



# MAGISTRATES COURT of TASMANIA

## CORONIAL DIVISION



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## Record of Investigation into Death (With Inquest)

*Coroners Act 1995*

*Coroners Rules 2006*

*Rule 11*

I, Simon Cooper, Coroner, have investigated the suspected death of Lucille Gaye Butterworth and find as follows:

### **Hearing Dates:**

31 August, 1, 2, 4, 7, 8, 9, 10, 14, 15, 16, 21, 22, 23, 24 September, 18, 19, 23, 24, 25, 26 November, 1, 2 December 2015 and 20 January 2016 in Hobart.

### **Representation:**

Counsel Assisting the Coroner: Mr S Nicholson

Counsel for Mr L Le Sage: Mr S C Chopping – 7 September 2015, 8 September 2015;

Counsel for Mr G C Hunt: Mr G A Richardson – 31 August 2015, 21 September 2015;

Mr A Slicer – 25 November 2015, 30 November 2015, 1 December 2015, 2 December 2015;

Counsel for Mr R Lahey: Mr J O'Shannessy – 19 November 2015.

### **Introduction:**

1. Lucille Gaye Butterworth disappeared from a bus stop on Main Road, Claremont, near Box Hill Road, on the evening of Monday 25 August 1969. No trace of her has been found since.
2. The Coronial Division of the Magistrates Court is established by section 5 of the *Coroners Act 1995* (the 'Act'). The Act deals with the jurisdiction of coroners to investigate deaths.
3. Section 21 of the Act provides:

**"21. Jurisdiction of coroners to investigate a death**

**(1)** A coroner has jurisdiction to investigate a death if it appears to the coroner that the death is or may be a reportable death.”

Section 3 defines death as including a “suspected death”.

The term “reportable death” is also defined in section 3 as follows:

***reportable death*** means –

**(a)** a death where –

**(i)** the body of a deceased person is in Tasmania; or

**(ii)** the death occurred in Tasmania; or

**(iii)** the cause of the death occurred in Tasmania; or

**(iiia)** the death occurred while the person was travelling from or to Tasmania–

being a death –

**(iv)** that appears to have been unexpected, unnatural or violent or to have resulted directly or indirectly from an accident or injury; or

**(v)** that occurs during a medical procedure, or after a medical procedure where the death may be causally related to that procedure, and a medical practitioner would not, immediately before the procedure was undertaken, have reasonably expected the death; or

**(vi)** .....

**(vii)** the cause of which is unknown; or

**(viii)** of a child under the age of one year which was sudden and unexpected; or

**(ix)** of a person who immediately before death was a person held in care or a person held in custody; or

**(x)** of a person whose identity is unknown; or

**(xi)** that occurs at, or as a result of an accident or injury that occurs at, the deceased person's place of work, and does not appear to be due to natural causes; or

(b) the death of a person who ordinarily resided in Tasmania at the time of death that occurred at a place outside Tasmania where the cause of death is not certified by a person who, under a law in force in the place, is a medical practitioner; or

(c) the death of a person that occurred whilst that person was escaping or attempting to escape from prison, a detention centre, a secure mental health unit, police custody or the custody of a person who had custody under an order of a court for the purposes of taking that person to or from a court; or

(d) the death of a person that occurred whilst a police officer, correctional officer, mental health officer or a prescribed person within the meaning of section 31 of the Criminal Justice (Mental Impairment) Act 1999 was attempting to detain that person;”

4. In this case I am well satisfied that I have jurisdiction to investigate the matter of Miss Butterworth’s disappearance under the *Act*. The reasons why I am satisfied will emerge further in this finding, but it is sufficient at this stage to say that in commencing the investigation I was satisfied Miss Butterworth was dead, that she died in Tasmania, and that her death was unexpected. It follows that in terms of section 21(1) of the *Act* jurisdiction is established.
5. Section 24 of the *Act* deals with the circumstances in which an inquest (defined in section 3 as meaning ‘a public inquiry that is held by a coroner in respect of a death’) must be held.
6. Relevantly, section 24 provides:

**“24. Jurisdiction of coroner to hold inquest into a death**

(1) Subject to section 25, a coroner who has jurisdiction to investigate a death must hold an inquest if the body is in Tasmania or it appears to the coroner that the death, or the cause of death, occurred in Tasmania or that the deceased ordinarily resided in Tasmania at the time of death and –

(a) the coroner suspects homicide; or

(2) A coroner may hold an inquest into a death which the coroner has jurisdiction to investigate if the coroner considers it desirable to do so.”

7. In this case, I determined an inquest was to be held. I did so because I considered I am obliged so to do because, for reasons which will also emerge further in this finding, I suspected Miss Butterworth's death was the result of homicide.
8. It follows that the holding of an inquest is in the circumstances mandatory. Even if I did not suspect homicide in this case (and I have already said that I do), I would have determined to have held an inquest pursuant to section 24(2) of the *Act*. The reasons for this are the mystery surrounding Miss Butterworth's disappearance, the length of time she has been missing, the high level of public interest in her disappearance, and the need to consider objectively, publically and impartially the circumstances surrounding her disappearance.

### **The Role of the Coroner:**

9. The function that a coroner performs is unlike that of any other judicial officer. A coroner has an investigative role. She or he investigates a death or suspected death, but only exercises the powers conferred by the *Act*. It is the *Act* which specifies and delimits the ambit of the coronial jurisdiction. The scope of coronial investigation is to enquire into, and make findings about, the identity of a deceased person, the circumstances surrounding the death, and the cause of their death. The jurisdiction is inquisitorial rather than adversarial. The starting point for consideration of the extent of a coroner's powers and obligations in relation to investigation of a death is section 28. That section provides, relevantly, as follows:

#### **"28. Findings of coroner investigating a death**

(1) A coroner investigating a death must find, if possible –

- (a) the identity of the deceased; and
- (b) how death occurred; and
- (c) the cause of death; and
- (d) when and where death occurred; and
- (e) the particulars needed to register the death under the *Births, Deaths and Marriages Registration Act 1999*.
- (f) . . . . .

- (2) A coroner must, whenever appropriate, make recommendations with respect to ways of preventing further deaths and on any other matter that the coroner considers appropriate.
- (3) A coroner may comment on any matter connected with the death including public health or safety or the administration of justice.
- (4) A coroner must not include in a finding or comment any statement that a person is or may be guilty of an offence.
- (5) If a coroner holds an inquest into the death of a person who died whilst that person was a person held in custody or a person held in care or whilst that person was escaping or attempting to escape from prison, a secure mental health unit, a detention centre or police custody, the coroner must report on the care, supervision or treatment of that person while that person was a person held in custody or a person held in care.”
10. The inquiry conducted pursuant to the jurisdiction conferred by the *Act* is not one that is undertaken at large. A coroner has no inherent powers and none at common law (see section 4 of the *Act*). The inquest focuses on the particular death being investigated and the circumstances of that particular death.
11. Although the requirement to find the identity of any person who contributed to the cause of a death was abolished early in 2015 with the repeal of section 28(1)(f) of the *Act*, provided there is sufficient causal connection with the death, the subject of an inquest, then issues associated with contribution still can appropriately fall for coronial scrutiny. The test is one of ordinary legal causation as the Australian Capital Territory Supreme Court made clear in *R v Doogan; ex parte Lucas – Smith and Ors* (2006) 158 ACTR 1 at paragraph 24.
12. It is necessary that the inquiry relate to the circumstances of the death under investigation. The standard of proof applicable in coronial inquests is the civil standard of proof. In other words, where findings of fact are made it is necessary for a coroner to be satisfied on the balance of probabilities as to the existence of those facts. However, if the inquiry reaches a stage where findings being made may reflect adversely upon an individual (or individuals) it is well settled that the standard applicable is that articulated in *Briginshaw v Briginshaw* (1938) 60 CLR 336 (see in particular Dixon J at page 362). The so-called *Briginshaw* test has been repeatedly applied in many cases concerned with coronial proceedings. Examples abound but

include *Anderson v Blashki* [1993] 2 VR 1, *Thales Australia Ltd v Coroners Court of Victoria* [2011] VSC 133; *Hurley v Clements* [2010] 1 Qd R 215; *Khan v West* (unreported, Supreme Court of Victoria, 11 September 1997 per Hampel J – and although that decision was overturned on appeal, the application of *Briginshaw* was neither challenged nor doubted).

13. Guidance as to how a coroner is to approach the task of identifying how a death occurred and the cause of death (see section 28(1)(b) and (c) of the *Act*) is to be found in *Keown v Khan* [1999] 1 VR 64. That case, a decision of the Victorian Court of Appeal, was concerned with the review of the findings of a coroner made at an inquest into a police shooting. At page 75 Calloway JA said that the role of the coroner “is to find the facts from which others may, if necessary, draw legal conclusions.”
14. The *Act* makes it quite clear that the Coroner must not include in any finding or comment any statement or expression of opinion that a person is, or even may be, guilty of an offence (see section 28 (4)). In this case it is essential that this prohibition is kept clearly in mind.
15. Finally, section 30 of the *Act* provides:

**“30. Reports on deaths**

(1) A coroner may report to the Attorney-General on a death which the coroner investigated.

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

(3) A coroner must report to the Attorney-General if the coroner believes that an indictable offence has been committed in connection with a death which the coroner investigated.”

16. This provision was considered in *R v Tennent; ex parte Jager* [2000] TASSC 64 by Cox CJ. Apart from emphasising the fact that “the focus of an inquest conducted under the *Act* [is] the ascertainment of facts without deducing from those facts any determination of blame”. His Honour issued a Writ of Prohibition to the coroner prohibiting her from giving effect to a ruling that she would hear submissions as to her forming a belief for the purposes of section 30(3) of the *Act*.

17. My role then is to make findings to the extent possible in accordance with section 28(1) of the *Act*, keeping carefully in mind the prohibition in section 28(4). Necessarily, that will involve the making of findings of fact, especially if some facts are in dispute. In making such findings of fact, if they are likely to reflect adversely upon any person, I must reach a state of satisfaction on the civil standard but consistent with the observations of Dixon J in *Briginshaw* [*supra*]. I may not make a finding or comment that any person is guilty of an offence or crime. It is worth emphasising that a coroner may not charge or commit a person for trial in relation to any suspected offence or crime no matter what the evidence at an inquest. The power of a coroner to do this was abolished with the repeal of the *Coroners Act* 1957. Under that *Act*, by section 16, if the Coroner was of the view that the evidence at the inquest concerning a death (or for that matter a fire) was sufficient to put a person on trial, then she or he was obliged to order that person's committal for trial to the Supreme Court. The power to commit for trial was expressly removed when the 1957 *Act* was repealed and replaced by the current *Act*.

### **Background of Miss Butterworth:**

18. Lucille Gaye Butterworth was born in Hobart, Tasmania, on 18 March 1949. Miss Butterworth was 20 years old at the time of her disappearance. She lived at 27 Riawena Road, Montagu Bay, (on the eastern shore of the Derwent River not far from the Tasman Bridge), with her father Bruce, her mother Winifred, and her younger brother John. In August 1969 she was employed as a typist at 7HO Radio Station, Main Road, New Town. She was unofficially engaged to be married to Mr John Fitzgerald of Station Street, New Norfolk in Tasmania. These findings of fact, based upon the evidence of her brothers, Mr Fitzgerald, and statements tendered from her late parents, are uncontroversial and sufficient to satisfy the obligation imposed by section 28(1)(e) of the *Act*.
19. Miss Butterworth was raised and educated in Hobart. Her upbringing and childhood appear to have been happy and unremarkable. The evidence at the inquest from a variety of sources was, and I find, that she was close to her family (especially her mother), happy at home, happy in her relationship with Mr Fitzgerald, and a popular and gregarious young woman with a variety of friends and interests.
20. It is clear, and I find, that there was no intention on the part of Miss Butterworth to leave Tasmania for any period of time prior to her disappearance. The evidence about this issue was very clear and came from a variety of sources, both from those related

to her, (her brothers, and statements tendered from both of her now deceased parents), as well as friends, and correspondence to and from Miss Butterworth. All that material satisfies me that there was never any intention on her part to leave the State.

21. In reaching this view I have regard to the extensive evidence given at the inquest as to what might be called the historic investigation conducted by Tasmania Police after Miss Butterworth's disappearance. Part of that investigation involved an examination of her bedroom at the family home at 27 Riawena Road, Montagu Bay, and the motor vehicle used by her. Located in her motor vehicle were some motor vehicle touring maps of Victoria. The finding of those materials on their own is, in my view, not enough to support a conclusion that Miss Butterworth had an intention to leave the State of Tasmania. It is just as consistent with a young woman, informally engaged to be married, planning, or thinking about planning, a honeymoon. All other evidence on the point however suggests, strongly, as I have already said, that she had no intention of leaving the State.
22. It is necessary to say a little about the evidence so far as it touches upon the relationship between Miss Butterworth and Mr Fitzgerald. The evidence was, and I find, that Miss Butterworth and Mr Fitzgerald had been in a boyfriend/girlfriend relationship for little over two years prior to her disappearance. Before starting to see Mr Fitzgerald, Miss Butterworth had been in a relationship with a Mr Stephen Woolnough; although that relationship had well and truly ended, and no contact was had between her and Mr Woolnough for some time. There was evidence from Mr Fitzgerald as to the strength of his relationship with, and commitment to, Miss Butterworth. It was plain that he cared very deeply for her, and still does after all this time. Her diaries were tendered into evidence. They reveal nothing other than what might be described as a "normal" relationship between people of that age, attended with the vicissitudes of life in the form of normal disputes. Mrs Jane Short, a friend of both from 1969, and an impressive witness who gave evidence at the inquest, described their relationship as a strong one. I am satisfied that it was.
23. During the couple's relationship Mr Fitzgerald lived at 1 Station Street, New Norfolk with his father Mr Clyde William Fitzgerald. The Fitzgerald family owned and ran several grocery stores in New Norfolk, including one at that address in Station Street where father and son lived in a flat above the shop. The building is still there although it is no longer a shop. In 1969 there was a fenced backyard area behind the store – again which is still present.

24. Miss Butterworth would from time to time stay overnight at Mr Fitzgerald's residence at Station Street. Similarly, according to a statement made by Miss Butterworth's mother, Mrs Winifred Butterworth, and tendered at the inquest, Mr Fitzgerald was a frequent guest at the Butterworth home in Montagu Bay. When Miss Butterworth intended to stay at Station Street the evidence was that it was her invariable practice to let her mother know that she was going to do so. In the time leading up to her disappearance it had been her practice to travel to New Norfolk after work on a Monday night to attend a meeting of the "Retarded Children's Association".
25. Many alleged sightings of Miss Butterworth elsewhere in Tasmania, interstate and even overseas were reported to Police after her disappearance. There was a considerable amount of material in the surviving police investigation files as to enquiries carried out in relation to many of those alleged sightings.
26. There was evidence from the contemporary investigation that suggested that someone meeting Miss Butterworth's description had been seen in the CBD of Melbourne, and Shepparton in Victoria. The evidence in regard to both, when subject to anything other than a cursory analysis, leads to the conclusion that neither reported sighting was of Miss Butterworth. The first reported sighting of Miss Butterworth was from a Mr J Brett who reported to police that he had seen her in Bourke Street, Melbourne at 1.35pm (or thereabouts) on 1 October 1969. It is apparent from contemporary material on investigation files that the detail provided by Mr Brett was vague and the sighting was unable to be substantiated or corroborated in any way. Ultimately the claim by Mr Brett that he had seen Miss Butterworth was withdrawn by him. I am satisfied that there was no proper basis for the claim and I am well satisfied that whoever it was that Mr Brett thought he saw it was not Miss Butterworth.
27. An alleged sighting of Miss Butterworth at Shepparton in northern Victoria was also investigated in some detail at the time. According to the contemporary police files the source of the report of the sighting was said to be "reputable" (but was not identified). The alleged sighting, in the latter part of 1969, was apparently taken seriously at the time and local police were provided with photographs of Miss Butterworth. Those photographs were shown to hotels and motel owners, taxi drivers, various local businesses and circulated throughout the community of Shepparton. It was determined as a result of that investigation that the alleged sighting was without foundation or certainly was not Miss Butterworth. I am satisfied that it was not her.

28. Other alleged sightings, and there were very many, were investigated. Geelong CIB investigated an allegation that Miss Butterworth was resident in that city and had given birth to a baby on 30 November 1969. It was determined as a result of that investigation that the woman identified was not Miss Butterworth at all.
29. It is also clear from the contemporary investigation, that the possibility of Miss Butterworth having relocated to New Zealand was mooted, taken seriously (although why it was is far from clear), and investigated in some detail. One alleged sighting in particular of Miss Butterworth at a hotel in Wellington appears to have been considered, at the time, to have had a degree of credibility. However investigations by New Zealand Police were able to exclude Miss Butterworth as the person thought to have been seen, and police were in fact able to positively identify who it was that had been seen. The police report indicates that the woman identified was noted to bear a strong resemblance to Miss Butterworth – but it definitely was not her. However in my view the suggestion that Miss Butterworth had relocated to New Zealand had no credibility whatsoever. Indeed, it appears to have been little more than gossip at the time which the investigation has shown was without basis in fact. Indeed the genesis of the gossip seems to have been a social gathering which occurred in New Norfolk within a matter of weeks of Miss Butterworth's disappearance and about which Mr Dennis Woods gave evidence at the inquest.
30. An article of female clothing, linked to a radio station in Queensland, was found during one of the many searches conducted after Miss Butterworth's disappearance. That discovery led to enquiries being conducted in Queensland. Those enquiries did not reveal any connection with, or trace of, Miss Butterworth.
31. I am quite satisfied that Miss Butterworth did not relocate to elsewhere in Tasmania, the mainland of Australia, New Zealand or anywhere else further afield. I am satisfied she did not leave the Hobart area, and in particular Claremont on 25 August 1969 voluntarily, and had no intention of doing so. There are several reasons for reaching this conclusion. They include the fact that after Miss Butterworth's disappearance her mother Winifred Butterworth checked her clothing and belongings but could not identify that anything was missing. In my view had Miss Butterworth intended to voluntarily leave for elsewhere in Tasmania or leave the State altogether then at the very least she would have taken some clothing or belongings with her. That nothing was noted to be missing (other than the clothing and items she had with her at work and when she was dropped off by Ms Kaye George) suggests strongly she had no intention of going anywhere at all, other than to New Norfolk, as planned.

32. Important also was the evidence of Ms Jill Harrison (Kiers). Ms Harrison was a close friend of Miss Butterworth's while the girls grew up. She described Miss Butterworth and herself as "best friends". They attended both primary and high school together. Ms Harrison said she saw Miss Butterworth two or three times a week during their childhood and adolescence. Ms Harrison moved to Perth, Western Australia, in 1969. She was in more or less constant contact with Miss Butterworth, exchanging letters regularly, the whole time she lived in Perth. A number of those letters (located in Miss Butterworth's bedroom after her disappearance) were tendered at the inquest. The substance of Ms Harrison's evidence and the letters tendered at the inquest make it abundantly plain that Ms Harrison and Miss Butterworth were making plans to meet up upon Ms Harrison's return from Perth to Tasmania. Moreover, they had firm plans surrounding the celebration of Miss Butterworth's 21<sup>st</sup> birthday in March 1970. Ms Harrison was clear and firm in relation to her evidence that at no stage had Miss Butterworth expressed any intention to go to New Zealand alone or with anyone else. I accept Ms Harrison's evidence. Although along with all the other witnesses they were describing incidents that occurred nearly 50 years ago, the nature of Miss Butterworth and Ms Harrison's friendship and the circumstances of Miss Butterworth's disappearance strongly suggest to me that her memory would be very clear as to the matters she gave evidence about. Ms Harrison gave evidence that she was spoken to by Western Australia Police not long after Miss Butterworth's disappearance. The reason it would seem for local police contacting her was to satisfy themselves that Miss Butterworth had not left Tasmania and was not staying with her. They of course found that she was not.
33. In addition, Ms Harrison gave evidence about Miss Butterworth's personality and demeanour generally. She described her as extremely close to her mother. She said she was always bubbly and happy and never depressed. Significantly, Ms Harrison gave evidence, which I accept, that Miss Butterworth would not get into a car with someone that she did not know (several other witnesses who knew Miss Butterworth well said the same thing). Miss Butterworth's personality was described in this way by a number of other witnesses. She was described as cheerful, strong and confident.
34. Along with Miss Butterworth's brothers, Mr Fitzgerald, her parents; indeed everyone that knew her and was called to give evidence, Ms Harrison said that she had not heard from Miss Butterworth since August 1969. I accept this evidence. It is beyond doubt that no one has. Indeed there is not a shred of evidence that Miss Butterworth is

alive or has been alive at any time since shortly after 6.15pm on Monday 25 August 1969.

35. Returning to the evidence of Ms Harrison, I observe that it is particularly significant in that she was a person outside the immediate family but close to Miss Butterworth. She had known her a very long time. They grew up together in effect. She was well placed to comment on Miss Butterworth's personality and approach to life. Moreover, even if Miss Butterworth had, contrary to all the evidence, decided to leave Tasmania for some undefined reason and not communicate ever again with a single member of her immediate family, or Mr Fitzgerald, it is inherently improbable that she would not have contacted Ms Harrison. Of course the evidence is clear and unequivocal that no-one, Ms Harrison included, has had any contact from her.
36. I have no hesitation in accepting Ms Harrison's evidence. I formed the view that she was an impressive and reliable witness. Her evidence fortifies me in my conclusion that Miss Butterworth is dead and has been since Monday 25 August 1969. In fact as I have said the evidence on this point was unequivocal and completely overwhelming. I have already dealt with the alleged sightings of Miss Butterworth elsewhere in Tasmania, in Victoria, and the rumour (put it at its highest) that she had travelled to New Zealand. There was and is no substance to any of these lines of enquiry. There is no evidence that any person living or dead had ever had verified contact with or from Miss Butterworth after 25 August 1969. These findings, coupled with the clear evidence in relation to Miss Butterworth's attachment and commitment to her family (especially her mother), all lead to a conclusion, the only conclusion in my view, that she is dead.

### **Possible Causes of Death:**

37. Having reached the view that I have it is necessary then to consider how it is that Miss Butterworth may have reached her death. There are, or so it seems to me, only three possible causes of her death. Those possibilities are first, that Miss Butterworth caused her own death voluntarily (suicide). Second, that Miss Butterworth's death was in some way accidental, that is to say, her death was caused as a result of misadventure. The final possibility is that she met her death at the hands of another person, or persons.
38. In my view the first two possible hypotheses are easily excluded. One obvious point is that if Miss Butterworth had committed suicide or had met her death as a result of an

accident (perhaps stumbling into the Derwent River and drowning or possibly being run down by a motor vehicle) then her body is most likely, in my view, to have been found. Obviously despite extensive historic searches and recent ongoing investigation no trace of Miss Butterworth's body has ever been found.

39. Another reason why suicide as a cause of Miss Butterworth's death can also be readily dismissed is the evidence from many witnesses about Miss Butterworth's personality, temperament and demeanour. Those witnesses included members of her immediate family; her closest childhood friend whilst growing up, Ms Jill Harrison; other friends and acquaintances such as Ms Jill Bradley (to become Mrs Wilcox), Mr Kevin Palmer, Mrs Short; and of course Mr Fitzgerald. The picture that emerged from the evidence of these witnesses (along with others) was that Miss Butterworth was generally happy and content, in a job that she liked, and in a relationship with Mr Fitzgerald that, although not without its ordinary difficulties, she was happy in.
40. Evidence was placed before the inquest from her treating medical practitioner at the time of her disappearance. That evidence suggests, strongly, that Miss Butterworth was in good health and had no medical conditions of any significance. In particular, there is the complete absence of evidence of any reason, whether it be associated with mental health difficulties or any other matter, that would indicate Miss Butterworth was at risk of suicide.
41. In the immediate lead up to her disappearance Miss Butterworth had attended a cabaret on Friday, 22 August 1969 at the Man at the Wheel Hotel in Liverpool Street, Hobart, with a group of friends including Ms Bradley, Mr McShane, Mr Gilbert Schultz (a work colleague of Miss Butterworth's), Ms George, Mrs Short and Mr Palmer. The cabaret was a fund raising event to support Ms Bradley who was then an entrant in the Miss Tasmania competition. The following day, along with Mr Fitzgerald, Miss Butterworth travelled to Launceston to attend an engagement party. The couple stayed in Launceston overnight on Saturday, 23 August 1969. Evidence from a number of people present at the cabaret was led at the inquest. That evidence from Ms Bradley, Mr Palmer and Mrs Short all is indicative of a young woman happy and enjoying herself. None of those people gave evidence of noticing anything out of the ordinary with respect to Miss Butterworth. It is not without significance that each has had a very long time to think carefully about Miss Butterworth's disappearance and the lead up to it. Each was an impressive witness in their own way. The evidence of each person strongly suggests that Miss Butterworth had no issues of any significance in her life and certainly nothing that might provide a reason for her to take her own life.

42. Investigations at the time revealed no financial or other difficulties and investigations subsequently over the years confirmed this to be the case. Miss Butterworth expressed no suicidal ideation to any one spoken to as part of the myriad of investigations over the years. Persons spoken to included of course family and friends, Mr Fitzgerald, and her medical practitioner. There is absolutely no evidence whatsoever that would allow a conclusion that Miss Butterworth had any intention to end her own life nor any reason so to do.
43. Finally, the investigation by Tasmania Police in the immediate aftermath of her death which involved, as I have already touched upon, an examination of the contents of her bedroom and her motor vehicle, and included seizing and examining diaries, letters and the like (which were tendered at the inquest). That investigation did not reveal any indication of any suicidal ideation or anything in the nature of a suicide or farewell note. For all of these reasons I am satisfied that no evidence exists, at all, that would support in any way a conclusion that Miss Butterworth was the cause of her own death.
44. Accident or misadventure as the cause of Miss Butterworth's death is also able to be readily discounted. It seems clear that, whatever the shortcomings of the historic investigation by Tasmania Police into Miss Butterworth's disappearance (and more will be said about that investigation in due course), it is inherently improbable that no trace whatsoever of Miss Butterworth's body would have been located in all of the years since she went missing, were her death the result of accident or misadventure. The reason for reaching such a conclusion is that had she died in such circumstances her body would not have been hidden.
45. In addition, historic records, evidence from Mr Jim Butterworth, Mr John Butterworth, and Mr Fitzgerald, as well as evidence from three retired police officers involved in the original investigation, (Mr Jeff Edwards, Mr Barry Dillon, and Mr Frank Webb), gave an indication of the extent of the searches that were conducted for Miss Butterworth. It is also plain from the evidence adduced at the inquest that Miss Butterworth's disappearance attracted a considerable amount of media attention, both local and interstate, in the immediate aftermath of 25 August 1969. That level of interest has continued on and off since that time. In addition to media attention it is apparent that the disappearance of Miss Butterworth has remained a topic with a high level of public interest, certainly in Tasmania. Given the level of publicity it is also inherently unlikely in my view that her body would not have been identified had she been discovered.

46. But the most compelling reasons to conclude that Miss Butterworth's disappearance and death was not the result of suicide, accident or misadventure are the circumstances in which she disappeared. I turn to a review of the evidence in relation to those circumstances.

**Miss Butterworth's Disappearance on Monday, 25 August 1969:**

47. The circumstances surrounding the disappearance of Miss Butterworth have been the subject of an extensive investigation over the years. It is a matter of considerable regret that the investigation was not approached in a professional way from the outset. It is always difficult, and often unfair, to judge historical events by the standards of later years and therefore it is important to make the necessary allowance for changes in techniques, professionalism, training and approach. Even allowing for all of those considerations it must be said that the approach of Tasmania Police to Miss Butterworth's disappearance in 1969, and for many years after that, was poor.
48. I make the following findings on the basis of the evidence led and adduced at the inquest with respect to the final movements of Miss Butterworth on 25 August 1969.
49. On Sunday, 24 August 1969, Mr Fitzgerald and Miss Butterworth returned from Launceston to New Norfolk. It will be remembered that the couple had attended an engagement party and later stayed together at the Centennial Hotel in Balfour Street, Launceston on the preceding day. The evidence from Mr Fitzgerald in relation to the engagement party held at the home of Mr Holton in Riverside (a suburb of Launceston) was that nothing of any significance or out of the ordinary occurred at that party. After returning to New Norfolk, Miss Butterworth returned to her home in Montagu Bay. Before doing so she told Mr Fitzgerald she would see him the following evening at the meeting of the Retarded Children's Association in New Norfolk. The Retarded Children's Association was a fund raising charity linked to the Miss Tasmania Quest. It has already been mentioned that Miss Butterworth's friend, Ms Bradley, was an entrant. Mr Fitzgerald, Miss Butterworth, (and a number of other persons, some of whom gave evidence at the inquest, including Mrs Short and Mr Palmer), were members of a committee supporting Ms Bradley's participation in the Miss Tasmania Quest. It was the practice of the committee to meet Monday evenings in New Norfolk for the purpose of coordinating fundraising activities.
50. The evidence was, and I find, that after leaving New Norfolk, Miss Butterworth returned to her family home. There was no direct evidence as to how she spent the evening of

Sunday, 24 August 1969, but equally there was nothing to suggest that that evening was in any way remarkable or anything unusual occurred.

51. The following day, Monday, 25 August 1969, was a work day for Miss Butterworth. As has already been noted, she was employed as a typist at the 7HO Radio Station. The studio of the radio station was then on Main Road, New Town, a few hundred metres north of the road's intersection with Augusta Road. The building is still there today and, until recently, housed a local television station. Miss Butterworth drove her Austin A40 motor car (which she had nicknamed "Rupert") to work leaving her home at 8.40am. Although there is no direct evidence about the matter it seems almost certain that she drove to work over the Tasman Bridge (the most obvious route) to some squash courts in New Town run by her aunt, Mrs Merlwin Matthews. There she parked her car and made her way, presumably on foot, to the radio station.
52. In a statement made to police after Miss Butterworth's disappearance, and tendered at the inquest, Mrs Matthews said that Miss Butterworth visited her "during the lunch hour". The women spent 10 minutes talking. Mrs Matthews said that Miss Butterworth asked her if she could leave her car there while she travelled to New Norfolk for a meeting connected with the "Crippled Children's Appeal." In the same statement Mrs Matthews indicated that Miss Butterworth had left her car there on other occasions on Mondays when she was going to New Norfolk for that purpose. She described Miss Butterworth as seeming happy that day and as "bright as a button".
53. Miss Butterworth's decision to leave her car – the Austin A40 was of some age – at her aunt's address in New Town seems to have been because her mother, Mrs Winifred Butterworth, had previously expressed a concern about the capacity of the vehicle to safely make the trip to New Norfolk. In any event, as is indicated above, it was not unknown for her to have done so in the past. It was by no means unusual.
54. Miss Butterworth finished work for the day at about 5.25pm. She and a colleague, Ms George, left work together. In the three months leading up to 25 August 1969 Miss Butterworth was, I find, in the habit of obtaining a lift from Ms George to Claremont. Ms George lived off Box Hill Road in Claremont, and it was her practice to drop Miss Butterworth in Box Hill Road around the corner from Main Road, Claremont. Miss Butterworth was in the habit of obtaining this lift because it saved her 20 cents on her bus fare. In a statement made to police on 27 August 1969 and tendered in evidence, Ms George confirmed that she and Miss Butterworth left work at 5.25pm, a little earlier than normal, because Ms George needed to call at the New Town Pharmacy. In the

same statement Ms George confirmed that Miss Butterworth had been travelling with her as far as Box Hill Road, Claremont every fortnight on Monday evenings for three months. She confirmed other details of Miss Butterworth's arrangements, namely that she was on the committee for Ms Bradley who was a contestant in the Miss Tasmania competition. Ms George gave evidence at the inquest and confirmed the substance and accuracy of her statement.

55. Ms George described in evidence the route she drove to get to Claremont - north along New Town Road and, after a brief stop at the New Town Pharmacy, east on Risdon Road, then north on the Brooker Highway and Main Road to Claremont. Ms George said that she did not stop at any stage after leaving the New Town Pharmacy until she reached Box Hill Road. Upon turning into Box Hill Road at about 5.45pm Ms George pulled her vehicle into the kerb so Miss Butterworth could alight from it. Ms George said that upon alighting from the vehicle Miss Butterworth said that she (Miss Butterworth) would let her (Ms George) know about "brunch". This was a reference to another fundraising activity associated with Ms Bradley's Miss Tasmania campaign.
56. I am satisfied that the journey from the 7HO studio in New Town to Box Hill Road occurred at the time and in the manner described by Ms George. Other evidence, aside from the evidence of Ms George, satisfies me that when she alighted from Ms George's car, Miss Butterworth was wearing her work uniform, which was orange in colour, a black suede leather coat with lighter coloured fur trimmings, black shoes, a wrist clipped "Zeitex" watch, and a nine carat gold friendship ring. She was carrying a black handbag and had with her a large orange shopper bag which contained, *inter alia*, her overnight attire as well as a black leather diary for the year 1969.
57. Importantly, Ms George described Miss Butterworth as having had her hair recently restyled and coloured into a new platinum blonde bob style cut. Mr Palmer, who was at the relevant time Miss Butterworth's hairdresser, gave evidence at the inquest that he had restyled Miss Butterworth's hair into the style and colour described by Ms George a matter of days before her disappearance.
58. Ms George did not see Miss Butterworth ever again after leaving her in Box Hill Road. She then continued to her home in Belgrave Street, which runs off Box Hill Road, a short distance from the intersection with the Main Road at Claremont.
59. There is no doubt at all that it was Miss Butterworth's intention to catch a bus to New Norfolk. The evidence was that as at 25 August 1969 the bus stop at which Miss Butterworth was accustomed to catching the bus to New Norfolk from Claremont, was

south of the intersection of Box Hill Road and Main Road, Claremont and on the western side of the Main Road. The evidence was that the bus stop was situated more or less outside what was then the Claremont Post Office. The area has little changed today although the bus stop is no longer in the same location. That having been said, the building which was the Claremont Post Office still exists essentially unchanged since August 1969. North of the post office building are some units on the corner of Box Hill Road and Main Road. The evidence was that in August 1969 that site was occupied by a wood yard. Immediately adjacent to, and to the south of, the post office in August 1969 was a butchers shop. The building that housed the butchers shop is, like the post office building, in the same location and essentially unchanged although it is not now used as a butchers shop.

60. The evidence (in the form of a sketch map contained on the original police missing person investigation file, tendered at the inquest) was that there were two public telephone booths in the general vicinity of the bus stop. Both were on the Main Road, north of that road's intersection with Box Hill Road and on either side of the Main Road. Neither is present today. The evidence also was that one telephone booth was more or less outside the then Claremont police station and the other opposite. The Claremont police station has long been decommissioned, but the building in which it was situated, and the police residence is still there, a weatherboard home which is the second structure north of what is now a Chinese Restaurant on the corner.
61. I am satisfied that Miss Butterworth made her way to the bus stop after she was dropped off just around the corner in Box Hill Road by Ms George. Several witnesses including two who gave evidence at the inquest described seeing a person on the evening of 25 August 1969 at that bus stop who can only have been Miss Butterworth. In addition to those witnesses, Mr Anthony Field and Ms Judith Stanfield, statements taken by police as part of the initial investigation into Miss Butterworth's disappearance were also tendered from Mr Robert Harris, Mr Gordon Hale, and Mr Scott Robinson. None of the evidence in relation to the various sightings of Miss Butterworth at the bus stop at around 6.00pm on 25 August 1969 was challenged. None of the evidence was attended by any serious doubt. All the evidence (except that of Ms Stanfield) was contained in a statement taken by police relatively shortly after Miss Butterworth's disappearance. Each contained detail that suggested each was inherently reliable. The fact that there were five separate accounts from five separate witnesses, none of whom apparently knew each other, that were more or less consistent in their detail, lends considerable weight to the accounts. Each in effect corroborated the other. I am

satisfied, notwithstanding the effluxion of time, as to the inherent reliability of each account. In the case of Mr Field and Ms Stanfield, even allowing for the considerable period of time which has passed since the incident they described, I am satisfied, having seen and heard them give their evidence, that the accounts they gave of the early evening Monday, 25 August 1969 pertaining to Miss Butterworth, were reliable and accurate.

62. In addition to the evidence from the witnesses referred to in the preceding paragraph, statements were tendered from two bus drivers, Mr Harold Rowan Johnson and Mr Anthony Edward Cartledge. Neither driver was alive to be called at the inquest. Both played a pivotal, but entirely innocent, role in the circumstances surrounding Miss Butterworth's disappearance.
63. In Mr Harris's statement he described seeing a woman that can only in context have been Miss Butterworth at the bus stop at around 5.50pm on Monday, 25 August 1969. The statement taken from Mr Harris was undated but other material suggests that it was taken by police within a matter of days after Miss Butterworth disappeared. Mr Harris said in that statement (tendered in evidence) as follows:

"At about 5.45pm on Monday 25<sup>th</sup> August 1969 I left my home at 10 Amber Street and walked down to Main Road and along Main Road on the left hand side and crossed Box Hill Road to Lee's shop which is situated on the corner of Box Hill Road and Main Road. On the way I passed the bus stop and did not see any person at the bus stop. When I came from the shop I looked at my watch and it was 5.50pm. My watch keeps good time. I was coming towards the bus stop again and I notice [*sic*] a girl waiting on the bus stop. I first thought it was Mrs McDermott who has the shop on the corner and I thought she must be going to New Norfolk and I intended to speak to her and as I got closer to her I realised that I did not know her. She had silvery/blonde hair, swept back and wearing a black leather coat and was trimmed by off white and down just above the knees and she had a carrying bag in her hand. The bag was in her right hand. The girl was about 19 – 20 years of age and did not appear upset."

64. The description in Mr Harris's statement of the "girl" he described seeing at the bus stop contextually can be no one other than Miss Butterworth. I am satisfied it was her. Mr Harris, like a number of critical witnesses, was unfortunately deceased by the time this matter was the subject of an inquest.

65. Mr Hale also gave a statement to police. Like Mr Harris, Mr Hale was also deceased by the time of the inquest. Like Mr Harris, a statement from Mr Hale also was undated but other material tendered at the inquest suggests that it too was taken by police within a relatively short period of time after Miss Butterworth's disappearance. Mr Hale, who was then a geologist employed by the Hydro-Electric Commission at Montpelier Retreat, in Hobart, said in his statement as follows:

"I conclude work of an evening at 5.30pm and usually travel straight to my residence at Austins Ferry. On the evening of Monday 25 August 1969, I arrived in the vicinity of Box Hill Road and Main Road, Claremont, at approx. 5.55pm. Owing to traffic congestion at this point I slowed down and drove close to the kerb and proceeded up Box Hill Road. As I approached this point I observed a girl aged approx. 20 years slight of build, good looking with shortish hair, her hair appeared darkish with fairer hair in the front, I did not recognise her as a local girl.

To the best of my memory she was wearing a contrast of orange and black and at the time I thought it was strange that a girl should be standing on that bus stop at that time of night.

The following day the 26th, or it could be the Wednesday, I noticed a photo of a girl in the "Mercury" newspaper. I immediately said to my wife "That is a photo of [the] girl I saw standing on the Box Hill bus stop."

I forgot to state that on the Monday night in question as I pulled in towards the bus stop with my car the girl I have mentioned took a couple of steps towards the kerb and leaned over and peered into my car. She gave me the impression that she was attempting to identify the driver of the car.

At the time I observed the girl the light was fading. The vehicle I was driving at the time was an off white Toyota Corona Sedan, 1967 model. Whilst travelling down Hilton Road and turning into Main Road I noticed two buses travelling north.

Both these buses were between Hilton Road and Ferry Road."

66. The account in Mr Hale's statement must, logically and contextually, be a description of Miss Butterworth at the bus stop. I am satisfied it was her. On the point of Miss Butterworth taking a couple of steps towards the kerb and leaning over and peering into Mr Hale's car, it is worth noting that the evidence was that Miss Butterworth was short-sighted and used glasses; although not as frequently perhaps as she ought. The

description contained in the statement of Mr Hale of Miss Butterworth taking a step or two towards his car and her leaning forward and peering into the vehicle in an endeavour seemingly to identify the driver is entirely consistent with a person somewhat short-sighted but without her glasses. I observe that not a single witness described Miss Butterworth as wearing glasses when seen at the bus stop on Monday, 25 August 1969.

67. Ms Stanfield was called to give evidence at the inquest. In August 1969 she was a nine year old schoolgirl. Her family ran the post office at Claremont. They lived in residential accommodation attached to the postal facility. She was not interviewed by police in 1969 or any time subsequently until shortly prior to the inquest. Although the incidents she described had occurred many years in the past and at a time when she was a relatively young girl, I am satisfied that the description she gave to the Court was accurate. I accept that she was a witness of the truth. Ms Stanfield said that she had been playing on the verandah of the family accommodation on the southern side of the post office building on Monday, 25 August 1969. It will be remembered that the bus stop where Miss Butterworth was waiting to catch the bus to New Norfolk was directly in front of the post office. She recalled noticing a young lady who again, contextually, can only have been Miss Butterworth, standing at or about the bus stop. I am satisfied it was Miss Butterworth. She said:

“The young lady was waving as a vehicle that had been parked outside the butchers was leaving. The vehicle was travelling north and I remember it was a ‘milky’ green colour, but I don’t remember what the vehicle looked like except it was a sedan. I believed the lady to be waving to the vehicle as it departed.

The lady then walked to the bus stop, and as she walked past our house I said “Hello” and she said “Hello” in return. I don’t have a distinctive memory of what this lady looked like, except that I can recall she stood out because she was really pretty and girls notice that sort of thing. She was aged in her early twenties, was slim and had a coat on. Her hair was distinctive in hairstyle and she had some type of head band or head piece in the front. I recall her hair was more brown than blonde. I do not recall what the lady was carrying but I know she wasn’t empty handed.”

68. Ms Stanfield said she saw Miss Butterworth speak, or appear to speak, with a person in a cream or white car, and that that car subsequently drove off. It is probable that that car was driven by Mr Hale. She said she saw Miss Butterworth walk off in a northerly direction to the Box Hill and Main Road intersection and then described a bus arriving

at 5.55pm and one passenger alighting from it, but not seeing Miss Butterworth board the bus. She said she did not see Miss Butterworth again after she walked off toward Box Hill Road.

69. Mr Field, who gave a statement to police shortly after Miss Butterworth's disappearance, was able to be called as a witness at the inquest. Counsel assisting, Mr Nicholson, submitted that Mr Field's evidence was critical in relation to Miss Butterworth's disappearance. I accept this categorisation of his evidence, and I accept his evidence. Mr Field struck me as a careful, cautious and accurate witness who notwithstanding the fact he was required to answer questions in relation to events many years in the past, gave his evidence with real care and accuracy. In a statement he made to police four days after Miss Butterworth's disappearance, which was tendered at the inquest and which Mr Field confirmed to be accurate, he said:

"At about three minutes to six on Monday night the 25th August 1969, I left home and drove down to the corner of Box Hill Road and Main Road at Claremont to pick up my wife. I arrived there at 6.00pm. I parked on the gravel, at an angle, facing the Claremont Post Office.

Whilst parked in this position I noticed a girl standing at the bus stop near the post office.

She would be in her early twenties, slim build, and had fair up-swept hair; I noticed in particular that her hair was up-swept at the back. I noticed this because I was looking from an angle. She was wearing a coat, either dark leather or dark vinyl with light fur trimming around the bottom hem and cuffs. I think she was carrying a bag but I can't enlarge on that. I formed the opinion that she possibly felt she had missed a bus as she kept looking up the street.

My wife was a few minutes late finishing work and I was parked there for about ten minutes.

The vehicular traffic was fairly heavy. Several vehicles stopped during this period. One that particularly comes to mind was a turquoise green sedan, possibly an early model Holden which I would describe as an old bomb. The driver's side near door had been damaged. I didn't notice how many occupants were in the vehicle. The vehicle stopped close to where the girl was standing.

I think it would be two or three minutes after this vehicle (sic) stopped at the bus stop that my wife came to my car and I drove off.

I turned across the Main Road and turned left into Box Hill Road.

The vehicle that I mention had gone and although I am not certain I feel that the girl wasn't at the bus stop when I turned across Main Road.

I have viewed the photo in today's paper and the girl's hair is the same at the sides as the girl I saw, but I would say the girl that was at the bus stop had rather curlier hair at the front.

The sketch that is shown to me is the same type of coat as that worn by the girl although I am not positive that the coat worn by the girl had fur trimming up the front.

Since viewing the vehicle identification books, I am fairly certain that the vehicle I refer to was the standard model FJ Holden Sedan, turquoise green in colour. It was damaged along the driver's side."

70. Mr Field made a subsequent statement to police when the matter was being reinvestigated. In that statement made on 1 April 2014 he had provided additional information relating to the vehicle that he saw. More will be said about that vehicle in due course.

71. The final evidence with respect to Miss Butterworth being seen at the bus stop in Claremont on the evening of Monday, 25 August 1969 came from another witness, also deceased, Mr Robinson. Mr Robinson was out walking his greyhounds on the evening in question. In his statement to police made on 3 September 1969 and tendered at the inquest Mr Robinson said:

"On Monday night the 25th of August 1969, I took my two dogs for a training walk. As near as I can pin-point the time I left home around 5.40pm. I walked along Beach Road up to Cadburys Road, and through a small paddock to the Railway Station and then up Box Hill Road.

I saw Mr McDermott opposite his shop (Robbie's) Shop and I talked to him on the opposite side of the street for a few minutes.

I left Mr McDermott and walked up to the Main Road on the grass. I intended to cross the Main Road and go up Box Hill Road on the western side. Before I reached

the Main Road and whilst still on the grass I saw a young girl. I first saw her on the gravel portion of the Main Road on the opposite side to the bus stop. She was walking towards Hobart (casually). She would be opposite the Old Post Office.

I would describe her as very lightly built, age late teens, 18 – 20 group, matured teens, and I noticed she had blonde hair, a dark coat, with either light or white trimmings. She was carrying a basket in her left hand and I am not sure but I think she had a second bag or parcel in the other hand.

I continued over the Main Road and up Box Hill Road and did not see the girl again.”

I am satisfied the “young girl” described in the statement was Miss Butterworth. Once again, contextually and logically, it is inherently unlikely to be anyone else.

72. Mention has already been made of the evidence of the two bus drivers, Mr Johnson and Mr Cartledge, who by the time of the inquest were both deceased. Statements from both men were tendered in evidence along with a statement from an administrative employee of the bus company for whom the men worked in August 1969. The substance of the evidence from the drivers and the administrative employee (Ms Phyllis Browning) was that on Monday, 25 August 1969 there were two buses run by Tasmanian Coach Lines from its depot in Harrington Street, Hobart to New Norfolk. The first was due to leave at 5.15pm. It was driven by Mr Johnson. Mr Johnson had some difficulty of an unspecified nature with the bus that was described in the statement as “engine trouble” and was therefore running late. He therefore did not arrive at the bus stop in Claremont until later than usual. He said that he knew Miss Butterworth as she had travelled on the bus he regularly drove from New Norfolk to Hobart on occasions in the past. In his statement dated 14 March 1970 and tendered at the inquest he said the normal time that the 5.15pm bus would arrive in Claremont was about 5.35pm. However as already been noted, on the evening in question it was running late.
73. Mr Cartledge said in a statement taken by police on 15 April 1970 and tendered at the inquest that he was also a bus driver employed by Tasmanian Coach Lines. He said in the statement that on Monday, 25 August 1969 he was the driver of the 5.30pm bus from Hobart to New Norfolk. He said he left the city depot at about 5.30pm and “would pass through Claremont at approximately 5.50pm”. In the statement he said he could not recall the exact time he arrived on 25 August 1969 but that he “always arrive[d] at Claremont at 5.50pm and [that he could] not remember having any traffic trouble that

night". He described letting a passenger off at the bus stop near Box Hill Road and said he did not see any person waiting at the bus stop that looked like the Butterworth girl, nor did any person get on his bus there".

74. It is worth remembering that by the time Mr Cartledge was interviewed by police and his statement taken in April 1970 the fact of Miss Butterworth's disappearance, and the circumstances surrounding it, had been the subject of an extensive publicity campaign. That campaign included, as Mr Jim Butterworth and his then wife Ms Joan Webber said in their evidence, the erection of a life sized photograph of Miss Butterworth at the bus stop from which she disappeared. Mr Cartledge necessarily would have seen that photograph in the course of his employment. I am quite satisfied that he would have been well aware of the appearance of Miss Butterworth by the time he came to give his statement to police in April 1970. I am satisfied that his statement that he did not see anybody waiting at the bus stop that looked like Miss Butterworth is a reliable one. In the same way given his occupation as a bus driver (and the same comments can be made with respect to Mr Johnson), and the fact that bus drivers drove then (and drive now) to timetables, I consider the evidence from Mr Cartledge and Mr Johnson with respect to times is likely to be reliable.
75. Mr Cartledge went on to describe having approximately 30 passengers that night and arriving in New Norfolk with at least half of those passengers at about 6.10pm; none of whom were Miss Butterworth.
76. None of the evidence set out above, whether it be in the form of statements taken shortly after the disappearance of Miss Butterworth, or in the cases of Mr Field and Ms Stanfield's oral evidence at the inquest supplementing either statements taken in 1969 or more recently (or in the case of Mr Field both), was contradicted. There was no material whatsoever available to the inquest that would suggest any of the witnesses were mistaken or inaccurate. Three witnesses (including Ms George) were still alive and gave evidence which was, in my view, having seen and heard each of them, reliable, even allowing for the passage of time since the events they were asked to describe. I have already mentioned why I consider the evidence of the bus drivers, particularly with respect to time, to be reliable. I am satisfied in fact that the substance and detail of the evidence set out above is correct.
77. From it I conclude as follows. At 5.45pm Mr Harris left his home at 10 Amber Street, Claremont; he walked past the bus stop one or two minutes later and did not see Miss Butterworth. Miss Butterworth was dropped off by Ms George at about the same time.

78. Close to 5.50pm the bus being driven by Mr Cartledge stopped at the bus stop. Miss Butterworth was not at the bus stop.
79. Near 5.50pm Miss Butterworth was seen at the bus stop by Mr Harris. She was still there at near 5.55pm when Mr Hale stopped at or near the bus stop and Miss Butterworth approached his vehicle.
80. Accepting as I do the evidence of Mr Field, I find that between just before 6.00pm at the earliest and about 6.05pm at the latest Miss Butterworth was at the bus stop. Mr Field described her at that time as appearing anxious. A couple of minutes after 6.05pm Mr Robinson was walking his greyhounds when he saw someone who can only have been Miss Butterworth. Mr Robinson it will be remembered saw her on the opposite side of the road to the post office.
81. But shortly after being seen by Mr Robinson, or somewhere around 6.08pm at the earliest or 6.10pm at the latest, Miss Butterworth was nowhere to be seen according to Mr Field whose evidence I accept. He said he had been sitting in his car facing towards the bus stop waiting for his wife and looking in a general direction of the bus stop. When he turned across Main Road and drove into Box Hill Road, Miss Butterworth was no longer there.
82. When Mr Johnson drove his bus past the bus stop at about 6.10pm Miss Butterworth was not there.
83. In summary, I conclude on the evidence that Miss Butterworth disappeared shortly after 6.00pm and no later than 6.15pm from the bus stop on Main Road, Claremont on Monday, 25 August 1969. Necessarily, given the passage of time but also the fact that none of the witnesses in 1969 (with the possible exception of the bus drivers, Mr Cartledge and Mr Johnson) had any particular reason to pay careful attention to the time, the times may not be precisely accurate to the minute. However, in my view little turns on that.
84. Counsel assisting submitted that it was unlikely she was forcibly abducted from the bus stop given the amount of vehicular traffic and people in the area at that time of evening and the observations specifically of Ms Stanfield, Mr Robinson and Mr Field. I agree. In my view had Miss Butterworth being forcibly abducted, that is to say, forced by a person or persons into a motor vehicle (and logically there can be no other mechanism by which her removal from the bus stop would have been effected against her will) then I am satisfied that someone would have noticed something. At the very

least Mr Field and Ms Stanfield, amongst a number of others, were in a position to have noticed something of that nature. Neither did. A variety of other persons were in the general vicinity including, but not limited to, the various persons identified in this finding. It is in my view inherently improbable that Miss Butterworth was forced into a vehicle against her will. I am satisfied that she was not.

85. In all of the circumstances I am satisfied on the balance of probabilities that the most likely explanation for Miss Butterworth's disappearance from the last stop is that she accepted a lift from a passer-by. That is to say, I am satisfied that it is more probable than not that she voluntarily entered a motor vehicle. There is logically no other means by which she can have travelled away from the bus stop.

#### **Events subsequent to Miss Butterworth's Disappearance:**

86. The evidence was that Miss Butterworth did not arrive in New Norfolk on the evening of 25 August 1969 as expected, or at all. Mr Fitzgerald, Mrs Short and Mr Palmer gave evidence to that effect. Mr Fitzgerald gave evidence at the inquest about a number of matters but in particular the aftermath of Miss Butterworth's disappearance. He also made several statements to police about her disappearance. In his evidence before the inquest he confirmed the substance of the various statements. I accept Mr Fitzgerald as a witness of the truth.
87. His first statement (once again undated but which other evidence suggests was made a matter of days after Miss Butterworth disappeared) was lacking in any real detail. A second statement made in October 1970 and tendered in evidence dealt with the circumstances surrounding Miss Butterworth's disappearance in more detail. In that statement Mr Fitzgerald said that on 25 August 1969 he was working at one of the family stores at 27 High Street, New Norfolk. He said that normally the shop closed at 5.30pm and "by the time the staff clean-up it is about 5.45pm...", and that he stayed at the shop waiting for [Miss Butterworth] until between 6.45pm and 6.50pm.
88. Mr Fitzgerald in that statement said that the High Street store was on a telephone extension line from the main office at 3 Hamilton Road (the same building also had the address 1 Station Street) and then after 5.30pm the telephone was switched through to the Station Street residence. Mr Fitzgerald said that he went home and when he arrived there his father had the evening meal ready. He said that he ate that meal then went straight to the Retarded Childrens' Meeting at the nurses' home at the Royal Derwent Hospital in New Norfolk. Mr Fitzgerald arrived at the meeting between 7.20pm

and 7.25pm. He said that Mr Laurie Cullen was the chairman that evening. Mr Fitzgerald gave evidence that he remembered speaking to Ms Bradley's mother and being asked where Miss Butterworth was. He said in the statement that between 7 and 10 people were at the meeting when he arrived. Mr Fitzgerald said the meeting started at about 7.40pm and finished at about 9.35pm. He said after the meeting he went home to bed. Upon his return home he said he did not see his father and assumed that he too was in bed.

89. In the October 1970 statement by Mr Fitzgerald some additional detail with respect to events on the evening of Monday, 25 August 1969 was added. There is in my view nothing untoward about the fact that the 1970 statement contains additional information. When first interviewed, shortly after Miss Butterworth's disappearance, it is quite apparent from the historic police files, (or what remains of them), that were produced and tendered at the inquest, that police were treating Miss Butterworth's disappearance as in effect a "runaway" case rather than anything sinister and certainly not a possible homicide. That focus had changed by 1970. That change in approach, in my view, accounts for the fact that the second statement from Mr Fitzgerald contains significantly more detail than the first. In his second statement Mr Fitzgerald said that when Miss Butterworth did not arrive that night at the store in High Street he assumed she would be coming to New Norfolk with Ms Bradley. Other evidence from Mr Fitzgerald was to the effect that the bus which Miss Butterworth ordinarily caught stopped more or less opposite the High Street store.
90. Mr Fitzgerald said that at about 10.00pm on the night of 25 August 1969, that is, after the meeting had finished and after he had returned home, he tried telephoning the Butterworth home and that there was no reply. Whether he did so or not is irrelevant. In the statement he said he only rang once. He went on to say that on a previous occasion when Miss Butterworth had not arrived at New Norfolk as expected he found out the next morning when he rang her at work that she had been sick.
91. The next morning, Tuesday, 26 August 1969, Mr Fitzgerald arrived at work at about 8.30am. He said the staff at the High Street store arrived shortly after him. He gave evidence that at 9.05am he telephoned 7HO in an endeavour to contact Miss Butterworth. He was told by the person who answered the phone (Ms Kay Bailey) that Miss Butterworth was not at work and had not arrived at work. Mr Fitzgerald then telephoned the Butterworth home and spoke to Miss Butterworth's mother. He told her that Miss Butterworth had not arrived at New Norfolk the night before and passed on to her the substance of the information he had received from 7HO. Mr Fitzgerald said that

he tried to telephone Mr Jim Butterworth, both at his home and his work, but he was unsuccessful. He went on to say that he then left New Norfolk in his car and made his way via Mr Jim Butterworth's then home in Tavistock Avenue, Austins Ferry, (where he found there was no one at home), to the Butterworth family home at Montagu Bay. He was told when he arrived there that by then Miss Butterworth's father, Mr Bruce Butterworth, had already reported her disappearance to the police.

92. Mr Fitzgerald made a further statement to police on 31 March 2000. It dealt with aspects of his relationship with Miss Butterworth and included some extra detail such as the fact that in August 1969 he was living with his father, Mr Clyde Fitzgerald, and that his mother was by then already deceased. The March 2000 statement also contained additional information with respect to some of his neighbours in the Station Street area of New Norfolk in 1969 (and in the years leading up to then).
93. Evidence was given at the inquest by Mr Palmer and Mrs Short, both persons being present at the meeting at the nurses' home at the Royal Derwent Hospital in New Norfolk on the evening of 25 August 1969. Their evidence corroborated the substance of Mr Fitzgerald's evidence about Miss Butterworth's non-attendance at that meeting.
94. Statements taken from Miss Butterworth's parents, Mr Bruce Butterworth and Mrs Winifred Butterworth, were tendered into evidence. Mr Bruce Butterworth said in his statement that on the morning of 26 August 1969 he went to work at the Repatriation Department in the city in his own car, leaving the family home at Montagu Bay at 7.40am. He said that at about 8.45am or 9.00am that morning he received a phone call from his wife who was very upset and had told him that their daughter was missing. He went home. Later in the morning he rang the Hobart police station and he was "put onto missing persons". Mr Bruce Butterworth was asked by police to take a photograph of Miss Butterworth to them, which he did that morning within an hour and a half of arriving home. After calling at the Hobart police station he went to the 7HO studio and spoke to Ms George. Ms George told him that she had dropped Miss Butterworth off on the corner of Box Hill Road on the Main Road at Claremont. Mr Bruce Butterworth described in his statement going from 7HO to Claremont where he commenced the search for his daughter. In his statement made to police on 19 February 1970 and tendered at the inquest he said that both the post office and the butcher shop were shut but that he then went to shops that were open and asked if anyone had seen Miss Butterworth. No one was able to help him. His statement goes on to say that he searched in gutters along both sides of the road for some considerable distance but saw nothing of any unusual nature and certainly nothing

relating to his daughter. He then returned home. His statement says that when he got home the house was full of people, including Mr Fitzgerald who had arrived during his absence, and that he and Mr Fitzgerald both went to the Hobart police station in Mr Fitzgerald's car where both men were questioned by police.

95. Mrs Winifred Butterworth's statement to police was made in March 1970. It too was tendered in evidence at the inquest. The statement confirmed that Miss Butterworth had left home on the morning of 25 August 1969 at about 8.40am in her car and that Miss Butterworth did not ring her mother during the day. The statement dealt with clothing that her daughter was wearing and, importantly, the fact that Mrs Winifred Butterworth had checked all her daughter's clothes and belongings after her disappearance and did not find that any were missing. Mrs Winifred Butterworth also dealt with the distinctive soft black leather coat with white fur trimming that Miss Butterworth had been wearing on 25 August 1969. I have no reason to doubt the veracity of either statement from either parent. I accept the evidence in the statements.
96. Miss Butterworth's brothers, James (Jim) and John, also gave evidence that dealt with the immediate aftermath of their sister's disappearance. I accept both men as witnesses of the truth. Their recall of detail was impressive and wholly understandable in the context of the loss of their only sister. Mr Jim Butterworth said that in August 1969 he was living in Tavistock Avenue, Austins Ferry with his then wife, Ms Joan Webber. Mr John Butterworth, some years younger than his sister, was a schoolboy at the time of her disappearance in August 1969. He told the inquest that he was still living at the family home. Each man gave evidence of the efforts at searches for their sister carried out by them, their father, Mr Fitzgerald, and various friends and acquaintances. Their evidence outlined where those searches were carried out and the fact that they were fruitless. Ms Webber also gave evidence addressing aspects of the aftermath of Miss Butterworth's disappearance.

### **The Initial Police Investigation:**

97. The investigation in relation to Miss Butterworth's disappearance commenced on 26 August 1969, the day she was reported missing. It continued on and off for many, many years. In the course of that investigation, once police reached the view, belatedly I consider, that Miss Butterworth had not taken herself away of her own volition but rather was the victim of foul play, a number of possible suspects were identified and investigated. Mr Fitzgerald was, by virtue of his relationship with Miss Butterworth, considered by police as a potential suspect. Historic investigations however have

made it quite clear that he was in no way involved in the disappearance of his fiancée. His presence at the High Street store was independently verified, as was his attendance at the meeting at the nurses' home later the same evening. It was determined that it would have been impossible for him to have made the journey to Claremont and return within the time frame available to him. I am quite satisfied that although it was a proper matter for police to consider in 1969 and 1970, Mr Fitzgerald had no role whatsoever in the disappearance of Miss Butterworth.

98. Once the investigation commenced a number of other potential suspects were identified. Many voluminous, but far from complete, police investigation files made available at the inquest make it clear that many members of the public telephoned through information relating to Miss Butterworth's disappearance. That information included in some cases detail; in many it did not. Many of the reports made to police amounted to little more than completely unsupported accusations of the involvement of a man (or in some cases men), sometimes identified, often not, in Miss Butterworth's disappearance. Each of those reports was investigated to a greater or lesser extent. Each was found to be wholly without any merit. It is unnecessary in my view for the purpose of this finding to deal with each of those reports in any detail. An example may suffice. A report was received on 30 May 2007 from a member of the public suggesting that a man by the name of Bernard Jean Dervin was responsible for the disappearance of Miss Butterworth. The report was duly investigated. It was found that Mr Dervin was not even in Australia in August 1969 – he did not migrate to this country until 1973, well after Miss Butterworth's disappearance. Many other reports suggesting the involvement of named persons were received over the years – some even during the course of the inquest itself. I am satisfied none had any substance.
99. Another person whose potential for involvement in Miss Butterworth's disappearance that was investigated in 1969 and 1970 was Dennis Charles Wood. There is little doubt Mr Wood was vague, misleading and possibly less than frank with the original investigators. However Mr Wood's former wife provided evidence which satisfies me that he could not have been involved in Miss Butterworth's disappearance. In addition he was called as a witness at the inquest. The details surrounding his involvement with Miss Butterworth were explored. Records relating to the investigation of him and in particular of an interview conducted with him by members of Tasmania Police were tendered. All of that material satisfies me that Mr Wood had no role in Miss Butterworth's disappearance and death.

**John Gannon Lonergan**

100. It is clear on the evidence adduced at the inquest that the first firm suspect of police investigating Miss Butterworth's disappearance was Mr John Gannon Lonergan. Mr Lonergan's potential involvement in relation to Miss Butterworth's disappearance was extensively investigated in the aftermath of 25 August 1969. Mr Lonergan remained a figure of extreme interest for investigators for many, many years. An extensive amount of evidence was tendered at the inquest in relation to Mr Lonergan's history and antecedents as well as the results of the investigations with respect to his movements on 25 August 1969. From that material I make the following findings.
101. Mr Lonergan was born on 14 January 1936. Therefore at the time Miss Butterworth disappeared he was aged 27. He was then residing at 5 Hobart Road, New Norfolk and married to Mrs Jan Lonergan. He and his wife had one child, a daughter, then aged eight. Mr Lonergan joined the public service in 1953 and performed clerical duties for the Police Department until he was appointed as the State's first junior constable on 25 June 1955. On 16 January 1956 he was sworn as a constable in the Tasmania Police force. On 21 March 1958 he resigned from the police force. In June of the same year he was charged with assault of an indecent nature upon a 19-year-old woman from Hobart. The matter was dealt with in the Sorell Court of Petty Sessions and dismissed. On 17 April 1959 he made an application to re-join the police force but his application was rejected.
102. It is apparent that Mr Lonergan firmed as a suspect in the eyes of police because of his history of sex offending. In July 1962 he attempted to rape an 18-year-old woman. In December 1962 he raped a 39 year old woman and was charged, convicted and sentenced to three years and nine months imprisonment. In April 1963, whilst waiting to appear at an appeal with respect to the above rape conviction and sentence, he indecently assaulted a 24 year old woman. He was charged, convicted and sentenced to a further 18 months imprisonment.
103. In May 1969 a 26 year old ballet teacher accepted a ride in a motor vehicle from New Norfolk to Hobart driven by man who said his name was Peter Evans. The ballet teacher subsequently identified Mr Lonergan as the man who called himself Peter Evans. He attempted to indecently assault the ballet teacher and threatened her with a hammer. Fortunately she was able to make an escape. He was not charged due to an apparent reluctance on part of the ballet teacher to give evidence.

104. After his release from prison on 31 July 1966 Mr Lonergan returned to live in New Norfolk. On 25 August 1969 he was, as has already been indicated, living at 5 Hobart Road, New Norfolk and employed at the Boyer Mill. On the afternoon of 25 August 1969 he was due to work afternoon shift from 4.00pm to 11.00pm but did not report for work on that evening. He was absent for three days following a change to shift and reported for work on the following Saturday on day shift.
105. Mr Lonergan reported to work on Saturday 30 August 1969. He submitted an application for sick leave for Monday 25 August and reportedly had burns to his face and arm. Historic police reports indicate he told his shift foreman, a Mr Stewart James Anderson, that he (Mr Lonergan) had been painting and threw some rags or similar into a fireplace and the fire had flared back on him. Mr Anderson confirmed in a statement made to police on 23 May 1970 that Mr Lonergan had visible burns on his face and possibly one of his arms.
106. Mr Lonergan's wife and daughter were not staying at the family home on 25 August 1969. His wife had taken her daughter to her mother's home in Berridale on Saturday, 23 August 1969. The arrangement was that Mr Lonergan was to call for them on Wednesday, 27 August. He did so. Mrs Lonergan noticed burns to her husband's face and arm and he reportedly told her that the fire had "blown up". Initially she told investigating police that so far as she was aware her husband had not been painting during her absence. She noticed no evidence of any damage to furniture or carpets in the house, although she did find a pair of new pyjamas belonging to her husband missing. She told police that Mr Lonergan had told her they had been burnt when the fire "blew up". A statement from Mr Lonergan's former father-in-law, Mr Ronald Jack Correa, made on 26 May 1970 was part of the police investigation file. It was tendered at the inquest. In it Mr Correa described seeing his son-in-law on or about 23 August 1969 [sic] with what were described as second degree burns to his face. Mr Correa said in the statement that his son-in-law explained that it happened when he put a log on the fire and it (presumably the fire rather than the log) blew up.
107. Police seemed to have attached significance to Mrs Lonergan's report that every time the name of Lucille Butterworth was mentioned her husband became "very upset" in some unspecified way.
108. There is little doubt that Mrs Lonergan was, with very good justification it seems to me, both hostile toward her former husband and afraid of him. He was arrested for, and charged with, stealing at New Norfolk in December 1969. This was the catalyst for her

to leave him and go to live with her parents. She told investigators that she had been awakened at night by her husband with his hands around her throat and detailed many other instances of abuse at the hands of her husband. There is no doubt she formed the view that her husband was responsible for the disappearance of Miss Butterworth. I do not doubt the belief was both strongly and honestly held by her. However, that does not mean it was true. After Mrs Lonergan left her husband he sold up his property at New Norfolk and left Tasmania.

109. Investigations ascertained that Mr Lonergan was the owner of a blue and white 1960 Triumph Sedan, registered number WJN 029, during 1969 (indeed it was this vehicle he was driving when he picked up the ballet teacher in May 1969). The vehicle was part of the property sold by Mr Lonergan upon his departure from Tasmania. Police were able to locate the vehicle and examined it in 1970. Those investigations revealed nothing which linked Miss Butterworth with the vehicle. Plainly forensic science in 1970 was nowhere near as advanced as it is today but the fact remains that those investigations were carried out and nothing was found. In addition, I note, no witness who described the scene at or around the bus stop in Claremont on 25 August 1960 described a Triumph Sedan as being present.
110. There is reference in contemporary material to a statement (or report) from Dr Russell Pargiter, a psychiatrist then in practice in Macquarie Street in Hobart, who apparently had examined Mr Lonergan in 1963. Reportedly Dr Pargiter expressed the view that Mr Lonergan was a “dangerous psychopath” and that he (Dr Pargiter) considered Mr Lonergan was capable of committing murder. Again, investigating police appear to have attached considerable weight to this view.
111. It is very clear that the original principal investigators, Detectives Devereux and Canning, considered Mr Lonergan to be a strong and in reality, the only suspect. They seem to have done so because:
  - of him being a resident of New Norfolk on 25 August 1969;
  - he had a previous documented history of sex crimes;
  - at least one of those crimes involved picking up a woman from a bus stop;
  - that on the afternoon of 25 August 1969 he failed to report for his afternoon shift at Boyer;
  - that he was on his own between 23 August and 27 August 1969;

- that when he picked his wife up on 27 August 1969 from her mother's residence in Berridale he had burns to his face and arms, and a new pair of pyjamas were missing and he could not satisfactorily account for this;
  - he seems to have reacted (according to his wife) adversely whenever Miss Butterworth's name was mentioned;
  - Dr Pargiter had reportedly stated that Mr Lonergan was a dangerous psychopath capable of committing murder; and
  - Mrs Lonergan held suspicions that her husband was responsible for the disappearance of Miss Butterworth.
112. Not unreasonably in my view, particularly in the absence of any other particularly credible suspect, Detectives Canning and Devereux took steps to locate Mr Lonergan. They found him living in Sydney. On 1 June 1970 they travelled to Sydney to interview Mr Lonergan. In that interview, which reportedly took place over some six hours, Mr Lonergan confirmed some of the details set out above, particularly as to where he was living on 25 August 1969, that his wife and child were staying with her parents at the time, that he was employed at the Australian Newsprint Mill at Boyer, and had been rostered on afternoon shift.
113. Mr Lonergan gave an explanation to the detectives that on the morning of 25 August 1969 he decided to do some painting in the lounge room. He said he lit a fire in the open fireplace and started painting in his pyjamas. He said that whilst he was painting a log of wood rolled out of the fire and on putting that log back in the fire he received burns to his face and arm as well as to his pyjamas. He later destroyed the pyjamas by burning them. He said he rang his employer and advised of the burns and that he would not be attending work that evening. Mr Lonergan said shortly after 6.00pm he went to the Star and Garter Hotel (then, as now, a licenced establishment in New Norfolk), had a few drinks and then returned home. Mr Lonergan told investigating police that two males with whom he worked at Boyer were present at the Hotel. He said their names were, according to an historic police report, Joe McKenzie, and Ned Parker. Obviously if this information was correct it amounted to a complete alibi. The detectives investigating the matter recognised this and relayed the information straight away to Hobart.
114. The evidence at inquest was that the alibi offered by Mr Lonergan was investigated by Detective Sergeant Bailey of New Norfolk CIB. Detective Sergeant Bailey interviewed a Mr Stanley Bruce McKenzie who said he knew Mr Lonergan and recalled an

occasion one evening when he (Mr McKenzie) was at the Star and Garter Hotel with a Keith Saltmarsh and Mr Lonergan came in and had a drink with them. He remembered that Mr Lonergan had a piece of sticking plaster on his face. He was unable to recall the date or month but said it was in the latter part of 1969. A report from the time indicates a man by the name of Mr Parker was interviewed but told the investigating officer that he did not know Mr Lonergan and specifically had no recollection whatsoever of the incident described by him. Similarly, a man by the name of Mr Keith Saltmarsh was also interviewed but had no recollection of the incident either. I note that the name 'Stanley McKenzie' is not 'Joe McKenzie'. There was no evidence which would allow that apparent discrepancy to be reconciled. However given Detective Sergeant Baily was tasked to investigate a specific event, an identified place with two named co-workers of Mr Lonergan's it is, in my view, reasonable to conclude that the man 'McKenzie' although being referred to by two different Christian names, must be the same person.

115. It is clear from the material tendered at the inquest that Mr Lonergan was questioned closely for approximately six hours. He denied strongly that he even knew Miss Butterworth and specifically that he had anything to do whatsoever with her disappearance. This is in contrast to history of complete confessions to police investigators in relation to several of the matters in his history set out above. For example, in relation to the attack on the ballet teacher in May 1969 he freely admitted to committing an indecent assault and made a statement in his own hand which dealt with the matter.
116. There was evidence before the inquest in relation to a search of the grounds and residence at 5 Hobart Road, New Norfolk. That search appears to have been conducted on or about 22 May 1970. A number of items were recorded as having been recovered from an outside fire, namely a baby's plain chain bracelet, a pair of scissors, some copper wire, one Penny coin, the back of powder compact, a lipstick tube, hair slide, some pieces of burnt material and broken mirror. Several of the items found such as the baby's bracelet, copper wire and the coin have nothing in particular to do with, on the face of it at least, the disappearance of Miss Butterworth. Some of the other articles conceivably could be potentially related. Unfortunately there is nothing to suggest that any of those items (particularly the hair slide and the powder compact) were shown to anybody in relation to Miss Butterworth's disappearance. Worse, there is no record as to what became of those items. Despite the best efforts of investigators in the modern era to endeavour to locate those items it is plain they have been lost. It

is just another example of the haphazard and unprofessional approach that attended the investigation of this matter in the past.

117. Mr Lonergan's former home at 5 Hobart Road, New Norfolk was found by investigators to have been physically moved to a block in nearby Dromedary. Significant forensic investigation occurred in 2001 and 2002. Numerous physical exhibits (hair fibres and the like) were located in the house and removed for analysis. The results of that investigation were the subject of DNA profiling analysis at the laboratory of Forensic Science Service Tasmania. During the course of the inquest the same samples were reanalysed at that laboratory utilising improved analytical techniques. A report dated 31 August 2015 stated that using a DNA sample from Mrs Winifred Butterworth, Miss Butterworth was able to be excluded as having provided any of the samples taken from Mr Lonergan's former home.
118. When investigators in the modern era resumed the investigation in relation to Miss Butterworth's death Mr Lonergan was identified as being alive and residing in Bundaberg, Queensland. Detective Inspector David Plumpton made contact with Mr Lonergan and ascertained that he was indeed the same person who had been a suspect in 1970. Details relating to Mr Lonergan as a suspect in Miss Butterworth's disappearance were forwarded in August 2011 to Bundaberg police in Queensland to enable further investigation to be carried out. It was ascertained that Mr Lonergan had been residing in Queensland since at least 1996. Further investigations, including interviews of his former wife and daughter, were both undertaken. Unfortunately, before Mr Lonergan could be re-interviewed he died on 20 May 2012. However, extensive interviews in relation to the matter of Miss Butterworth's death were undertaken with his former wife and daughter.
119. A number of matters arose from the interviews of the former Mrs Lonergan and Mr Lonergan's daughter. For example, it was confirmed that it was far from unusual for Mr Lonergan to take sick days from work and that he probably took more than one sick day a month. Thus his absence from work (afternoon shift – 4.00pm until midnight) on 25 August 1969, which on the face of it might look suspicious, appears less suspicious when viewed in the context of a history of absenteeism.
120. Mr Lonergan's daughter told investigators that she confronted her father about his possible involvement in the disappearance of Miss Butterworth during a telephone conversation sometime in the five years or so before he died. According to Mr Lonergan's daughter he neither admitted nor denied involvement, saying something

like “she should put it out of her mind and let it be”. The absence of a denial is at best equivocal. It does not advance in any way the case against Mr Lonergan being involved in the disappearance of Miss Butterworth. Neither does it detract from that case.

121. In her statement his daughter said that Mr Lonergan was involved in an affair with Miss Butterworth in the lead up to her disappearance. There is not a scintilla of evidence that suggests that this allegation has any basis whatsoever in truth. There is no evidence at all which suggests that Miss Butterworth even knew Mr Lonergan (or vice versa). Of additional significance on this point is that Mr Lonergan’s daughter told investigators that she came by the information of the alleged affair as a result of overhearing a telephone conversation in November 2012 between her mother and her mother’s cousin in which that issue was discussed. Her mother was specifically questioned about this issue by counsel assisting when she gave evidence at the inquest and denied stating that she had ever said her husband was having an affair with Miss Butterworth. She said that she thought her daughter must have misunderstood her.
122. The former Mrs Lonergan told investigators that she had a “funny feeling” or “a gut feeling” that Mr Lonergan knew Miss Butterworth but was unable to point to any direct evidence as to why she held this belief. I have already said that I am satisfied there is no basis to conclude that Mr Lonergan was having an affair with Miss Butterworth in the lead up to her death. I am also satisfied that Mr Lonergan did not know Miss Butterworth.
123. The former Mrs Lonergan gave evidence by video link from Western Australia at the inquest. She was questioned about the matter as referred to above. Nothing she said in her evidence was of any real assistance in relation to Miss Butterworth’s disappearance. It was very plain that she harbours, no doubt with very good reason, strong feelings of antipathy toward her former husband. Indeed her statements reveal treatment at the hands of her former husband that make for harrowing reading. However, her all too understandable antipathy has, in my respectful view, coloured her evidence with respect to her husband’s involvement in relation to Miss Butterworth’s disappearance. I note also that there was a significant discrepancy as between the former Mrs Lonergan’s statement to police on 18 May 1970 and a second statement made by her on 26 May 1970 in relation to whether any painting had occurred in her absence. In the first statement she made no mention of painting; in the second (made eight days later) she did. When asked about that difference during the modern

investigation, Mrs Lonergan was unable to explain the discrepancy between the two statements. She told investigators in her statement of 16 January 2013 that she could only assume “that after police first spoke to [her she] considered the matter further and began to remember events that [she] didn’t previously recall”.

124. In addition to the two statements made by the former Mrs Lonergan in May 1970 she made a further one on a date not recorded but sometime subsequent to May 1970. The details surrounding the making of this third statement were not entirely clear. She was unable to cast any light upon them nor was the date upon which it was made. In any event, she said in the subsequent statement that she had noticed what she described as “black sticky stuff” hanging all over the ceiling and hanging off everything in the lounge room when she returned home from her parents’ home in Berriedale on 27 August 1969. She also said that she noticed a “terrible smell coming from the floor of the front bedroom” and that when she got home on Wednesday she noticed that “John had renewed [sic] the front steps, he had cemented the whole steps and made them larger... The steps were near the front bedroom and where the smell was coming from”.
125. As part of the modern investigation into Miss Butterworth’s death a fourth and final statement (taken on 16 January 2013 – as mentioned above) was made by the former Mrs Lonergan. In that statement she also recounted arriving home from her parents’ residence in Berridale on 27 August 1969 and finding “black sticky stuff all over the ceiling and hanging off everything in the lounge room”. It is noted that she did not tell investigating police in either of the May 1970 statements anything about seeing ‘black sticky stuff’ hanging in the lounge room (or anywhere else for that matter) on the property at 5 Hobart Road, New Norfolk in August 1969. That statement was in the form of a declaration made under the *Oaths Act* 2001 on 16 January 2013. In it she said:
- “I started to be suspicious about John’s involvement in [Miss Butterworth’s] disappearance early on. The more I thought about it, they described in the papers about the girl wearing a black vinyl jacket and then I come [sic] home and there’s all this black stuff all over the ceiling. I told myself it couldn’t be. I asked John about the black stuff and he said, “*something blew up in the fireplace*” to explain the burns and black stuff.”
126. However there was no evidence whatsoever in the mass of media material dating from the aftermath of Miss Butterworth’s disappearance to suggest there was a single report

of Miss Butterworth wearing a “black vinyl jacket” at the time of her disappearance. Furthermore all the evidence was that she was wearing a black leather or suede coat when she disappeared. Her mother Mrs Winifred Butterworth made a statement a day or two after her daughter’s disappearance and identified that fact for police. There was even evidence that the provenance of the jacket (Mrs Bev Wills’ shop in Moonah) was identified. It must be that the former Mrs Lonergan was at best simply mistaken. She has, I find, assumed from photographs at the time that the coat Miss Butterworth was wearing at the time of her disappearance was vinyl whereas it was leather. The point of course is that whilst vinyl may well melt and account for ‘black sticky stuff all over the lounge room’, and hence provide a link to Miss Butterworth; leather would not. I do not consider the former Mrs Lonergan’s evidence on this issue is reliable. Even if there was ‘black sticky stuff everywhere in the lounge room’ it had nothing to do with Miss Butterworth. More likely in my view is that the former Mrs Lonergan is at best mistaken in her desire to link her former husband with Miss Butterworth’s disappearance.

127. In the same statement she was unable to explain why it was she had not mentioned the ‘black sticky stuff’ nor the dead smell and the freshly cemented steps to investigators when she made her statements in May 1970. Neither was she able to explain why that was so when she gave evidence at the inquest. I do not consider that evidence in relation to these points as reliable at all. I reach the view that it was either indicative of a defective memory on the part of the former Mrs Lonergan (at best) or alternatively, done out of a desire to inculcate her former husband and either consciously or unconsciously mislead investigators (and the inquest). I am well satisfied there is no truth about the presence of ‘black sticky stuff’, newly concreted steps or a dead smell.
128. I am satisfied to the requisite standard that there is no evidence, at all, that connects Mr Lonergan with the disappearance and death of Miss Butterworth. At its highest there is clear evidence that Mr Lonergan was a repeat sex offender who lived in New Norfolk at the time of Miss Butterworth’s disappearance. He may, or may not, have had an alibi for the evening of 25 August 1969 (on balance it is at least arguable that he did). The only material capable of being regarded as evidence of his involvement in Miss Butterworth’s disappearance was the belief of his former wife that he was responsible. There is in my view no objective basis for that belief.
129. It is also quite apparent that the level of attention afforded to Mr Lonergan by the original investigators, and particularly Mr Canning, served to obscure the focus of the proper investigation of Miss Butterworth’s disappearance. I say this because it is quite

clear that Mr Canning in particular focused on Mr Lonergan to the exclusion of all other possible suspects. The suspicion which attached to Mr Lonergan in 1970 was, in my view, fully justified and understandable. However, once the matter was investigated (and it was to the standards of the time) and no evidence whatsoever was found which linked Mr Lonergan to Miss Butterworth's disappearance it was regrettable to say the least that other suspects were not even considered. The level of Mr Canning's fixation upon Mr Lonergan as the only suspect in Miss Butterworth's death is made quite clear by evidence given by Detective Inspector Plumpton as to a visit made to Mr Canning and his wife at their home on 22 September 2011. By then Mr Canning was very unwell (suffering from dementia) and thus unable to assist Inspector Plumpton at all (after the visit, but before the inquest, Mr Canning died). By the time of Inspector Plumpton's visit Mr Canning had been retired from Tasmania Police for many years. Mrs Canning however provided four manila folders of original documents relating to the investigation of the disappearance of Miss Butterworth. It is highly inappropriate that a large number of exhibits relating to what was on, any reasonable view a homicide investigation, had been removed from an official police file, taken to a private residence and retained by a long retired and very senior police officer. Such a departure from the standards expected of any police officer, let alone someone who retired in the rank of Assistant Commissioner, reflects poorly on that officer and on the standard of investigation. I am conscious in making these observations that Mr Canning is in no position to defend himself or his reputation. That having been said, I can discern no basis upon which the retention of the material by Mr Canning after his resignation from the police force can be justified.

### **Lance Russell Sage (or Le Sage) and Robert Karl Lahey**

130. Evidence at the inquest established that on 28 November 1986 Lance Russell Sage (a.k.a. Mr Le Sage, apparently his preferred name, at least now) walked into police headquarters in Perth, Western Australia, and made a full confession to having been involved with the disposal of the body of a female some years before in Tasmania. Following Mr Le Sage's 'confession' he was arrested and extradited to Tasmania on a charge of being an accessory to the crime of murder. After a period of time in custody the charge against him was adjourned *sine die* (that is to say, indefinitely), on 24 December 1986. Mr Le Sage was admitted to bail and thereafter left Tasmania, only to return some time later.
131. Mr Le Sage's story was that he and a man by the name of Robert 'Bobby' Lahey, a well-known Australian Rules footballer with the Sandy Bay football club, had some

time between 1963 and 1968 (the dates are particularly significant) picked up a young woman in Mr Lahey's car. Mr Le Sage told police that they drove to an area on the lower Domain in Hobart and that he left the car leaving Mr Lahey and the young woman in the car. He told investigators that after about 10 minutes he returned and the young woman was under a blanket on the back seat. Mr Le Sage said that Mr Lahey told him "just remember you are an accessory if anything happens over this, I want you to get rid of her and deep". Mr Le Sage was then aware, or so he said, that the young woman had been killed (presumably by Mr Lahey).

132. Mr Le Sage told initial investigators that he disposed of the body by burying it in timbered area a short distance off Maranoa Road in Kingston. As a result of his 'confession', enquiries were commenced in Tasmania. Those enquiries revealed that Miss Butterworth could have been the young woman described by Mr Le Sage, although his first interview in 1986 was noteworthy for its distinct lack of detail. Mr Le Sage's claims were investigated. The area where he said he had disposed of the body was carefully excavated but nothing was found. Evidence was received at the inquest which indicated that in 1989 Mr Le Sage spoke with a journalist in Tasmania about his so-called 'confession'. At that time he told the journalist that the woman's body was not buried at Kingston all but rather he had taken it by boat with two brothers to Port Davey in the far south west of Tasmania. He marked on a map the spot where he said he buried the body at Port Davey. The map was tendered at the inquest.
133. Mr Le Sage was called to give evidence at the inquest. Mr Le Sage agreed on oath at the inquest that he had changed his story markedly. He acknowledged he had marked on a map of Port Davey where he told a journalist he had disposed of the body. On oath at the inquest he maintained that whilst an incident had occurred with Mr Lahey and a girl they had picked up, he said that it had happened at the time of the Tasman Bridge was being constructed. There was evidence that this was well before August 1969 (the Bridge opening in 1963). He resiled on oath, at the inquest, from his story that he and Mr Lahey had picked up a girl from a bus stop and said on reflection that he thought she might have been collected from or near the Claremont Hotel. He conceded that none of the allegations he had made to police over the years had anything to do whatsoever with Miss Butterworth.
134. There was evidence that a Mr Paul Tapp, a former journalist, conducted an interview with Mr Le Sage near Buckland in Tasmania. He recorded that interview and placed it on YouTube. It was tendered and played to the Court. It is unnecessary to canvass the detail of the interview other than to say, if Mr Le Sage was telling the truth, then the

young woman who Mr Le Sage said he was involved in abducting and killing, along with Mr Lahey, was Miss Butterworth. However when questioned about the interview by Mr Nicholson, counsel assisting, Mr Le Sage said, in effect, that nothing he said in the interview about Miss Butterworth was true and more over he had been told what to say by Mr Tapp.

135. Mr Tapp was therefore summonsed to attend as a witness to answer this very serious allegation against him. He told the inquest that it was his intention to write a book about Miss Butterworth's disappearance although he said he had no intention of selling the book for commercial gain. His evidence about this issue, and generally, was to say at the least very difficult to understand. When counsel assisting confronted him with Mr Le Sage's evidence at the inquest that nothing he had reported to police had anything to do whatsoever with Miss Butterworth's disappearance, Mr Tapp's response was that he made Mr Le Sage's character "more interesting". It is difficult to understand what Mr Tapp meant by this response. It is equally difficult to determine what interest, other than a commercial one, Mr Tapp had in investigating Miss Butterworth's disappearance. However his evidence that it was his intention to write a book about Miss Butterworth's disappearance, but that he had no intention of selling it, is little short of risible. In short, his involvement in the matter generally, as well as his demeanour and conduct in the witness box at the inquest, does him no credit at all.
136. Mr Donald Hazell, a former mayor of Kingston and the operator for many years of a significant civil contracting business, made a statutory declaration to police in 1987 in which he said that he had unearthed human remains - a rib cage - in the mid-1970s but had not reported it to police. He said in that statutory declaration that the bones which he said consisted of a full rib cage were reburied by him. This he did apparently believing them to be human, but took no steps whatsoever to draw the matter to the attention of the appropriate authorities.
137. Mr Hazell's story might well have been completely ignored were it not for the fact that it seemed to tie in with the 'confession' of Mr Le Sage. As a consequence it was afforded a level of importance which it simply did not deserve. Mr Hazell was taken by police to the Anatomy Department of the University of Tasmania. There he was shown a number of skeletons and indicated the skeleton of a young woman as being similar to the rib cage he had unearthed at Kingston.
138. Next Mr Hazell was taken to Kingston in the area of Redwood Road. There he indicated a particular area where Housing Department units now stand as being the

place where he had unearthed and reburied the bones. Extensive excavations were undertaken in the place indicated by Mr Hazell. Nothing of any relevance was found.

139. In May 1999 and again in September 2007 Mr Hazell raised with police the issue of him finding human remains. In 1999 an excavation of the site was undertaken but with negative results.
140. Mr Hazell did not leave the matter there. He also engaged in an “interview” with the former journalist Mr Tapp which was also recorded by Mr Tapp on a video and placed on YouTube. The substance of that interview (which was also played to the Court) was that Mr Hazell had found a skeleton of a young woman and that young woman was Miss Butterworth.
141. Eventually it emerged that a backhoe driver, Mr Coad, was present when the bones were unearthed by Mr Hazell at the work site in Kingston near Maranoa Road in the early to mid-1970s. Mr Coad was located by modern investigators and a statement was taken from him. He gave evidence at the inquest. Mr Coad’s evidence was far more impressive than that of his then employer, Mr Hazell. Mr Coad said that he recalled the incident and was quite certain that the bones were not human but rather were those of a sheep. Unlike Mr Hazell (or for that matter Mr Tapp or Mr Le Sage) Mr Coad’s evidence was delivered without emotion, exaggeration or embellishment. He was an impressive witness. He confined himself to recounting his observations at the time. I am satisfied he was a witness of the truth. I accept his evidence.
142. Mr Hazell also gave evidence at the inquest. He accepted at the inquest the bones that he uncovered, and about which he went to the police three times claiming were human, were not in fact human. Mr Hazell was unable to explain why he, having unearthed bones that he believed to be human, had covered them up immediately without referring the matter to the appropriate authorities. He could not explain why he told no one about what happened for many years. I observe he acknowledged, under questioning, a number of errors in relation to his statutory declaration, none of which he could explain, and said that in future when signing a “legal” document he would be “more careful”. It must be said that like Mr Le Sage and Mr Tapp, Mr Hazell’s involvement in this matter does him no credit either.
143. It should be said for the sake of completeness that Mr Lahey was called to give evidence and denied completely Mr Le Sage’s story, (which by then anyway he had recanted). It is unnecessary in the circumstances to make any further findings in relation to the involvement of Mr Lahey and Mr Le Sage other than to say that I am

satisfied to the requisite standard that neither was involved in the disappearance of Miss Butterworth nor the disposal of her body. The “confession” of Mr Le Sage was not linked to Miss Butterworth’s disappearance. The story told by Mr Hazell to police, repeatedly, was not linked to Miss Butterworth and had nothing, whatsoever, to do with her disappearance either. The involvement of Mr Le Sage, Mr Tapp and Mr Hazell caused a significant waste of resources and effort in relation to unnecessary investigation, and no doubt caused considerable distress to the family of Miss Butterworth. Nothing they said had anything, whatsoever, to do with Miss Butterworth’s disappearance.

### **Geoffrey Charles Hunt**

144. On 5 July 1976 Mr Geoffrey Charles Hunt, who then lived at 7 Station Street, New Norfolk, (as he did in August 1969), raped and murdered a young car saleswoman, Ms Susan Winifred Knight, by the side of the Dromedary Road not far from New Norfolk. Ms Knight was employed at Cooperative Motors in Hobart. Mr Hunt telephoned her having seen her photograph in an advertisement in the Saturday Evening Mercury. He told Ms Knight that he was interested in purchasing a particular motor vehicle, a Volkswagen. Mr Hunt told her his name was Peter Bennett from Triabunna. They arranged to meet at Bridgewater. Ms Knight drove the Volkswagen to Bridgewater where they met as arranged outside the Derwent Hotel. Mr Hunt took the Volkswagen for a “test” drive. He drove away from Bridgewater on the Dromedary Road. Ms Knight was in the passenger seat. Mr Hunt subsequently told investigating police that he told Ms Knight he heard a whining noise in the gearbox and therefore suggested that they test drive the vehicle on a hilly road. He then drove up Upper Dromedary Road to Church Road. Mr Hunt claimed that Ms Knight made a comment about a flat tyre saying she said she had noticed a thumping noise at the rear of the car. He said as a consequence of her telling him this he stopped the vehicle. He later told investigators that “something just came over him” and he attacked Ms Knight, chased her in to the bush, raped her, and struck her repeatedly with a large rock to the back of the head killing her. He covered her body with stones, dead branches and a log, returned the Volkswagen to the Bridgewater area, and then drove home to Station Street in his own car.
145. Two days later, as he was travelling to work at the mill at Boyer for a night shift, Mr Hunt was intercepted by police. He was taken to the Glenorchy police station. At the station he was interviewed. During that interview, which extended over a period of about six hours, he made a full confession with respect to the murder of Ms Knight.

Some of the detectives involved in the investigation of the rape and murder of Ms Knight had worked on the case surrounding the disappearance of Miss Butterworth. One in particular, Detective First Class Constable Barry Dillon, was one of the two detectives who conducted the interview in which Mr Hunt confessed to the rape and murder of Ms Knight.

146. As a consequence of that confession the detectives interviewing him (Detective Dillon and Detective Sergeant Kenneth O’Garey) commenced to question Mr Hunt about the disappearance of Miss Butterworth. They did this because they reached the view that Mr Hunt was a strong suspect in relation to her disappearance. It would seem that until his apprehension with respect to the rape and murder of Ms Knight, Mr Hunt was never considered by any of the investigators as a suspect in relation to the disappearance of Miss Butterworth.
147. Both former detectives gave evidence, on oath, at the inquest. The substance of that evidence was that before being questioned about her disappearance, Mr Hunt was cautioned. Both Mr Dillon and Mr O’Garey said that during this interview Mr Hunt made a confession to them of his involvement in the disappearance of Miss Butterworth.
148. Mr Hunt was charged with the murder of Ms Knight. After a committal hearing in the Magistrates Court, Hobart he appeared in the Criminal Court where he pleaded guilty to Ms Knight’s murder. He was sentenced to life imprisonment (the only sentence available at the time for murder), but was resentenced on 1 June 1999 by Underwood J (as he then was) to life imprisonment with a minimum non-parole term of 25 years. Mr Hunt successfully challenged that sentence in the Court of Criminal Appeal. On 28 October 1999 the Court of Criminal Appeal made an order confirming the head sentence of life imprisonment but fixing a non-parole period of 23 years from 7 July 1976. On 6 June 2000 Mr Hunt was released on parole.
149. Before I deal with the circumstances of Mr Hunt’s alleged confession to involvement in the disappearance of Miss Butterworth, it is necessary to set out something of his background, history and antecedents.
150. It will be recalled that Mr Fitzgerald lived with his father Mr Clyde Fitzgerald on the corner of Boyer Road and Station Street in New Norfolk. Station Street then provided the access to the New Norfolk railway station. It has not changed materially since 1969 other than for the fact that the railway station is no longer operative. Several houses (less than 10) were, and are, in Station Street. The Hunt family lived at 7 Station

Street. The house is still there. It is a very short distance (approximately of 50 to 75 metres) from the Fitzgerald property at 1 Station Street.

151. During the 1960s the Hunt family, which consisted of Mr Bill and Mrs Mavis Hunt and their children Terry, Ken, Jennifer, Ray and Geoffrey, lived in that home. Mr Geoffrey Hunt was born on 13 January 1950 and thus was 19 years old when Miss Butterworth disappeared. Another son, Philip, the oldest, lived during this time with his grandparents on a farm at nearby Plenty. All the Hunt children were educated locally in New Norfolk. Several witnesses described at least two of the boys – Ray and Mr Hunt – as being albino. The appearance of both was distinctive and apparently very well-known in New Norfolk whilst they were growing up. The evidence was that Mr Hunt had very pale skin, white hair and pink eyes whilst growing up and as a young adult male.
152. At all relevant times Mr Bill Hunt was employed at the New Norfolk railway station. It is a very short distance (approximately 150 m) from the Fitzgerald property at 1 Station Street.
153. There was a significant amount of evidence that leads to a conclusion that the Hunt family regularly shopped at the Fitzgerald store on the corner of Station Street. There was also a significant degree of evidence as to generosity of Mr Clyde Fitzgerald towards the Hunt family, by amongst other things, gifts of Christmas hampers and the extension of lines of credit from time to time. Only Mr Hunt suggested that Mr Clyde Fitzgerald was anything other than very generous to his family whilst he was growing up.
154. There was evidence from three witnesses – Mr Michael Clarke, Ms Audrey Britain and Mr Anthony Smith – that Mr Hunt worked casually from time to time for Mr Clyde Fitzgerald in the store, doing deliveries for him and assisting with packing and unpacking groceries. None of those witnesses had, in my view, any reason to be untruthful. It is, I suppose possible, that each could have been mistaken about the detail but in my view that is inherently unlikely. Mr Hunt said that not only did he never work at the store but he never even entered it. I reject his evidence; I am quite satisfied that Mr Hunt did work from time to time in the Fitzgerald store. I am also satisfied that he knew Mr Fitzgerald (Miss Butterworth's boyfriend) and exchanged, at the very least, pleasantries with him in the street.
155. There was evidence from Mrs Short, an impressive witness that Miss Butterworth also worked from time to time at the Fitzgerald store during the time she was in a

relationship with Mr Fitzgerald. Significantly, Mrs Short said that Miss Butterworth told her that “Whitey” would do jobs for “Clyde”. Contextually the reference to “Clyde” can only be a reference to Mr Clyde Fitzgerald. There was evidence, which I accept, that “Whitey” was the name Miss Butterworth used for Mr Hunt. I am satisfied that not only did Mr Hunt work from time to time in the Fitzgerald store at Station Street but that he did so on occasions when Miss Butterworth also worked there.

156. Mr John Short gave evidence at the inquest. He said, *inter alia*, that during the time he worked with Mr Hunt at Motors, Mr Hunt told him that he knew a “girl” who worked at Channel 6 (in 1969 one of just two television stations broadcasting in southern Tasmania). The evidence was, and I find, that as at August 1969 the studios of the Channel 6 television station were in the same building as the 7HO radio station where it will be remembered Miss Butterworth worked. Mr Hunt was questioned by Mr Nicholson about Mr Short’s evidence on this issue. He did not deny that he had said that he knew a girl at Channel 6 but offered as an explanation a story of his having met a Channel 6 TV personality on an occasion some years before. I found his explanation in this regard to be completely unconvincing. It appeared to me to have been made up by Mr Hunt on the spot. I do not accept Mr Hunt’s evidence in this regard. I accept Mr Short’s evidence about the substance of the conversation he recounted with Mr Hunt. I am satisfied that Mr Hunt’s explanation offered to the Court was deliberately untrue. I am quite satisfied Mr Hunt’s story to Mr Short was a reference to Miss Butterworth.
157. Mr Fitzgerald gave evidence (in a statement he made in March 2000 and which was tendered at the inquest) that:
- “occasionally [he] would see Geoffrey Hunt and [he] would acknowledge him either by waving or saying hello, Geoffrey would wave back and reply, however if [he] was with Lucille Butterworth Geoff would not look directly at [them] or acknowledge [them]”.
158. Mr Fitzgerald also said that he recalled an occasion where Miss Butterworth was at his place and they were out the front washing his car (a distinctive vehicle). Miss Butterworth said “Whitey is watching us”. Mr Fitzgerald described also hearing Miss Butterworth refer to Mr Hunt as “Whitey” on several occasions when Mr Hunt was within earshot.
159. Mr Hunt told investigators that he did not even know who Miss Butterworth was. He repeated this on several occasions to investigators and said so in the evidence that he gave at the inquest. I am satisfied on the evidence of Mr Fitzgerald, Ms Webber, Mrs

Short and Mr Short, along with that from Mr Clarke, Ms Britain and Mr Smith, that Mr Hunt did know Miss Butterworth. I am satisfied that his assertion that he did not know who she was is untrue. I am satisfied that it was a deliberate untruth.

160. It is quite clear, and I find, that on the evidence at least of Ms Joan Webber, (the former wife of Mr James Butterworth and therefore at the relevant time Miss Butterworth's sister-in-law), that Miss Butterworth also knew who Mr Hunt was. I have mentioned already the fact that she had a name for Mr Hunt – "Whitey". Ms Webber gave evidence of an incident in which Miss Butterworth was sunbathing in the backyard of the Fitzgerald property and noticed Mr Hunt looking at her; something she apparently found unnerving. It was certainly sufficiently noteworthy for her to have made mention of it to her sister-in-law. I am satisfied that it occurred as described by Ms Webber. Mr Hunt was questioned about this incident. Again he did not deny that the incident of him having watched Miss Butterworth sunbathing actually occurred as such. Rather, he offered an explanation from which it is supposed one is expected to conclude that it could not have occurred. The accounts he gave, which I reject, involved the height of the fence being such that looking over it was impossible. There was ample evidence to suggest that the fence of the Fitzgerald property facing on to Station Street in 1969 was not of such a height that would have precluded an ordinary sized person (such as Mr Hunt) easily seeing over it. I am satisfied Mr Hunt's denial (such as it was) and his evidence with respect to the fence was untrue, and deliberately so.
161. The evidence was that by August 1969 Mr Hunt was working at Motors in Hobart. He was then employed as a storeman. In 1969 Motors was in Murray Street, on the eastern side, in the block between Melville Street and Bathurst Street. The business was concerned with the sale and service of motor vehicles. In addition, it had a department known as Motors Frigidaire concerned with the sale, service and repair of what might be described as 'white goods'. Mr Hunt was employed in this area of Motors. His hours of work were 9.00am to 5.30pm. Two co-workers from his time at Motors, Mr Short and Mr Malcolm Bond, gave evidence at the inquest. Both confirmed the hours of work in 1969.
162. A matter that assumed a high degree of significance at the inquest was Mr Hunt's access to, and use of, a motor vehicle as at August 1969. Evidence was given that on Tuesday, 13 November 2011 Mr Hunt was spoken to at length by detectives investigating Miss Butterworth's disappearance. He told those officers that he travelled to and from work at Motors in 1969 on a bus. The return journey after work each day

involved catching the bus from outside what was then Flynn's pet shop in Bathurst Street, Hobart.

163. He told the investigators during this discussion that in August 1969 he did not drive as he did not have a driver's licence. He asserted in very strong terms that he did not obtain his driver's licence until December 1969. The evidence was, and I find, that he was adamant in relation to these details. Mr Hunt also denied having access to a motor vehicle in August 1969. The significance of this of course (as no doubt Mr Hunt appreciated) is that without access to a motor vehicle it would have been effectively impossible for him to have picked up Miss Butterworth from the bus stop in Claremont from which she disappeared. During the same conversation he denied any knowledge of Miss Butterworth; a denial I have already addressed earlier in this finding.
164. However it was subsequently ascertained as a result of investigations that not only did Mr Hunt have a licence in August 1969 but he had access to, and regularly used, a particular vehicle. Mr Hunt accepted that he did in fact have a licence but in the evidence that he gave at the inquest, as well as in accounts he gave to investigators during interview, he was at pains to emphasise that he did not have the use of any vehicle. However I am satisfied that Mr Hunt had access to, and the use of, a FB Holden sedan as at 25 August 1969. That vehicle had been purchased by his father, Mr Bill Hunt, in April 1969 so that the family could travel to and attend a wedding of a family member in Launceston. Mr Bill Hunt did not have a licence in 1969. The evidence was that he did not obtain one for some years, but Mr Geoffrey Hunt did and indeed it was he who drove the family in the FB Holden to the wedding in Launceston. Mr Hunt agreed, eventually, that this was so.
165. Mr Hunt in his evidence at the inquest said initially that he never drove the FB Holden to work when he worked at Motors but rather he travelled to and from work by bus. In contrast, the evidence of Mr Short and Mr Bond was that Mr Hunt drove the FB Holden to work every day. They described where he parked the vehicle. I accept their evidence.
166. A photograph of a FB Holden was shown to the witness Mr Field when he gave his evidence at the inquest. He said that it was identical to a vehicle he had seen at or about the bus stop from which Miss Butterworth disappeared on 25 August 1969. Two of Mr Hunt's brothers gave evidence at the inquest. Both were shown the same photograph. Both confirmed that it was identical to the vehicle owned by Mr Bill Hunt,

but driven by Mr Hunt, in 1969. I am satisfied that Mr Hunt's denials as to access to, and use of, a car were untrue, and deliberately so.

167. Mr Short, who it will be remembered was a co-worker of Mr Hunt's, then lived in Kenbrae Avenue, Glenorchy. He gave evidence that on Monday, 25 August 1969 Mr Hunt gave him a lift home from work to Kenbrae Avenue. Mr Short was shown the same photograph of the FB Holden as was shown to Mr Field and Mr Hunt's brothers. He also said it was identical to the car driven by Mr Hunt and in which Mr Hunt gave him a lift home on 25 August 1969.
168. Mr Field described in his evidence the car he saw and described it as something of a "bomb" - and which I am satisfied was an FB Holden - and as having damage to the driver's near side door. Mr Hunt was questioned about the FB Holden and any damage to it. The explanation that he offered to the Court is one I reject. He proffered an elaborate and very detailed account of how it was that the vehicle had sustained damage, although the damage was to the opposite side of the vehicle described by Mr Field. I find the explanation offered by Mr Hunt, having watched him give evidence and listened carefully to him at the inquest, to be completely untrue. It lacked any sense of veracity. I am quite satisfied that the FB Holden driven by Mr Hunt had damage and it had damage on the driver's near side door as described by Mr Field. I am satisfied that Mr Hunt's explanation as to the damage was untrue and that his evidence about it was deliberately designed to mislead the Court.
169. Mention has already been made of Mr Hunt's rape and murder of Ms Knight on 7 July 1976. As has already been touched upon two days after commission of the crimes against Ms Knight, Mr Hunt was apprehended by detectives working from the Glenorchy police station. He was on his way to work at Boyer. Former detectives Barry Dillon, Ken O'Garey, and Richard McCreadie all gave evidence about the circumstances in which Mr Hunt was apprehended. After being intercepted in Boyer Road he was taken by the detectives to the Glenorchy police station where he was interviewed in relation to Ms Knight's rape and murder. During that interview he made complete admissions with respect to the killing of Ms Knight. The interview was conducted by detectives Mr Dillon and Mr O'Garey. Both men gave evidence at the inquest that they then spoke with Mr Hunt about the disappearance of Miss Butterworth. Following a caution administered by them in the ordinary way he (Mr Hunt) volunteered information with respect to the disappearance of Miss Butterworth.

170. Mr O’Garey said that he considered Mr Hunt a suspect with respect to the disappearance of Miss Butterworth because he had been living in very close vicinity to Mr Fitzgerald at the time Miss Butterworth disappeared. Mr O’Garey said that having completed the interview with respect to the rape and murder of Ms Knight (but before the interrogation register was performed – about which more will be said shortly) he said to Mr Hunt “you know there is another matter [we] would like to talk to you about” or words to that effect. Mr Hunt became very quiet and said “yes, I know about that”. Mr O’Garey said this answer caught him by surprise and so he asked “Can you tell us about that? What do you know about it?” Mr Hunt said he knew Miss Butterworth and that he saw her at a bus stop while he was driving home in a vehicle from his workplace. Mr O’Garey said he thought that the workplace was Nettlefolds (other evidence confirms that Motors was also known as Nettlefolds). He said that Mr Hunt said he was travelling through the main road at Claremont near Box Hill Road and he saw Miss Butterworth waiting at the bus stop.
171. Mr O’Garey told the inquest that Mr Hunt said that “I said to myself perhaps I can give her a lift, she’s obviously going to New Norfolk”. Mr Hunt said he knew that Miss Butterworth was the fiancée of Mr Fitzgerald.
172. Mr Hunt then described to the detectives his driving towards New Norfolk just ‘having general conversation’. He said that on the other side of the Lime Kilns (an area roughly halfway between Granton and New Norfolk) Miss Butterworth complained of a cramp in her foot. Mr Hunt said he stopped the car and something “come over him” and he grabbed her. He described to the detectives Miss Butterworth struggling with him as he attempted to kiss her and that she continued to struggle. Mr Hunt told the detectives that the next thing he knew was that his hands were around her throat and he was strangling her. Mr O’Garey said “in actual fact [Hunt] said, “I did strangle her and she died” or words to that effect.”
173. Mr Hunt told the detectives that he got out of his car and went around to the passenger side, opened the door and removed Miss Butterworth. He described carrying her in a fireman’s lift and carrying her across towards the Derwent River through a soggy grassy area and dumping her body there.
174. Mr O’Garey told the Detectives that that he did not prompt Mr Hunt at all and that it was just a continuous conversation. Mr Hunt said that when he came back to the car he saw Miss Butterworth’s handbag and her shoes still in the car and got rid of those by the picking them up and throwing them away.

175. Mr Dillon gave evidence that was essentially in the same terms as the evidence of Mr O’Garey about this issue. Both men explained that the confession by Mr Hunt was not formally recorded because they still had quite a lot to do in relation to the charge that was going to be laid with respect to the murder of Ms Knight.
176. Two other former policeman, Mr Richard McCreadie (the former Police Commissioner) and Mr Graham Hickey, gave evidence as to events on the night of the alleged confession by Mr Hunt. Both gave evidence, which I accept, that corroborates in a material sense the opportunity for Mr Hunt to have said what Mr O’Garey and Mr Dillon say he said. Significantly Mr McCreadie’s evidence was, and I accept, that he recalled Mr Dillon saying words to the effect of “it looks like we might be good for the Butterworth girl as well”. This was said by Mr Dillon when he came out of the interview room during the interview of Mr Hunt at the Glenorchy police station into a general muster room area where other detectives were present.
177. As already noted both Mr Dillon and Mr O’Garey gave evidence that was substantially the same with respect to what happened subsequent to the conversation recounted above. Both men said in effect that they had gone to Detective Inspector Aub Canning and told him of the confession. Both men said, and I accept, that Detective Inspector Canning told them they were wrong and that Mr Hunt was not responsible. Both men returned to the office where Mr Hunt was located subsequent to their discussion with Inspector Canning. Both men said, and I accept, they questioned him again and that Mr Hunt again admitted to the murder of Miss Butterworth and said he would indicate the area where he disposed of the body.
178. Both Mr Dillon and Mr O’Garey gave evidence, again substantially the same, that after the second confession by Mr Hunt they again approached Detective Inspector Canning and again told him that Mr Hunt had again confessed to the murder of Miss Butterworth. Detective Inspector Canning then, according to Mr Dillon and Mr O’Garey entered the office where Mr Hunt was being held and remained with him for some time. He then left the office and told the detectives that Hunt was not responsible for Miss Butterworth’s death and that they were on the “wrong track”.
179. Unfortunately as has already been mentioned, Mr Canning died not long before the inquest commenced and thus no questions could be asked of him. The evidence was that he was ill with dementia in the lead up to his death and therefore despite the best efforts of investigators no opportunity was available to corroborate the evidence of Mr O’Garey and Mr Dillon about this critical issue.

180. When he gave evidence at the inquest Mr Hunt was asked questions at length and in careful detail by Mr Nicholson, counsel assisting, about the events at Glenorchy police station on 7 and 8 July 1976. His evidence in relation to the events at the police station was generally unsatisfactory. He said he could not recall the substance of the conversations that he had with police about Miss Butterworth, although he agreed that he was asked at least one question about her. He did not deny that the conversations, the subject of Mr O’Garey and Mr Dillon’s evidence, took place; merely that he could not recall them.
181. Other evidence about what transpired at the Glenorchy police station on 7 and 8 July 1976 was available in the form of a proof of evidence prepared by Mr O’Garey in anticipation of a murder trial, a deposition taken from Mr O’Garey at a committal hearing held in the Hobart Court of Petty Sessions with respect to the murder charge against Mr Hunt relating to Ms Knight, and a document known as an ‘interrogation register’. Each of those documents includes a reference to questions being asked of Mr Hunt with respect to the disappearance of Miss Butterworth. All that material was tendered at the inquest.
182. Each of those documents taken individually amounts to little; for example, the interrogation register makes specific reference to the fact that in addition to being questioned about confessing to the murder of Ms Knight, Mr Hunt was also asked questions about the disappearance of Miss Butterworth but notes he (Mr Hunt) was “unable to assist” with that. Mr O’Garey explained the interrogation register procedure as being a process whereby a person who had been interviewed in relation to a crime had to be taken before a senior officer to ascertain whether that person had any complaints as to the manner in which he or she had been treated. In this instance the interrogation register was conducted by Detective Inspector Canning. It is quite clear on the evidence, and I find that, Detective Inspector Canning was completely convinced, wrongly, that the person responsible for the disappearance of Miss Butterworth was Mr Lonergan. This belief was extremely strongly held by him. It is apparent that it clouded Mr Canning’s judgement with respect to the investigation. It clearly influenced his approach to the confession made by Mr Hunt in July 1976. The extent of the strength of Mr Canning’s belief that it was Mr Lonergan, and not Mr Hunt, who was responsible is evidenced by the fact, as already mentioned earlier in this finding, that investigators in the modern era, when calling upon Mr Canning, were furnished with large amounts of original police files and exhibits from the Butterworth file that had been retained by Mr Canning after his retirement. The strength of Mr

Canning's belief led him, in my view, to disregard the confession by Mr Hunt. It also led him, regrettably, to have the interrogation register completed incorrectly. All that aside, and however inaccurate the interrogation register may be, it is evidence of the fact, that Mr Hunt was questioned about Miss Butterworth's disappearance, just as Mr O'Grady and Mr Dillon said.

183. The evidence about events at the Glenorchy police station on 7 and 8 July 1976 when viewed as a whole satisfies me that Mr Hunt confessed, after caution, to Detectives O'Garey and Dillon of his involvement in the disappearance of Miss Butterworth. As I have already said, Mr Hunt was questioned carefully by Mr Nicholson about the events at that police station. I have already noted that whilst he was vague about what occurred he did agree that he was asked at least one question about Miss Butterworth. Critically, he did not deny that the conversations recounted by Mr Dillon and Mr O'Garey took place, rather he said he could not recall them. I observe that his vagueness about what occurred at the police station was in stark contrast to the level of detail he furnished investigators during his video recorded record of interview (which was tendered and played to the Court) and during his evidence at the inquest about many unrelated matters. Mr Hunt had a remarkably detailed recall of life in Tasmania in general, and New Norfolk in particular, during the 1960s and 1970s. He provided enormous detail with respect to things as diverse as a Mardi Gras apparently conducted in New Norfolk in the 1960s, the names of the families of fellow employees of his father on the railway and the design and history of a bridge over the River Derwent to name but three of many examples. But in contrast he claimed he could recall virtually nothing of critical events in his life which led him to being sentenced to life imprisonment.
184. In summary, I am satisfied to the requisite standard that the confessions described by Mr Dillon and Mr O'Garey of Mr Hunt as to his involvement in the disappearance of Miss Butterworth took place as described by them and that those confessions were true.
185. Three inmates from three different parts of the State, who served periods of imprisonment with Mr Hunt at three different times and were all unknown to each other, gave evidence about conversations each had with Mr Hunt in prison. Plainly a degree of caution needs to be exercised in relation to accepting the evidence from persons in such circumstances. Each gave evidence that they came forward during the course of the inquest as a result of hearing something, or reading something in the media relating to the inquest with respect to Miss Butterworth's disappearance.

186. The first, Mr Philip Harris, from the north of Tasmania, gave evidence of a time he was serving a period of imprisonment and was housed in the prison hospital. He described encountering Mr Hunt in 1980. He said that when he was in the hospital there were four other inmates, one of whom was an albino by the name of 'Hunt'. Mr Harris said that he did not know Hunt's first name and never did. He described Mr Hunt as saying to him in answer to the question "What are you in for?", Mr Hunt describing it was for the murder of a woman and that he had killed another woman and 'they' hadn't found the body yet. Other evidence was led which satisfies me that Mr Harris was serving a sentence of imprisonment when he said he was and housed in the prison hospital at the time he described. I am also satisfied Mr Hunt spent a substantial period of time, including a period in 1980, in the prison hospital. There is no doubt that the person whom Mr Harris described as 'Hunt' was in fact Mr Hunt. The evidence that Mr Harris gave to the inquest had the ring of truth. He had nothing to gain that I could discern from the account that he gave. There was no apparent reason for him to tell an untruth or dissemble in any fashion. I accept his evidence.
187. Mr Philip Thow gave evidence. Mr Thow was from the north west of the State. He said that he was in prison in 1977 and that he was in the same yard as Mr Hunt. Other evidence adduced at the inquest confirms that Mr Hunt was in prison in 1977 at the same time as Mr Thow. Mr Thow described Mr Hunt as saying one day to him that he got away with a killing. Mr Thow thought that Mr Hunt said that the person he killed was "Jill Butterworth" but was certain that the name was Butterworth. He described Mr Hunt admitting to him that he killed a woman named Butterworth and that he disposed of her body and that her remains would never be found. He said Mr Hunt described to him the disposal of the body in or near the water. Mr Thow gave evidence that he paid little or no attention to Mr Hunt's story in 1977 and that he thought he (Mr Hunt) was in effect 'big noting himself'.
188. Like Mr Harris I could discern no reason for Mr Thow to be anything other than frank. I could discern no reason for him to be untruthful, and was unable to identify any gain for Mr Thow in giving the account that he did. I watched him give his evidence with care. I reached the view that the account that he gave both to investigators, which was played to the Court, and in his evidence at the inquest was the truth.
189. Mr Leigh Wise, from the Hobart area, was the third of the former inmates who gave evidence. He said he was in prison in 1977 and 1978 and that it was his job to deliver stores – clothes, supplies, rations and the like, to the prisoners in the yards. He described an encounter with another inmate who he described as an albino. They

discussed what each was serving a sentence of imprisonment for. Mr Wise described the albino prisoner (who I am satisfied was Mr Hunt) as saying that he was serving a sentence of imprisonment for “a big one” and that ‘they’ had got him for one but “they hadn’t got [him] on another one”. He described the albino prisoner as saying he loved Old Jamaica chocolate.

190. Mr Wise described Mr Hunt explaining the best way to “pick up a sheila” was at the bus stop. He said Mr Hunt told him that he looked for “them” at a bus stop looking at their watch, if they are agitated or anything like that, and “he said just pull over and offer a lift somewhere”.
191. Again, as with the other two witnesses mentioned above, I had the advantage of seeing and hearing Mr Wise give his evidence. Other evidence satisfies me that he was serving a term of imprisonment when he said he was – at the same time as Mr Hunt. The description he gave of the albino prisoner was, I am satisfied, Mr Hunt. I accept Mr Wise’s evidence. As is the case with the other two inmate witnesses I could discern no reason whatsoever for Mr Wise to be anything other than truthful. He stood to gain no advantage whatsoever from telling an untruth. Critically, also in my assessment of the veracity or otherwise of his evidence, was the detail with respect to the Old Jamaica chocolate and the detail with respect to the pickup of women from a bus stop. The detail with respect to looking for an agitated woman at a bus stop is particularly telling for it is entirely consistent with the described demeanour of Miss Butterworth at the bus stop in Claremont on 25 August 1969. I am satisfied that Mr Wise’s evidence as to the substance of Mr Hunt’s conversation with him was true.
192. The point about Old Jamaica chocolate might be thought obscure or minor but it is not. Mr Hunt’s brother, Ray, gave evidence that Old Gold or Old Jamaica chocolate (essentially the same product) was something that Mr Hunt was particularly fond of, and that their father used to bring home blocks of it from the RSL on a Saturday night. Mr Hunt was asked about Old Gold chocolate when he gave evidence at the inquest. He was visibly agitated when questioned about it but denied any particular fondness for that particular type of chocolate. It was difficult to understand why he was as agitated as he plainly was about this detail – unless of course he recognised the significance of it.
193. I am satisfied to the requisite standard that each of the former inmate witnesses, Mr Harris, Mr Wise and Mr Thow, all told the truth about the conversations they recounted with Mr Hunt whilst in prison. Moreover, I am satisfied that Mr Hunt told each of them

the truth. It is completely consistent in each case with the disappearance of Miss Butterworth and Mr Hunt's involvement in it.

**Conclusion:**

194. As has already been set out in this finding it is not the role of a coroner to find guilt or otherwise in relation to a death. There is a specific statutory provision (section 28(4) of the *Act*) which requires a coroner to refrain from making any comment that a person may be guilty of a particular offence with respect to a death the subject of an investigation. Nevertheless, a coroner is also under an obligation to find facts in relation to the circumstances surrounding a death. In *Perre v Chivell* (2000) 77 SASAR 282 Nyland J considered in some detail the proper approach to a situation where a recital by a coroner of fact may be seen to nonetheless attribute civil or criminal liability.

195. It is both necessary and useful to set out at some length that portion of her Honour's judgement in which she dealt with the issue at hand:

"45. The problem of reconciling the prohibition against making a finding or comment that a person may be guilty of an offence (s 19(3) of the Victorian Act) with the obligation to find, if possible, the identity of any person who contributed to the cause of death (s 19(1)(e) of the Victorian Act) has been the subject of some debate in Victoria and it is useful to consider that debate in determining the issues which arise in this case. As happened in South Australia, the coronial legislation in Victoria was the subject of review on a number of occasions. In Victoria, in 1958, the review was carried out by Sir John Norris QC (the Norris Report). Further reform took place in 1985 which resulted in the enactment of the present Victorian Act. Much of the Act is however based on the Norris Report. The Norris Report recommended (Norris, *The Coroners Act 1958: A General Review* (1980), Recommendation 30) "that the coroner should not make any statement of legal responsibility or express any conclusion of law" as Norris considered that the determination of legal responsibility did not assist the coroner's primary function of establishing the cause of death.

46. Consistent with this recommendation the coroner's power to commit for trial was removed from the Act. The Norris Report did not recommend the inclusion of a provision requiring the coroner to identify the person who had

contributed to a death but suggested that if it was apparent from the facts that fault could be attributed to a person the coroner should publicly announce in neutral terms that the matter was being referred to the appropriate authority for further action. Nevertheless, Parliament thereafter included the requirement for the coroner to ascertain the identity of the contributor to the cause of death. The reason for this is unclear. Victor Harcourt, in an article entitled *Contribution to Cause of Death in Journal of Law and Medicine*, Vol 6, suggested this was a "policy decision" and postulated that "Parliament obviously did not accept that it was undesirable for a coroner to attribute blame in the findings or comments made provided a view was not expressed as to the criminal culpability of the contributor".

47. The Supreme Court of Victoria considered the provisions of s 19(1)(e) of the Victorian Act in *Chief Commissioner of Police v Hallenstein* [\[1996\] VicRp 51](#); [\[1996\] 2 VR 1](#). This case arose out of a coronial inquest into the death of a person shot by a police officer during an armed robbery. The coroner had found (inter alia) that the Victoria Police Force, through the agency of the police officer who fired the fatal shot, had contributed to the shooting and to the deceased's cause of death.
48. It was argued on behalf of the plaintiff that an act or omission could not amount to contribution unless it gave rise to civil or criminal liability. The defendant argued that a finding of contribution necessarily involved a finding of a degree of blame on the part of the contributor but the legal concept of causation was not applicable to the coroner. Both arguments were rejected by the Court.
49. Hedigan J said (at 16):

"In my view it was not the intention of the legislation that the coroner should be so limited in his or her consideration of, and findings about, the contribution by a person or persons to the cause of death of a deceased person that the coroner had to be satisfied that an act or omission of that person was such as to create legal liability in the person, civil or criminal, before a finding of contribution to the cause of death could be made. Notwithstanding that the power of comment was preserved, so as to enable the coroner to express opinions that do not amount to essential findings, the making and pronouncement of the s 19(1) findings is not only

mandatory, if possible, but is of public significance and importance as being a statement by the appointed law officer of his conclusions as to how the death came about and who contributed to its occurrence and cause. The construction proposed on behalf of the Police Commissioner confines the concept of contribution to acts or omissions that create legal liability. This is unduly restrictive and inappropriate, having regard to the coroner's function. Moreover, since the argument envisages the necessity to reach a state of satisfaction as to at least possible criminal liability, as well as civil liability, the interpretation proposed runs headlong into the prohibition imposed by s 19(3). A finding, as proposed, would imply that the person found to contribute may be guilty of an offence.

On the other hand, one might say the other extreme, the submission was put that the concept of contribution requires no more than the conclusion that there is 'some degree of blame' or 'blame to some extent'. Whilst one is conscious of the difficulties of definition in this sphere, understanding is little advanced by this contention. The width of the proposition, if it can be so described, is such as to comprehend the most remote of influences, including the philosophy of violence containment as well as police culture, training and ideas, all of which attracted the coroner. Generally speaking, the law is cautious about unnecessary exposition of principle. The application of principle becomes dominated by facts. The issues of causation and contribution have bedevilled philosophers for centuries and have attracted consideration by superior courts in all jurisdictions and places for more than a century. The inclination to expound, in an authoritative way, the connection between human behaviour and consequences has proved seductive. The estimation of the nature and extent of this connection may be described as the evaluation of 'contribution'. The law has also espoused minimalism in attempting definition of the causative or contributing effect of conduct. Nearly 50 years ago, a powerful High Court (Dixon CJ, Fullagar and Kitto JJ) described causation at 277 as 'all ultimately a matter of common sense' adding for good measure at 288 that '[i]n truth the conception in question is not susceptible of reduction to a satisfactory formula': *Fitzgerald v Penn* [\[1954\] HCA 74; \(1954\) 91 CLR 268.](#)"

50. He went on to say (at 19-20):

"It is, I believe, sufficient to leave the matter without further elaboration on the basis of the common sense determination of contribution, rather than the consideration of contribution as a philosophical or scientific abstraction. In most cases, the determination that there has been contribution to the cause of death is likely to involve legal liability or culpability; but it is not the intention of the Act that it must necessarily be so or pronounced to be such. It is enough to say that, since it is not simply an exercise in the logical progression of events, some element of departure from the reasonable standards of behaviour will ordinarily be thought to be required, and must be properly established."

51. Section 19(1)(e) was further considered by the Victorian Court of Appeal in *Keown v Khan & Anor* [1998] Vic SC 83 (unreported). In this case, there had been a coronial inquiry arising out of an incident in which a police officer, allegedly acting in self-defence, shot and killed a person who had threatened him with a hatchet. The coroner found that the deceased had contributed to her cause of death and exonerated the police officers involved in the matter. In discussing the finding that the police officer had acted in self-defence, Callaway J (with whom Ormiston and Batt JJ agreed) said:

"It will be noticed that I have consistently referred to 'self-defence' rather than 'lawful self-defence' or 'justified' or 'excusable' homicide. A coroner is not concerned with questions of law of that kind. Instead the coroner is to find the facts from which others may, if necessary, draw legal conclusions.

As paragraph 153 of the Norris Report said:

'153. It is necessary to emphasise that if the coroner is no longer required to determine whether the cause of death was unlawful, and if so, who was guilty of the crime, the original purpose of the verdict, to indicate legal responsibility for the death, substantially disappears. If the coroner or jury is not to include any statement of legal responsibility or to express any conclusion of law on the matters he or the jury is required to determine as recommended in paragraph 125 above, this consequence is reinforced. The result is, as stated by the Brodrick Committee (para. 16.40):- "In future the function of an inquest should be simply to seek out and record as many of the facts concerning the death as public interest requires, without deducing from those facts any determination of blame." The findings of the

coroner or jury should in terms be findings of fact only. To quote the Brodrick Committee again:- "In many cases, perhaps the majority, the facts themselves will demonstrate quite clearly whether anyone bears any responsibility for the death; there is a difference between a form of proceedings which affords to others the opportunity to judge an issue and one which appears to judge the issue itself." (ibid).'

The findings by a coroner as to how death occurred and the cause of death should, where that is possible, identify any person who contributed to the cause of death. Section 19(1)(e) serves no purpose other than to ensure that that is done. The reference to contribution to the cause of death reflects the commonplace truth that it is sufficient if a person's acts or omissions are a cause of a relevant event. Civil juries are, for example, regularly asked whether the negligence of the defendant was a cause of the plaintiff's injuries. The test of contribution is solely whether a person's conduct caused the death. It may have been the only cause or one of several causes. There are also cases where no one satisfies the description in s.19(1)(e), as in the case of a death solely from natural causes. In determining whether an act or omission is a cause or merely one of the background circumstances, that is to say a non-causal condition, it will sometimes be necessary to consider whether the act departed from a norm or standard or the omission was in breach of a recognized duty, but that is the only sense in which paragraph (e) mandates an inquiry into culpability. Adopting the principal recommendation of the Norris Report, Parliament expressly prohibited any statement that a person is or may be guilty of an offence. The reasons for that prohibition apply, with even greater force, to a finding of *moral* responsibility or some other form of blame: the proceeding is inquisitorial; the conclusion would be more indeterminate than a conclusion about legal responsibility; and there would be no prospect of a trial at which the person blamed might ultimately be vindicated by an acquittal.

It follows that a person who kills necessarily contributes to the cause of death and that that is none the less true where the killing is in lawful self-defence. A coroner is not concerned with the latter question but will ordinarily set out the relevant facts in the course of finding how death occurred and the cause of death. The facts will then speak for themselves,

leaving readers of the record of investigation to make up their own minds about lawful self-defence or any similar issue. (That was the point made by Sir John Norris in paragraph 153 of his report.)" (footnotes omitted)

52. In reaching his decision, Callaway JA had regard to some of the English authorities on this topic. For example, in *R v South London Coroner, Ex parte Thompson* (1982) 126 SJ 625, Lord Lane CJ said:

"Once again it should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, and there is no trial, simply an attempt to establish facts. It is an inquisitorial process, a process of investigation quite unlike a criminal trial ... The function of an inquest is to seek out and record as many of the facts concerning the death as [the] public interest requires."

53. In *Reg v Coroner for North Humberside and Scunthorpe, Ex parte Jamieson* [1995] QB 1, Sir Thomas Bingham MR, in handing down the judgment of the court said (at 24):

"(5) It may be accepted that in case of conflict the statutory duty to ascertain how the deceased came by his death must prevail over the prohibition in rule 42. But the scope for conflict is small. Rule 42 applies, and applies only, to the verdict. Plainly the coroner and the jury may explore facts bearing on criminal and civil liability. But the verdict may not appear to determine any question of criminal liability on the part of a named person nor any question of civil liability.

(6) There can be no objection to a verdict which incorporates a brief, neutral, factual statement: 'the deceased was drowned when his sailing dinghy capsized in heavy seas', 'the deceased was killed when his car was run down by an express train on a level crossing', 'the deceased died from crush injuries sustained when gates were opened at Hillsborough Stadium'. But such verdict must be factual, expressing no judgment or opinion, and it is not the jury's function to prepare detailed factual statements."

54. It is clear therefore that the jurisdiction of the coroner is limited to making findings of fact. It is not his/her task to attribute or hint at blame. Can it be said, therefore, that in this case, the coroner exceeded his jurisdiction and thereby contravened the provisions of s 26(3) of the Act? I think it is likely that an ordinary member of the public, reading comments in the report, such as "Perre was responsible for sending the bomb", "Perre was responsible in the sense that he constructed a bomb and either posted it or arranged for someone else to post it on his behalf", and "Sergeant Bowen died when he opened the parcel bomb sent to him by Perre", would conclude that Perre had committed the crime of murder.
55. There are, however, a number of essential elements which the Crown is required to prove beyond reasonable doubt before a person can be found guilty of the crime of murder. These include proof of an intention to kill or cause grievous bodily harm. The coroner has not however found that Perre had any such intention. He has simply recorded his findings as to the sequence of events which culminated in Sergeant Bowen's death. For example, in an inquest concerned with the death of a pedestrian struck by a motor vehicle, such matters as the identity of the driver of the car, his/her level of intoxication by reason of alcohol or drugs, and the position of the car on the road, would all be relevant matters upon which the coroner could make findings of fact. A finding by the coroner that the driver of a car was affected by alcohol or drugs, or his/her motor vehicle was on the wrong side of the road, might lead to a subsequent determination of criminal or civil liability, but that consequence does not preclude the coroner from making the particular finding of fact.
56. In other words, the factual findings of themselves cannot be said to be findings of criminal or civil liability. A finding of criminal or civil liability requires the application of the relevant law to the facts in order to determine whether the essential elements of a given crime or civil obligation have been made out. It is not the coroner's role to undertake this process, it is the role of the courts, and this is what s 26(3) was enacted to ensure.
57. As I have already mentioned, s 26(3) refers not only to findings of criminal or civil liability, but also any "suggestion" thereof. The addition of the word "suggestion" is liable to cause confusion as it might be argued that the mere finding of certain facts can, in cases such as the present, suggest or hint at

criminal or civil liability and hence breach the section. This is due to the fact that certain acts, such as, in this case, sending a bomb, appear to have no possible legal justification. However, I do not think that s 26(3) should be read in such a way. The mere recital of relevant facts cannot truly be said, of itself, to hint at criminal or civil liability. Even though some acts may not seem to be legally justifiable, they may often turn out to be just that. For example a shooting or stabbing will, in some circumstances, be justified as lawful self-defence. As I have stated, criminal or civil liability can only be determined through the application of the relevant law to the facts, and it is only the legal conclusions as to liability flowing from this process which are prohibited by s 26(3). Thus, the word "suggestion" in this section should properly be read as prohibiting the coroner from making statements such as "upon the evidence before me X *may* be guilty of murder" or "X *may* have an action in tort against Y" or statements such as "it appears that X shot Y without legal justification". In other words, the term "suggestion" in s 26(3) prohibits speculation by the coroner as to criminal or civil liability. In the present case, the coroner has neither found nor suggested that Perre is criminally or civilly liable for his acts.

58. It is obvious that the facts of this case are unique. This has caused the delineation between a proper factual finding relating to the cause of death as opposed to a determination of criminal liability to become somewhat blurred. It would, however, lead to an absurd result if s 26(3) were to be read so strictly as to prevent the coroner from identifying a relevant factual matter surrounding a death, for example, the fact that a person died as a result of a collision with a car driven by X, or in the course of surgery, performed by Y. I have therefore concluded that the statement made by the coroner that "Perre sent the bomb" and the other statements which are the subject of criticism in these proceedings are relevant findings of fact which were reasonably open to the coroner on the evidence and they do not offend against the provisions of s 26(3). They should not therefore be set aside."
196. Obviously this Court is not bound by that judgement. However, the reasoning is, in my respectful view, unimpeachable. As a consequence, I accept, as was submitted by Mr Nicholson, consistent with the approach articulated by Nyland J that a number of findings are both open and fully justified in the circumstances of this inquiry.

### **The Police Investigation – Some Comments:**

197. Section 28(3) of the *Act* empowers a coroner to “comment on any matter connected with the death including public health or safety or the administration of justice”. A matter that was of significant importance at the inquest was the police investigation in relation to Miss Butterworth’s disappearance both in the immediate aftermath of her disappearance and subsequently. It is appropriate in my view to comment upon the investigation. As should be clear there is little doubt that senior police at least initially treated Miss Butterworth’s disappearance as that of a “runaway” rather than what might be described as a “proper” missing person’s case. Although the efforts of some individual police in the immediate aftermath of Miss Butterworth’s disappearance in 1969 were commendable, it is a matter of regret that the Butterworth family were largely responsible for the organisation and conduct of searches and the pushing of the matter to ensure that it continued to be investigated. Indeed, few officers involved in the investigation, other than Detective Inspector Plumpton, Senior Constable Rushton, and Detective Constable Millhouse emerge from this case with any real credit. Statements made by Mr Hunt to detectives in July 1976 were, I find, not followed up because of an instruction issued by Inspector Canning. Much material was missing from the files. Until Inspector Graham Hickey was assigned the matter in 1992 it does not appear to have been reviewed or even indexed.
198. Some efforts were made to continue the investigation in 2000 but even then an interview with Mr Hunt conducted in that year was lost. The circumstances of its loss were unexplained.
199. There is no doubt in my mind that had the matter been investigated properly perhaps in 1969 and 1970, but certainly from July 1976, then the grief and anxiety experienced by Miss Butterworth’s family may well have been lessened.
200. It is a matter of real regret that it was not until 2011 when Inspector Plumpton, Senior Constable Rushton and Constable Millhouse became involved in the investigation that it was dealt with appropriately and professionally.
201. However, I am satisfied on the basis of the evidence from Inspector Plumpton that notwithstanding the myriad of deficiencies associated with the investigation in the past, procedures adopted now by Tasmania Police mean that a similar level of incompetence, and for so long, could not occur in the future.

**Formal Findings:**

202. In accordance with sections 28(1) and (4) of the *Act* I summarise my findings surrounding the suspected death of Lucille Gaye Butterworth on 25 August 1969:

- a) The identity of the deceased is Lucille Gaye Butterworth.
- b) Lucille Gaye Butterworth died in the following circumstances:
  - i. Miss Butterworth alighted from Ms George's vehicle in Box Hill Road, just west of that road's intersection with Main Road at Claremont;
  - ii. She walked around the corner into Main Road to the bus stop to catch her bus to New Norfolk;
  - iii. A bus arrived and deposited a passenger before she got to the bus stop;
  - iv. Miss Butterworth is likely to have attempted to contact family or friends by telephone, using one of two telephone booths nearby;
  - v. Miss Butterworth was not at the bus stop at the time another late bus went past;
  - vi. Whilst standing at the bus stop Miss Butterworth interacted with the driver of a car, but did not enter the car;
  - vii. Shortly after an "old bomb" Holden pulled up adjacent Miss Butterworth at the bus stop;
  - viii. Having missed her bus Miss Butterworth accepted a lift in that vehicle;
  - ix. The vehicle she accepted a lift in was an FB Holden sedan, with damage to the driver's side;
  - x. The FB Holden was that was owned by Mr Bill Hunt but driven by Mr Geoffrey Charles Hunt;
  - xi. The FB Holden was driven on the day and at that time by Mr Geoffrey Hunt;

- xii. On the journey to New Norfolk Mr Hunt stopped the FB Holden, strangled Miss Butterworth in the vehicle and thereafter disposed of her body on the southern bank of the Derwent River, past the Lime Kilns area roughly half way between Granton and New Norfolk.
- c) In the absence of any medical evidence I am unable to find the precise cause of Miss Butterworth's death. I am unable to make any finding as to whether Miss Butterworth was alive or dead when Mr Hunt disposed of her body.
- d) Miss Butterworth died near the Lyell Highway roughly half way between Granton and New Norfolk in Tasmania shortly after 6.15pm on Monday 25 August 1969.
- e) Lucille Gaye Butterworth was born in Hobart, Tasmania on 18 March 1949 and was 20 years of age at the time of her death; she was a typist and a single woman.

**Conclusion:**

- 203. In conclusion I extend my sincere appreciation to Mr Simon Nicholson for the extremely professional assistance he afforded as counsel in this inquest.
- 204. I acknowledge and thank Inspector David Plumpton, Senior Constable Christine Rushton and Constable Cary Millhouse for the outstanding investigative work carried out by them in relation to this enquiry. They deserve the highest possible commendation.
- 205. I extend my sincere condolences to the family of Lucille Gaye Butterworth and all those who knew her, loved her and felt her loss.

**Dated:** 2 May 2016 at Hobart in the State of Tasmania.

**Simon Cooper**  
**Coroner**