



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION

Record of Investigation into Death (Without Inquest)

Coroners Act 1995
Coroners Rules 2006
Rule 11

I, Simon Cooper, Coroner, having investigated the suspected death of John Patrick Boyle

Find, pursuant to Section 28(1) of the Coroners Act 1995, that:

- a) The identity of the deceased is John Patrick Boyle;
- b) Mr Boyle died in the circumstances set out further in this finding;
- c) While satisfied that Mr Boyle is dead, I am unable to determine the cause of his death; and
- d) Mr Boyle died on, or shortly after, 18 October 1969 at or near Mt Anne, Tasmania.

Introduction

1. John Patrick Boyle was born in Mullumbimbi, New South Wales, on 9 October 1943. He was 26 years of age and unmarried when he disappeared near Mount Anne in what is now the South West National Park, Tasmania.
2. Mr Boyle was the son of Edward and Mary Boyle. Mrs Boyle, aged 99 years, is still alive in the ACT. He has one surviving brother, Barry. Mr Boyle grew up and was educated in New South Wales. He was a keen caver and seems to have moved to Tasmania, at least in part, to pursue that activity. At the time of his disappearance, he was a member of the Tasmanian Caverneering Club. Club records indicate that he moved to this state just before April 1969. The Club Newsletter – ‘Speleo – Spiel’ – Edition 34, April 1969 – says that he had recently moved from New South Wales and joined the club.
3. In October 1969, Mr Boyle was living at 322 Macquarie Street, South Hobart.

The Role of the Coroner

4. A coroner in Tasmania has jurisdiction to investigate any death which appears to have been unexpected, unnatural or the cause of which is unknown. The definition of ‘death’ in the *Coroners Act 1995* includes ‘suspected death’¹. For reasons which will, I hope,

¹ See section 3.

become apparent later in this finding, not only do I suspect Mr Boyle is dead, but I am satisfied to the requisite legal standard that he is. A coroner can only investigate a death that is reported. Mr Boyle's death was only reported in the latter part of 2019. The fact that it was not reported, and therefore investigated, when Mr Boyle disappeared is probably due to the fact that under the now repealed *Coroners Act 1957*, a coroner could not investigate a suspected death. That changed when the current Act became law on 31 December 1996. Why Mr Boyle's disappearance was not reported after that date is not clear to me. However, I do not think that the delay since 1996 has materially affected the investigation.

5. When investigating any death at an inquest, a coroner performs a role very different to other judicial officers. The coroner's role is inquisitorial. She or he is required to thoroughly investigate a death and answer the questions (if possible) that section 28(1) of the Act asks. These questions include who the deceased was; the circumstances in which he or she died; the cause of the person's death; and where and when the person died. This process requires the making of various findings, but without apportioning legal or moral blame for the death. A coroner is required to make findings of fact from which others may draw conclusions. A coroner is also able, if she or he thinks fit, to make comments about the death or, in appropriate circumstances, recommendations to prevent similar deaths in the future.
6. A coroner neither punishes nor awards compensation – that is for other proceedings in other courts, if appropriate. Nor does a coroner charge people with crimes or offences arising out of a death that is the subject of investigation. In fact, a coroner in Tasmania may not even say that he or she thinks someone is guilty of an offence.² I should make it very clear I do not think anyone committed any crime or offence in relation to Mr Boyle's death.
7. As was noted above, one matter that the Act requires is finding how the death occurred.³ It is well-settled that this phrase involves the application of the ordinary concepts of legal causation.⁴ Any coronial investigation necessarily involves a consideration of the particular circumstances surrounding the particular death so as to discharge the obligation imposed by section 28(1)(b) upon the coroner.

² Section 28(4).

³ See section 28(1)(b).

⁴ See *March v E. & M.H. Stramare Pty. Limited and Another* [1990 – 1991] 171 CLR 506.

8. The coronial standard of proof is the civil standard. This means that where findings of fact are made, a coroner needs to be satisfied on the balance of probabilities as to the existence of those facts.

Circumstances of Disappearance and Death

9. On 17 October 1969, Mr Boyle, along with Mr Allan Keller, Mr Paul Taylor and Mr Andrew Cole, was a member of a party, exploring the Mount Anne area; looking for potholes⁵. All four men were members of the Tasmanian Caverneering Club. Mr Keller was the group leader. He is now dead. Investigations have not located either Mr Taylor or Mr Cole.
10. The party spent the night near Scotts Peak Road, west of Mt Anne. The following morning, they climbed to the Mt Anne plateau area and established another camp. That camp was described as being on 'the' (or perhaps 'a') button grass plain.
11. The men then made their way to the North East Ridge of Mt Anne to look for potholes. They split into pairs - Mr Keller and Mr Cole were one pair and Mr Boyle and Mr Taylor the other. It was agreed no one would enter a pothole alone.
12. Contemporary reports indicate that Mr Boyle was wearing a cotton singlet, long trousers, an oilskin rain jacket and Paddy Pallin 'Sherpa' boots. He had matches but no compass. Personal Locating Beacons were a long way in the future. Mr Boyle's eyesight was poor. He needed to wear glasses. He appears to have been wearing glasses when he went missing.
13. The men spread out and kept in voice contact. At about 3.40pm Mr Keller apparently asked Mr Boyle to go back down a spur and help Mr Taylor look for a jumper Mr Cole had accidentally left at a pothole. Mr Boyle appears to have headed off in the correct direction towards Mr Taylor, but was never seen again.
14. The other three men met up shortly afterwards and realised Mr Boyle was missing. They went back to the camp, lit a large fire and searched, using torches and calling out to Mr Boyle until about 10.00pm. They could not find him.
15. The search resumed early the next morning. Mr Keller left at about noon to get more help. It began to rain and then snow during the afternoon.

⁵ 'Potholes' are vertical cave entrances.

16. Searchers from the Caverneering Club, the Hobart Walking Club, Tasmania Police and the Climbing Club of Tasmania arrived at midnight and commenced searching the next morning.
17. The search for Mr Boyle continued for eight days. Aircraft, including a Wessex Helicopter from the HMS London, a Royal Navy guided missile frigate visiting Hobart, were involved. Searchers were equipped with 'walkie talkie' radios. Access tracks were cut using chainsaws and machinery and a siren belonging to the Hydro Electric Commission was used.
18. Ground crews scoured the area. The famous Olegas Truchanas found boot prints, possibly from Mr Boyle, in a creek bed $\frac{3}{4}$ mile below the general area where Mr Boyle had last been seen. However, no trace of Mr Boyle was found. Searchers feared he might have lost his glasses, which, if he had, undoubtedly would have made his chances of finding his way to safety even more difficult.

Subsequent Investigations

19. Recent enquiries have established that there is no evidence of Mr Boyle being alive after 18 October 1969. No member of his family ever saw or heard from him again. He has not held a bank account, or been registered with Medicare or Centrelink.
20. There is no record of Mr Boyle in Australia with any birth, death or marriage registries, or any police information holdings anywhere in the country.
21. His mother and surviving brother were both located and DNA samples taken for comparison in the unlikely event that human remains are found in the area where Mr Boyle disappeared.

Conclusion

22. I am in no doubt that Mr Boyle is dead and that he died on or shortly after 18 October 1969 somewhere near the north eastern slopes of Mt Anne in Tasmania's rugged and unforgiving South West. How he died will I think, remain a mystery. He may have fallen in a pothole or through horizontal scrub or succumbed to hypothermia. But it is impossible to say.
23. The contemporary material suggests that the search for Mr Boyle was thorough, well organised and well executed. Those involved – some of whom I have mentioned, as well as Hydro Electric Commission staff, Royal Navy sailors and individual volunteers – deserve acknowledgment, albeit belated.

Comments and Recommendations

24. So much has changed in relation to safety equipment since 1969 that any comments or recommendations pursuant to Section 28 of the *Coroners Act 1995* are probably pointless. However, the danger posed by the Tasmanian wilderness has not changed. Those who venture into the remote areas of our state must be properly equipped and recognise that the responsibility for their safety ultimately rests with them.
25. I do point out that had Mr Boyle being carrying a whistle (which everyone walking in our national parks should carry) then, perhaps, the outcome may have been different.
26. I convey my sincere condolences to Mr Boyle's mother and surviving brother.

Dated: 5 October 2020 at Hobart in the State of Tasmania.

Simon Cooper
Coroner