest by way of any objective evidence of a wish for alcohol or any danger. If Mr Frost's inaction was caused by a response to some kind of stereotype image of aboriginal men, then it was a very sad day for the community and an even sadder day for the deceased.
39. Information about the deceased being seen at the mine site was passed on to the Police and on 20 October police officers spoke to Mr Frost.

Thereafter a patrol was sent out to the mine and two police officers stopped their vehicle in the carpark adjacent to the lookout and had a look around. They did not enter the mine site and did not go beyond the security fence, although they did scout around the mine perimeter for a little way. They used binoculars but did not observe anything unusual. Constable Hadj discovered a knee support bandage in the area around the lookout, however, as he was not aware that it was of any relevance he discarded it. As it transpired this item was known to be worn by the deceased, however, it was not listed in the description given to police of the deceased's clothing at the time of disappearance.

40. I agree with concerns of the family that it was very unfortunate that it was members of the deceased's family that discovered the decomposing body (and younger members of the family at that). Both Constable Hadj and Senior Constable Adams frankly conceded that their search at the mine site was "cursory". Senior Constable Adams told me and I quote (transcript p.204):

"THE CORONER: Based on what you have agreed was important information from Mr Frost together with your perception that he may have perished, do you yourself think in hindsight maybe, looking back, that it would have been a better idea for more troops to have been put on the job of going out to Noble's Nob the day you did and doing a more extensive search?---In hindsight yes."

41. In my view, even without hindsight, the police search at the mine ought, in all the circumstances, to have been more extensive than it was. I agree with the submissions of Mr Bamber that an earlier finding of the body may have resulted in more evidence as to the cause of death being available
42. On 25 October Joy and Maxi Priest decided to follow up the information that had been relayed to them by Frost themselves, and they went out to the lookout site and the Noble Nob Mine. They found the discarded knee support and took it back to Wuppa camp and showed it to relatives of the deceased. Angus Limerick junior believed that this was a item of apparel

that was used by his brother. Accordingly on Thursday 26 October Joy Priest returned to the mine with a group of family members. As a result of finding a partial footprint at the perimeter of the mine, two of the young men decided that they would descend into the mine and carry out a search. When they reached the bottom of the mine they smelt a strong odour of decaying flesh and observed the body of the deceased. The deceased was lying slumped over a rock near the edge of a pool of water that was at the bottom of the mine. His only clothing was dark pair of torn cargo shorts. The boys left the body and called out the others. Angus Limerick junior was asked to identify the body by some members of the group. He descended into the pit and confirmed that the remains were those of his brother.

43. It appeared to some people that the deceased may have been the victim of foul play due to the fact that it appeared that a rock had been placed on his head. Photographs taken of the body of the deceased in the position where he was found do not in fact reveal any rock on the head of the deceased. Although a view from a position slightly higher up from where the deceased was found could suggest that a rock was on the head of the deceased because of the angle of the view.
44. Tennant Creek police were informed of the discovery of the body and attended at the scene. Photographs were taken of the body and a guard was placed at the mine site overnight. The next day forensic members of the police force arrived and the body was subsequently removed. Formal identification of the body was carried out by DNA testing and there is no doubt that the body was that of the deceased. Subsequent post mortem examinations by Michael Zillman resulted in a cause of death “Not being able to be determined”. Some external head injuries were found on the deceased there were consistent with a fall by him in the rocky area in which his body was found, and also consistent with assault. Whereas, a precise time or date of death could not be determined, Dr Zillman was of

the opinion that the state of body decomposition was consistent with death occurring on or about 8 October 2000. There was also some evidence that the person would be lucky to survive more than two days in such inhospitable country dressed only in a pair of shorts and without water. Dr Zillman's opinion was corroborated by the opinion of Professor Peter Herdson. Amongst other things both forensic pathologists could not correlate the head injuries with an assault specifically by the use of a pelican pick or any other object.

45. Subsequently the coronial investigation into the death of the deceased was carried out by Detective Sergeant Scott Pollock of the Alice Springs CIB. It was thought appropriate to bring in a police officer from outside the Tennant Creek region as a result of the amount of rumour, innuendo and speculation that resulted from the disappearance and death. As I have already noted, this rumour and speculation extended to Tennant Creek police officers who it was said may have been involved in the disappearance and death. The investigation by Detective Scott Pollock was extensive, thorough and objective in my view.

CONCLUSION

46. After a consideration of all of the evidence, and on the balance of probabilities, I find that the deceased met his death near the bottom of a disused open cut mine known as Noble's Nob Mine situated 14.5 kilometres outside of the town of Tennant Creek. In my view it was impossible for him to have fallen from the top of the mine to the place where his body was found. I do not believe he was carried to the place where the body was found. I find that sometime over the weekend of 7 and 8 October 2000, and after he had asked Mr Ashley Frost for something to drink at the lookout site, he stumbled down the relatively long and steep access road toward the pool of water at the bottom of the mine. He was desperate for something to drink. This pool of water is able to be seen

from the lookout. In the area where his body was found, the road (no doubt, because of non-use) was littered with rocks and boulders (some quite sharp). During the descent he stumbled and fell, and as a result remained where he fell until death from exposure.

47. As to how the deceased came to be at the mine site is uncertain; although there was some evidence that it was involuntary. I do not believe he went there alone despite being seen alone by Mr Ashley Frost on Saturday afternoon 7 October 2000. In my view he arrived at the mine site during the night time hours of the evening of 6 October and the early morning of 7 October. I believe he was heavily intoxicated at the time of his arrival at the mine and may well have been concussed. During the day of 7 October he became progressively dehydrated and disorientated and desperate for a drink.
48. Pursuant to Section 35(3) of the *Coroner's Act* I make a report to the Commissioner of Police and the Director of Public Prosecution that I believe the crimes of unlawful assault on the deceased and deprivation of his liberty may have been committed in connection with death. I refer the matter to them for their further attention.

Dated this 16th day of October 2001.

GREG CAVANAGH
TERRITORY CORONER