

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: 2007/1389

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

**Inquest into the Death of: Lachlan James Bingham**

Delivered On:	30 April 2015
Delivered At:	Coroners Court of Victoria 65 Kavanagh Street Melbourne 3006
Hearing Date:	24 November 2008, 11 April 2012, 3 – 7 March 2014
Findings of:	Iain West, Deputy State Coroner
Representation:	Mr P. Bourke followed by Mr S. Moglia appeared on behalf of Mrs Helen Smith, Mrs Anne Beaty and Mr Phillip Bingham Ms P. Sampson appeared on behalf of Mrs Heather Willersdorf (sister of the deceased) Dr Gordon Bingham (brother of the deceased) was not represented
Police Coronial Support Unit	Inspector Monique Swain
Counsel Assisting the Coroner	Ms Rachel Ellyard

I, IAIN TRELOAR WEST, Deputy State Coroner having investigated the death of Lachlan James BINGHAM

AND having held an inquest in relation to this death on 24 November 2008, 11 April 2012 and 3 – 7 March 2014

at Melbourne

find that the identity of the deceased was Lachlan James BINGHAM

born on 3 September 1935

and the death occurred on 13 April 2007

at 34 Exford-Rowsley Road, Parwan, Victoria 3340

**from:**

1 (a) Strychnine toxicity

**in the following circumstances:**

**Introduction:**

1. Lachlan Bingham, aged 71 years, died at his rural farm property in Parwan on the night of the 13 April 2007. Mr Bingham resided alone at the property and had done so for a number of years following the death of his wife, Dorothy. He was the natural father of Helen (Mrs Helen Smith) and twins, Anne (Mrs Anne Beaty) and Phillip Bingham. Mr Bingham's death was initially believed to have been from natural causes, however, it was subsequently treated as suspicious following the detection of strychnine in post mortem body fluid.
2. The death was reported to the coroner as it was unexpected and no death certificate had been issued. No autopsy was performed following objection lodged by his children as senior next of kin and the coroner consulting with Dr Michael Burke, Forensic Pathologist with the Victorian Institute of Forensic Medicine. A CT scan was undertaken and Dr Burke performed an external examination, with both outcomes being unremarkable. Dr Burke's advice to the coroner was that Ischaemic Heart Disease was the most likely cause of death.<sup>1</sup> Body fluid was taken for toxicological analysis and the body was released on 17 April 2007 to the senior next of kin and subsequently buried, not cremated, at the Maddingley General Cemetery two days later.

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<sup>1</sup> Exhibits 15 and 31: Objection to Autopsy Report, 17 April 2007

3. Toxicological analysis of body fluid was later undertaken at the Victorian Institute of Forensic Medicine and a strychnine concentration in the blood of approximately 0.8 mg/L was reported.<sup>2</sup>

**Purposes of the coronial investigation:**

4. The primary purpose of the coronial investigation of a reportable death<sup>3</sup> is to ascertain, if possible, the identity of the deceased person, the cause of death (interpreted as the medical cause of death) and the circumstances in which the death occurred<sup>4</sup>. An investigation is conducted pursuant to the *Coroners Act 2008* (the Act).
5. Coroners are also empowered to report to the Attorney-General on a death they have investigated; the power to comment on any matter connected with the death, including matters relating to public health and safety or the administration of justice; and the power to make recommendations to any Minister, public statutory authority or entity on any matter connected with the death, including recommendations relating to public health and safety or the administration of justice<sup>5</sup>. This is generally referred to as the prevention role of the coroner.

**Standard of proof:**

6. Coronial findings must be made on the basis of proof of relevant facts on the balance of probabilities. Assistance in determining the level of satisfaction required is found in the High Court decision of *Briginshaw v Briginshaw*.<sup>6</sup> The Court stated: “*The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters ‘reasonable satisfaction’ should not be produced by inexact proofs, indefinite testimony, or indirect inferences...*”<sup>7</sup>
7. Further assistance is found in the Supreme Court decision of *Cumming Smith v Western Farmers Co-operative*,<sup>8</sup> in which the court held that proof of a criminal act must be ‘clear,

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<sup>2</sup> Exhibit 2

<sup>3</sup> Section 4 of the Act requires certain deaths to be reported to the coroner for investigation.

<sup>4</sup> Section 67 of the Act.

<sup>5</sup> Sections 72(1), 72(2) and 67(3) of the Act regarding reports, recommendations and comments respectively.

<sup>6</sup> (1938) 60 CLR 336

<sup>7</sup> Ibid at 362

<sup>8</sup> (1979) V.R.129 at 147

*cogent and exact and when considering such proof, weight must be given to the presumption of innocence*'. This decision was followed by Gobbo J. in *Anderson v Blashki*.<sup>9</sup>

8. This finding is based on the entirety of the investigation material comprising the coronial brief of evidence, including material obtained after the provision of the brief, the statements and testimony of those witnesses who gave evidence at the inquest and any documents tendered through them, other than documents tendered through Counsel (including Counsel Assisting), and written submissions of Counsel and family following the conclusion of the inquest. All this material, together with the inquest transcript, will remain on the coronial file and comprises my investigation into the death of Mr Lachlan Bingham. I do not propose to summarise all the material/evidence in this finding, but will refer to it only in such detail as is warranted by its forensic significance and where otherwise appropriate. In particular I note that I received, and was assisted by, the written submissions from Ms Ellyard, Counsel Assisting, Dr Gordon Bingham, Ms Sampson for Mrs Willersdorf and Mr Moglia for Mrs Beaty, Mr Phillip Bingham and Mrs Helen Smith.
9. The submissions of Ms Ellyard and Mr Moglia, whilst taken into consideration, are not referred to in detail in this finding, as I believe it is only necessary to address issues raised by Mr Bingham's siblings. I primarily refer to the submissions of Dr Bingham throughout, as they generally mirror Ms Sampson's submissions made on behalf of Mrs Willersdorf.

**Initial police investigation:**

10. At approximately 11.10 pm, Constable Young and S/C Mc Swain arrived at the property, with Constable Young being told by attending paramedics that they were of the opinion Mr Bingham had died of a heart attack. Constable Young established that Mr Bingham rarely attended doctors and had not been diagnosed with a condition that could explain his death. Constable Young realised the death needed to be reported to the coroner as a death certificate would not be issued, despite Constable Young believing it was non-suspicious and due to natural causes.
11. Mr Phillip Bingham told attending police<sup>10</sup> that he had visited his father earlier in the day and left the property at approximately 6:30 pm. Later in the evening at about 9:00 pm he received a call from his sister stating that she had a call from their father as he was not feeling well. He then attended his father's property at about 9:10 pm and located his father

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<sup>9</sup> (1993) 2 V.R.88

<sup>10</sup> Exhibit 15 and 31; Police Report of Death for the Coroner: VP Form 83

lying back on his bed with his feet over the side, still holding his mobile phone. He tried to wake his father but got no verbal response and was unsure if he was breathing. Having rung for ambulance attendance he moved his father to the kitchen floor and commenced cardio pulmonary resuscitation (CPR), with his sister arriving a short time later. She took over and continued CPR while he tried to direct the ambulance to the property.

12. Constable Young took a series of photographs within the premises and did a search of both the bedroom and the kitchen. He observed a bedside table with partially open drawer that was 'stacked' with a number of items that prevented it closing.<sup>11</sup> On top of the bedside table were a number of packages including Panadol, a bottle of antacid medication and a glass containing what appeared to be water. Police subsequently left the premises at approximately 1.00 am after removal of the body by the government contractor.

**Further police investigation:**

13. Following the reporting of the presence of strychnine some three weeks after the death, Constable Young liaised on 4 May 2007 with D/S/C Tabbitt of the Moorabool Criminal Investigation Unit (C.I.U) who in turn liaised with D/Sgt Birch of the Homicide Squad. D/Sgt Birch was briefed regarding the background circumstances and he advised D/S/C Tabbitt that the Homicide Squad would monitor his investigation and provide assistance where necessary. They further liaised during the course of the day, with additional information being relayed as it became available and in turn, D/Sgt Birch briefed members of his team and his superior, D/S/Sgt Legg. Further briefings subsequently took place at the Bacchus Marsh Police Station.
14. Mr Phillip Bingham and Mrs Beaty were contacted and requested to attend the Bacchus Marsh Police Station where they provided detailed witness statements. After the statements were obtained, they spoke with D/Sgt Birch during which time further information was obtained. The premises needed to be searched, with D/Sgt Birch advising Mrs Beaty and her brother that this was necessary. Mr Phillip Bingham agreed to assist police during the search.
15. On the 5 May 2007, D/S/C Tabbitt and other police members attended the premises at 34 Exford-Rowsley Road and undertook a search pursuant to a warrant and in the presence of family members. The search resulted in a number of items being seized, including a small

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<sup>11</sup> Exhibit 7; p 3

blue opaque bottle labelled 'Pure Strychnine POISON'<sup>12</sup>, a piece of quarter folded A4 paper<sup>13</sup> with numerals and words written on it and the almost empty drinking glass containing some clear liquid. The bottle was found in the bedside table drawer and to the front of the drawer.<sup>14</sup>

16. Following the search, D/S/C Tabbitt briefed D/Sgt Birch on the outcome and the items seized pursuant to the warrant. After considering all the known circumstances, D/Sgt Birch was satisfied that the death was consistent with Mr Bingham having taken his life. As it was not deemed a suspicious death, D/S/C Tabbitt and the C.I.U were therefore responsible for the ongoing investigation.

**Events on or about 13 April 2007 as told to police by Mrs Beaty:**

17. Mrs Beaty told police that the day before her father's death, he contacted her complaining of feeling hot and nauseas and of having a sore foot that he said had swollen to three times its normal size. He had not been feeling well in the month prior to his death, complaining of a swollen and painful right ankle. As a result she attended and took him to the Westcare Medical Centre where he was examined and a tentative diagnosis was made of gout. Her father was given a medical information sheet relating to gout; Colgout (colchicine) medication was prescribed and subsequently dispensed, along with some Panaedeine (paracetamol-codeine). Despite taking the medication, he underwent a sleepless night with no improvement in his condition.
18. Early on the morning of 13 April 2007, she was again called by her father as his condition remained unchanged. In company with her 10 year old son, she attended the property at approximately 11.00 am and for the rest of the day tendered to the farm routine and regularly checked her father's unchanging condition. Mr Phillip Bingham and his two young sons attended at approximately 5.30 pm and completed some chores before departing at about 6.45 pm. She prepared a light snack for her father, despite his disinterest in food, and she and her son subsequently left to go home at about 8.00 pm. Her offer to her father to take him to the doctor and/or stay the night, was declined. After shopping in Melton they arrived home at 9.20 pm, when she called to let her father know she had returned safely, as was her usual practice, and to see if he had improved.

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<sup>12</sup> Exhibit 15 and 31 photos 86 and 87

<sup>13</sup> Exhibit 14

<sup>14</sup> T 249

19. On hearing that he was no better she offered to return and despite being told not to bother, she said she would do so after having dinner and completing some tasks at her own farm property. A call was then received from her father some 10 to 15 minutes later telling her not to come, however, she realised there was something amiss, as the tone of his voice changed during the course of conversation. On enquiring what was wrong, her father stated that he had shooting pain in his left side and that he couldn't feel his left leg.<sup>15</sup> Suspecting he was suffering a heart attack and whilst keeping him on her mobile phone, she immediately rang her brother on the landline as he lived closer to their father, and shortly thereafter he got on his way. She did not call an ambulance as she assumed her brother would do so if deemed necessary. As she drove to the property, the mobile phone contact with her father dropped out. She then rang her brother who had arrived at the farm and was on the phone to the ambulance service, trying to sort out difficulties the ambulance officers were having in locating the address.

**Events subsequently stated to police by Mr Phillip Bingham:**

20. Following the finding of the strychnine, Mr Phillip Bingham made a detailed statement on 4 May 2007.<sup>16</sup> He explained his activities after finishing work at 4:00 pm and on attending his father's property with his two young children, he found him sitting up on the side of his bed, with him stating how he was 'feeling a bit ordinary.' His twin sister was present and she told him she was going to stay a while longer and he left with his children at about 6:30 pm.
21. 'At approximately 9:00 pm maybe a bit after',<sup>17</sup> he received a call from his sister saying their father had rung and that he had pains in his swollen leg. He then attended the property with one of his sons and found his father as he described to police on the night. He called for ambulance attendance on the landline and also called his sister at the same time on his mobile phone. He was instructed by the emergency service operator to move his father to a hard surface and in doing so, 'found that his body wasn't completely loose and although the legs straightened out on the floor, his left hand and arm was very stiff.'<sup>18</sup> Following instruction from the emergency service operator, CPR was undertaken for 5 to 10 minutes after which his sister arrived and she took over until the paramedics attended.

**Uncontentious Matters:**

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<sup>15</sup> Exhibits 3; Statement Mrs Beaty

<sup>16</sup> Exhibit 5

<sup>17</sup> Ibid p 2

<sup>18</sup> Ibid p 3

22. At the completion of the police investigation and prior to the commencement of the inquest, it was apparent that a number of the facts about Mr Bingham's death were known and were uncontested. These include the deceased's identity and aspects of the circumstances, including the place and date of death.
23. Further uncontested circumstances include:
- a. Mr Bingham's declining physical health, including his increasingly impaired mobility and stomach problems for which he was treating himself with excessive doses of a herbal preparation called Crampeze and which led in the period immediately before his death, to his attendance on a doctor and a tentative diagnosis of gout;
  - b. Significant family conflict between him and his siblings regarding the estate of their late mother, Mrs Hilda May Bingham. This included Supreme Court proceedings in which allegations of fraud or dishonesty were made against Mr Lachlan Bingham and Mrs Beaty and which led at the time of his death to a degree of estrangement within the family;
  - c. A long standing drought which was affecting his ability to feed the animals on his farm;
  - d. Debts secured against the farm which were causing him anxiety, though some of those debts were not new and their size, relative to what proved to be the value of the property after his death, was limited;
  - e. Considerable support being provided to him by all three of his children and their extended families, including assistance with attending appointments, reviewing potential vehicles for purchase and the day-to-day activities required on the farm; and
  - f. Being interviewed by police in February 2007 over allegations of theft from his mother's estates in the years prior to her death, though no charges had been laid by the time of his death.

**The Focus of the Inquest:**

24. The circumstances leading to the death became the focus of the inquest, with four possibilities relating to how the strychnine was in Mr Bingham's system:
- i. Mr Bingham intentionally ingested the strychnine to end his life,
  - ii. Mr Bingham ingested the strychnine by accident,
  - iii. Mr Bingham intentionally took the strychnine in an attempt to treat his declining health, or



iv. Mr Bingham was administered the strychnine by a third party.

During the course of the inquest the focus narrowed to possibilities i. and iv.

**Brief of Evidence and Witnesses:**

25. The coronial brief of evidence was compiled by Detective Senior Constable Lee Tabbitt of the Moorabool Criminal Investigation Unit. The investigation was undertaken by D/S/C Tabbitt and Constable Ben Young and in part overseen by Detective Sergeant Allan Birch.

26. The following witnesses gave evidence at the inquest:

- Mr John Fawkner ( Ambulance Victoria paramedic)
- Mrs Anne Beaty (daughter of Mr Bingham)
- Mr Phillip Bingham (son of Mr Bingham)
- Mrs Helen Smith (daughter of Mr Bingham)
- Mrs Heather Willersdorf (sister of Mr Bingham)
- Professor Olaf Drummer (toxicologist)
- Professor George Braitberg (toxicologist)
- Dr Dimitri Gerostamoulas (toxicologist)
- Dr Paul Bedford (general pathologist)
- Dr David Ranson (forensic pathologist)
- Senior Constable Andrew Rutherford (fingerprint expert)
- Mr Fabio Guarino (forensic scientist: DNA expert)
- Mr Oleg Prypoten (Optus representative)
- Mr Adam Gelfe (Telstra representative)
- Mr David Findlay (Optus representative)
- Constable Young (now Sergeant Young)
- Detective Sergeant Birch (Homicide Squad)
- Detective Senior Constable Tabbitt (Moorabool CIU)

**Evidence of Mr Phillip Bingham:**

27. During the course of giving evidence in November 2008, Mr Phillip Bingham amended his statement as to when he received the call from his sister alerting him to attend the property. He stated 'the night when dad passed away at the time I first got the call, I thought it was after 9 but I didn't realise it was as late as 9:40 until I looked at my phone some days later.'<sup>19</sup> After receiving the call, he stated he didn't leave straight away as he had to arrange the care of his young boys. He stated in evidence he was not sure how long it took him to get there (in his statement he thought 10-15 minutes) and upon entering the house and calling out a number of times, he got no response. When entering the bedroom, he found his father lying unresponsive on the bed as previously stated and the landline was then used to contact emergency services and request ambulance attendance (call logged at 10:07 pm).
28. Following direction from the emergency service operator, Mr Bingham was moved to the hard surface of the floor and C.P.R was commenced, under instruction. This was continued until his sister took over when she arrived approximately 10 minutes later. Mr Phillip Bingham left the house a couple of times in an attempt to assist the ambulance to the property, whilst his sister continued resuscitation until the arrival of paramedics at about 10.30 pm. Paramedic examination included ECG monitoring that showed no electrical cardiac activity and on being told Mr Bingham's condition had not changed in 30-40 minutes, no further resuscitation attempts were undertaken.

**Expert evidence:**

A) Medical evidence.

29. The inquest heard concurrent expert evidence from the following four medical witnesses regarding the characteristics of strychnine and its role in this case.
- Professor Braitberg, Professor of Emergency Medicine at Monash University, Director of Emergency Medicine and Consultant Toxicologist at Southern Health
  - Professor Drummer, Toxicologist and Head of Forensic Scientific Services, Department of Forensic Medicine, Monash University
  - Associate Professor Ranson, Forensic Pathologist and Deputy Director, Victorian Institute of Forensic Medicine
  - Dr Paul Bedford, General Pathologist, Victorian Institute Forensic Medicine

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<sup>19</sup> Transcript (24/11/08) p 28

30. Agreement reached by the experts can be summarized as follows.

- i. There was a significant level of strychnine found in the body and it was sufficient to cause death, however, it could not be determined with certainty whether it was the primary cause of death. Accordingly, the possibility could not be excluded that Mr Bingham died from a heart attack, or other medical cause brought on by the effects of the strychnine.<sup>20</sup> It was not possible to say which, if any, related cause was operative in this case.<sup>21</sup>
- ii. It cannot be determined from the level found how much strychnine might have been in the gut that remained unabsorbed. Also, it is not possible to say whether, and if so how much, the blood level was due to absorption from the gut, or release from tissue after death.<sup>22</sup>
- iii. The strychnine was most likely ingested orally.<sup>23</sup>
- iv. Numbness and severe muscular spasms are well-recognised symptoms of strychnine poisoning.<sup>24</sup>
- v. Despite its rapid absorption, it is not possible to say when Mr Bingham would have felt the effects, although they would be expected to occur within 10-15 minutes but could be delayed up to 2 hours<sup>25</sup>
- vi. The concentration found gives no real determination as to how much was ingested, when it was ingested, or when death occurred<sup>26</sup>
- vii. Nothing reliable can be made of the ambulance officer's observation of post mortem 'lividity' as an indication of time of death.<sup>27</sup>
- viii. Following ingestion, a person can remain lucid and perform coordinated tasks between muscle spasms, with the possibility remaining of being able to hold a phone and make a call, then a few moments later to die<sup>28</sup>

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<sup>20</sup> T 41; T 46; T 47; T 49

<sup>21</sup> T 49

<sup>22</sup> T 49-50

<sup>23</sup> T 6

<sup>24</sup> T 7

<sup>25</sup> T 7; T 9; T 10

<sup>26</sup> T 29; T 46; T 53-55

<sup>27</sup> T 54-55

<sup>28</sup> T 8

Strychnine characteristics.

31. Strychnine is an alkaloid found in the plant *Strychnos nux-vomica* and is a highly poisonous substance with doses of about 30 mg capable of causing death in an adult.<sup>29</sup> As stated in Dr Michael Burke's supplementary report,<sup>30</sup> it is a neuro-inhibitory transmitter which blocks the action of glycine, resulting in muscular hyperexcitability characterized by spasms in the upper, lower limbs and jaw muscles.
32. Professor Drummer told the inquest that strychnine can be absorbed through the nose by snorting it in powder form; intravenously and to a small extent by dermal absorption, however, the most common form of absorption is orally through the mouth.<sup>31</sup> He further stated that the amount in this case was not trivial and that amounts high enough to cause death, almost certainly follow oral administration.<sup>32</sup>
33. The expert evidence is that the onset of symptoms generally takes 10 to 15 minutes with an hour or more for significant effects to take place. Due to a number of variables, such as the dose administered, the rate of emptying from the stomach to the small bowel and personal individual factors, it is not possible to estimate the time taken to cause death.<sup>33</sup>
34. Professor Braitberg stated that strychnine acts at the level of the spinal cord to affect both the motor and sensory roots.<sup>34</sup> The major symptom is severe muscle spasms, which can sometimes cause dislocation of limbs, however, unlike convulsions caused by epilepsy, the individual can be quite lucid in between periodic muscle contractions. In these circumstances, an individual would be able to hold a phone and carry on a conversation if their muscle contractions allowed them to speak.<sup>35</sup>
35. Professor Drummer stated that the post-mortem recorded blood concentration of 0.8 mg/L was within the fatal range and at a level one would expect death to occur.<sup>36</sup> He further stated that 30 mg to 50 mg of strychnine has the potential to cause death and equates to a quarter to half a teaspoon, in crystal form.<sup>37</sup> The administering or ingestion of a repeat small dose

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<sup>29</sup> Exhibit 18

<sup>30</sup> Exhibit 15 and 31; Report dated 7 May 2007

<sup>31</sup> T 5

<sup>32</sup> T 7

<sup>33</sup> T 15

<sup>34</sup> T 47

<sup>35</sup> T 9

<sup>36</sup> T 48

<sup>37</sup> T 58

would be unlikely to have a cumulative effect, as it is relatively quickly removed by the body.<sup>38</sup>

36. I am satisfied that the evidence supports a conclusion that it would have been possible for Mr Bingham to speak on the phone after he had taken strychnine and after it had taken effect. Accordingly, it is possible for him to have had a telephone conversation with his daughter after ingesting strychnine and to die very shortly thereafter.

#### Medical Cause of Death.

37. It is appropriate to find that Mr Bingham died from strychnine toxicity. The evidence is clear that the post mortem concentration 0.8 mg/L was capable of causing death and would be expected to do so. This is the factual evidence before me. Whether another mechanism such as respiratory paralysis and asphyxia was precipitated by the strychnine, or whether natural disease elements added to the outcome, is speculative and cannot be positively determined in the absence of autopsy findings.

#### B) Scientific examinations.

##### Strychnine bottle and drinking glass.

38. The strychnine bottle was located in the drawer of the bedside table next to the bed on which Mr Bingham was found. The 1 oz bottle was approximately one third full of what appeared to be crystals and the cork that sealed it was inserted upside down, such that the tapered end was uppermost. According to Dr Bingham, 'that was my father's way of doing things'.<sup>39</sup>
39. Subsequent examination of the bottle for biological material was undertaken by Mr Fabio Guarino, a Forensic Scientist at the Victorian Police Forensic Services Centre. The examination revealed a partial male DNA profile from the body of the bottle, that matched the DNA profile of Mr Bingham at all available sites. A total of 9 alleles were identified from a possible 20 alleles across 10 loci that were analysed. The bottle was not tested to determine what kind of biological material (saliva, blood, skin etc) was detected.<sup>40</sup>
40. Statistical analysis provided in the form of a Likelihood Ratio, found that the chance of another male selected at random from the Australian Caucasian population having the same DNA profile, would be 1 in 200 (with a range of 1 in 62 to 1 in 650). That is, it would be expected to be 200 times more likely that the biological material would have come from Mr

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<sup>38</sup> T 11

<sup>39</sup> T 218

<sup>40</sup> T 343

Bingham.<sup>41</sup> Both Mrs Beaty and Mr Phillip Bingham were excluded as the source of the biological material.<sup>42</sup>

41. Mr Guarino told the inquest that DNA can be extremely stable if stored in a dry environment, sheltered from the elements and not exposed to the sun.<sup>43</sup> In an appropriate environment it could last many years and hence he was not in a position to date when the DNA was deposited on the bottle. It was further stated that if an object is handled with gloves, no DNA may be deposited on it, hence the fact that a person's DNA is not present, does not exclude that person from handling the object.<sup>44</sup>
42. The rim and the main body of the drinking glass were separately sampled and subjected to DNA analysis in an attempt to recover any traces of biological material that may have been present. No DNA profile was obtained from either sample.

Quarter folded paper.

43. The seized paper was a piece of A4 with printed material on one side only, that concerned 'Patient Education' information in respect to gout. The sheet was folded into quarters and in one quarter on the unprinted side, were the notations; 7.40 pm ✓ 8.10 ✓ 10.10 ✓. In another quarter was a notation approximating; THE ENb.<sup>45</sup>
44. Subsequent examination for latent fingerprints was undertaken by S/C Andrew Rutherford who is attached to the Victoria Police Forensic Services Fingerprint Office. It revealed three latent prints, two of which, a right index finger and a right thumb, matched fingerprints provided by Mrs Beaty. The other print remains unidentified. At no time was the fingerprint expert provided with Mr Bingham's fingerprints as they were not available.
45. S/C Rutherford explained that it can be a 'bit of good fortune'<sup>46</sup> to find an identifiable fingerprint on an item and that not everyone when touching an object will leave a print. This in part can be due to the ageing of the skin and the wearing down of ridge detail on the fingers after years of manual labour.<sup>47</sup> In addition, the state of cleanliness of the surface

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<sup>41</sup> Exhibit 25: T 258-279

<sup>42</sup> T 341

<sup>43</sup> T 347-348

<sup>44</sup> T 350

<sup>45</sup> Exhibit 14

<sup>46</sup> T 264

<sup>47</sup> T 264-265

being touched and multiple handling of the item, can compromise the leaving of an identifiable print.<sup>48</sup>

46. Even had Mr Bingham's prints been available for comparison, given his age and his life long history of farming, S/C Rutherford would not have been surprised to find no fingerprints on anything he may have touched.<sup>49</sup>
47. Regarding the fingerprints that were identified on the paper, it was not possible to say when they were placed there, or whether they were created at the same time. S/C Rutherford was unable to find identifiable fingerprints or sufficient ridge detail on the strychnine bottle, drinking glass, small plastic measuring cup, or a plastic bottle of 'Mucaine' antacid.
48. An attempted forensic analysis of the hand writing and samples of Mr Bingham's hand writing was undertaken by personnel at the Victoria Police Document Examination Branch, however, comparison was not possible due to the limited amount of writing on the page.
49. Regarding this exhibit, I am satisfied that what is hand written was intended to read, 'THE END'. All letters with the exception of the last letter are clearly in upper case, making it more likely that the questionable letter is a capital 'D' rather than a lower case 'b.' To make any sense at all of what is written, it needs to be a 'D', as only obsolete English words start with 'enb'.<sup>50</sup> Further, it makes little sense to commence writing a word in upper case and to change to lower case before completing it.

**Probative value of findings following scientific examination:**

DNA evidence found on the strychnine bottle.

50. The evidence is that it is a single-source sample that matched Lachlan Bingham, albeit without excluding all others.
51. On behalf of Mrs Willersdorf it was submitted:
  - a. That neither Mrs Beaty nor Mr Philip Bingham can be definitively excluded from being a person who handled the strychnine bottle.
  - b. As the partial DNA profile gave a Likelihood Ratio of 1 in 200, the degree of reliability given to this evidence should be far less than had a complete DNA sample been obtained. A 1 in 200 ratio is not applicable to determining the likelihood that a

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<sup>48</sup> T 268

<sup>49</sup> T 267

<sup>50</sup> T [www.oxforddictionaries.com](http://www.oxforddictionaries.com)

partial DNA originated from the deceased as it could also have originated from his father or brother.<sup>51</sup>

- c. It would be entirely unsafe to rely on the partial match of DNA as conclusively originating from the deceased.
- d. That the partial DNA found on the bottle is not conclusive of the deceased handling the bottle at the time immediately prior to his death.
- e. That the deceased did not ingest the strychnine by drinking directly from the bottle, as there would be a 'very strong likelihood'<sup>52</sup> of DNA being deposited, had he done so. Conversely, no DNA was revealed on the drinking glass, hence there is no evidence to support ingestion by using the glass.
- f. That the DNA could also have originated from the deceased's father, or the deceased's brother.

52. I accept that these submissions reflect the substance of the evidence given by Mr Guarino.

53. Dr Bingham's submissions relating to the DNA sample found on the bottle are as follows:<sup>53</sup>

- a. In order to be relevant to this matter, it would be necessary to show that the DNA sample was deposited on or about 13 April 2007 because it was very possible that Lachlan could have handled the bottle while poisoning farm vermin years earlier. It is also possible that their father could have left a partial DNA sample on the bottle when he used it.
- b. The DNA sample is only partial, with the chance of another match at random from the Australian Caucasian population being 1 in 200. Estimating a population of about 10,000 in Bacchus Marsh within 10 km of the farm, then about 50 people match the partial sample on the bottle. Assuming the bottle is the one from their mother's house, the DNA could have been left by any one of the above 50, as an intruder to her house.
- c. The partial DNA could well be a setup. Mrs Beaty has prior convictions for dishonesty and was the last known person to be with her father on the night of his death. It is possible she put his DNA on the strychnine bottle after his death in order to create the impression that he committed suicide using strychnine.

54. In response to Dr Bingham's submissions, I am satisfied the DNA finding is relevant. The question is: What weight can be given to it? There is no evidence inconsistent with Mr

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<sup>51</sup> T 348-351

<sup>52</sup> T 359

<sup>53</sup> Submissions dated 25 July 2014, pp 15-16



Bingham having handled the bottle shortly before his death. While Mr Guarino was unable to say when the DNA was deposited on the bottle,<sup>54</sup> he was able to exclusively exclude Mrs Beaty and Mr Philip Bingham as being the sources of that DNA.<sup>55</sup> The evidence is that it is 200 times more likely to have come from the deceased than any other random Caucasian male chosen from the population. There is no evidence of an intruder breaking into the mother's house and any suggestions that Mrs Beaty was involved in interfering with the course of justice, were strenuously denied.

#### Writing and fingerprints on the A4 sheet

55. On behalf of Mr Bingham's children, it was conceded that the note was not an example of a classic suicide note, as it does not set out his reasons for his actions. It was submitted, however, 'THE END' or 'THE ENb' is capable of corroborating a suicide to some extent.
56. On behalf of Mrs Willersdorf, it was submitted the note should not be viewed as a suicide note and carries no probative value as to Mr Bingham's intentions for the following reasons;<sup>56</sup>
- a. Mrs Beaty's fingerprints were the only prints on the note.
  - b. Photographs of the note taken on the night of 13 April 2007 do not show the words in question.
  - c. D/S/C Tabbitt conceded that someone may have touched the note and added to it.<sup>57</sup>
  - d. The handwriting could not be identified as that of Mr Bingham.
  - e. There was no suicide note but more probably a series of times relevant to medication and no more.
57. In regard to submissions on behalf of Mrs Willersdorf, I make the following observations:
- a. It is not correct to conclude that Mrs Beaty's fingerprints are the only prints, as one of the three prints could not be identified.
  - b. It is accurate that the photographs do not show the words in question, however the sheet was not photographed in its unfolded state and hence does not preclude the words being there.
  - c. I agree that this was the evidence given by D/S/C Tabbitt.

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<sup>54</sup> T 348

<sup>55</sup> T 341

<sup>56</sup> Submissions dated 25 July 2014; pp 7-8

<sup>57</sup> T 253

- d. Comparison was not possible due to the limited amount of writing. Of the hand written notations on the sheet, Mrs Beaty admitted to writing what she said was the first medication time entry of 7:40 pm, but nothing else.<sup>58</sup>
  - e. I accept that the series of times would be relevant to medication.
58. Dr Bingham submits that the note is a fake, prepared by someone in an attempt to conceal the death ('to disguise a murder'<sup>59</sup>) by making it look like a suicide. In support of his submission, Dr Bingham submits:
- a. It is unknown when the words were written.
  - b. If the words were on the page when shown to the ambulance officers, then it would be expected they would have seen and commented on them.
  - c. The note was found 3 weeks after the death and Mrs Beaty was a house resident during that time. This must place a massive question mark beside the integrity of the note, as Mrs Beaty has prior convictions for dishonesty.
  - d. If the note had been found during the 5<sup>th</sup> of May police search, it would be astonishing if it had not been shown to the family with a comment such as, 'it looks like your father committed suicide.'
  - e. Its definitely not a case of suicide, as Mrs Beaty was at the house right up to the time of her father's death and she makes no mention of his agony.
59. In respect of these submissions I make the following observations:
- a. The time of writing cannot be determined, however, it was clearly sometime after Mr Bingham's attendance at the Westcare Medical Centre on 12 April 2007, when he was given the gout information sheet upon which the writing appears.
  - b. This may be the case if the sheet was unfolded when seen by the officers, but expectations do not always eventuate. There is no evidence they were shown the sheet in its unfolded form.
  - c. It does not follow, that as Mrs Beaty has prior convictions for dishonesty, the integrity of the note is compromised.
  - d. Whilst the folded sheet of paper appears in photographs taken on the night of the death and on 5 May 2007, there is no evidence of it being unfolded in the presence of family to see if anything was written on it.

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<sup>58</sup> T 99

<sup>59</sup> Dr Bingham's submissions in response to Mr Moglia's submissions and dated 1 September 2014, p5.

- e. The premise upon which this submission is based, of Mrs Beaty being present right up to the time of death, is considered later in this finding and is rejected.
60. Dr Bingham further submits that in order for it to be a suicide note, it must have been written before the effects of the poison set in, otherwise the agony his bother would have been in would have prevented him doing so. I find that whilst this may be the case, the possibility remains that it could have been written between muscle spasms following initial ingestion. Accordingly, the misshaped upper case 'D' could be explained by coordination being lost during the poison absorption process.
61. Dr Bingham submits that there is no way of ascertaining when Mrs Beaty could have handled the paper and accordingly the fingerprint evidence is of no use. His basis for this submission is the fact that the paper had been moved from the time it was photographed on the night of the death, to when it was rephotographed the day it was seized.
62. The evidence is, however, that Mrs Beaty handled the paper<sup>60</sup> to make the first time entry of 7:40 pm and after being asked by the attending ambulance officers what sort of medication her father was taking, she got the paper to show them when he took his last Colgout medication. When doing so, she stated she was not aware of any other writing and first learnt of it, after the police had seized it.<sup>61</sup> This is the best evidence on this point and it is uncontradicted.
63. On behalf of Mrs Willersdorf, it was submitted that it is significant that none of Mr Bingham's fingerprints are on any of the items seized. However, Mr Bingham's fingerprints were not available to the examining expert, hence the possibility remains that the third, unidentified fingerprint on the A4 sheet, belonged to him.
64. In addition, it was submitted that weight should be given to the non-existence of fingerprints on the items examined. Appropriate weight will be given and also to S/C Rutherford's evidence as outlined previously, that when an item is touched, it is often 'a bit of good fortune an identifiable fingerprint is left.'<sup>62</sup> Further, Mr Bingham's lifetime of manual labour is relevant on this point. Accordingly, the absence of fingerprints does not mean that Mr Bingham had failed to handled any of the seized items, including the sheet of paper and strychnine bottle.

#### Telephone calls and records

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<sup>60</sup> T 99

<sup>61</sup> T 100

<sup>62</sup> Exhibit 14

65. During the course of the inquest, detailed attention was given to the telephone records from Telstra and Optus relating to calls made to or by Mr Bingham on 13 April, as well as all calls made to or by Mrs Beaty and Mr Phillip Bingham. Expert evidence was given regarding the coverage area of Optus mobile telephone towers in the Melton area and the possibility that particular calls as shown on the records could have been made from the locations the witnesses claim.
66. Mr Prypoten explained that it is not possible to identify a person's precise position within any given coverage area because of the vast area radio transmitter towers cover. It can be said that a person is within a probable area, but the position is 'very vague.'<sup>63</sup> As a general rule a call will go through the closest available tower, however, as was stated by Mr Findlay, you could be standing in close proximity to a tower, but the call will go to, and the cell identified, by another.<sup>64</sup> There are various reasons why the closest tower is not able to handle a call and they include physical obstructions ( buildings, large vehicles, landscape features), network load, humidity and the tower being down for maintenance.<sup>65</sup>
67. Mrs Beaty stated a number of times in evidence that she remained at her father's farm until approximately 8:00 pm and then attended the Melton Shopping Centre before arriving home at about 9:20 pm.<sup>66</sup> She stated that she made a number of calls (records indicate 6),<sup>67</sup> including several to her sister and one to her brother, and that she was at Melton for about 50 minutes when the calls were made and not in Bacchus Marsh.<sup>68</sup>
68. After examining the relevant coverage map, Mr Prypoten stated<sup>69</sup> that it was possible the first of these calls had been made from the Melton Shopping Centre, as they show the 1<sup>st</sup> cell ID of Bacchus Marsh-1. Of the last 3 calls (all to her sister), two show the 1<sup>st</sup> cell ID of Bacchus Marsh Township-2 and one, the 1<sup>st</sup> cell ID of Anthony's Cutting-3. After examining the relevant coverage maps, Mr Prypoten determined that it was not possible for these calls to be handled by either Bacchus Marsh Township-2, or Anthony's Cutting-3, if they had been made from the Melton Shopping Centre.<sup>70</sup>

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<sup>63</sup> T 288

<sup>64</sup> T 378

<sup>65</sup> T 289

<sup>66</sup> T 20 Hearing date 24/11/2008 and T 62, T65 &T66 Hearing date 3/3/14

<sup>67</sup> Exhibit 11

<sup>68</sup> T 66

<sup>69</sup> T 287

<sup>70</sup> Optus Ref. 14/03/41633

69. Dr Bingham concludes that this contradiction exposes an attempt by Mrs Beaty to cover up a later departure time from her father's house, by fabricating a 50 minute stop at the Melton Shopping Centre.<sup>71</sup> He submits Mrs Beaty is a pathological liar<sup>72</sup> and that she left her father's farm not at around 8:00 pm, but at around 8:40 pm.<sup>73</sup> He states that Mrs Beaty 'is very much a person of interest'<sup>74</sup> in her father's death, as her time of departure was within what he estimates to be the time of death, with this being 8:38+-33 minutes.<sup>75</sup> Dr Bingham's time of death range was arrived at by him calculating the earliest time to be 8:15 pm<sup>76</sup> and the latest to be 9:21 pm, when Mr Phillip Bingham arrived just in time to pick up his sister's call and found his father apparently dead and partially stiff.<sup>77</sup>
70. I do not accept the contradiction shown by the phone records proves that Mrs Beaty has fabricated a story and lied when giving her evidence. Mrs Beaty admitted to having a conviction for dishonesty having pleaded guilty to an offence of a serious nature,<sup>78</sup> however it does not follow that her evidence is automatically unreliable, or that there is any presumption that she has been untruthful in her evidence.
71. I have had the benefit of observing Mrs Beaty give evidence on two occasions; when she first gave her evidence in 2008 and upon being recalled in 2014, and I do not doubt her veracity. The contradiction in her evidence as to where calls were made and how long she spent at Melton may well be explained by imperfect recall due to the protracted delays in the matter coming to court, as was conceded by the deceased's sister through her counsel, Ms Sampson.<sup>79</sup> D/Sgt Birch acknowledged memory is not infallible and that discrepancies in evidence are not in themselves seen to be sinister.<sup>80</sup>
72. There is no evidence suggesting a motive for Mrs Beaty to give untruthful evidence to the inquest, and in a setting that appears indicative of a close and supportive relationship, to do her father any harm.

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<sup>71</sup> Submissions dated 25 July 2014; p 45

<sup>72</sup> Submissions in reply to those of Counsel Assisting and dated 1 September 2014; p7

<sup>73</sup> Submissions in reply p8; Submissions dated 25 July 2014; p 40

<sup>74</sup> Submissions in reply to those of Mr Moglia and dated 1 September 2014; p13

<sup>75</sup> Submissions in reply to those of Counsel Assisting and dated 1 September 2014; p 3

<sup>76</sup> Submissions dated 25 July 2014: Table 4.1 ;Based in part on the average time between ingestion and death in the case of Anthony Mooney; coroner's case 4023/2008 and a Case Report and Review "Fatal Strychnine Poisoning", Journal of Forensic Sciences, JFSCA, Vol 30, No 4 Oct 1985, Pp 1248-1255.

<sup>77</sup> Submissions in reply to those of Mr Moglia and dated 1 September 2014; p 3

<sup>78</sup> T 60

<sup>79</sup> Submissions dated 25 July 2014; p 3

<sup>80</sup> T 317

73. In addition, Dr Bingham's estimated time of death of 8:38+-33 minutes is speculative and was not put to the medical experts. The possibility of making such an estimate is contrary to the expert evidence.<sup>81</sup>

#### **Intentional act of suicide or third party involvement ?**

74. Dr Bingham was representing himself throughout the inquest. It is appropriate that I set out his submissions to the court in some detail, in order that there be no confusion regarding his opinion as to the events leading to his brother's death.<sup>82</sup>
- a. *"Sometime after about 7:00 pm Lachlan Bingham unknowingly ingested a large dose of strychnine (possibly several capsules without any taste warning) and was found dead and stiff at 9:21 pm by Phillip Bingham ie only about 2 hours later.*
  - b. *Anne Beaty left her father's house at about 8:40 pm. She arrived at the front gate of her Toolern Vale farm at about 9:19 pm and made 3 calls and an SMS in about 2 minutes. The rapidity of these calls indicate a state of stress rather than a simple call to tell her father she was home. Phillip Bingham, not Lachlan Bingham, picked up the 3<sup>rd</sup> call at 9:21 at Lachlan's house.*
  - c. *Phillip Bingham had earlier received a mobile call from Anne Beaty at 8:38 pm. She told him that she had just got a call from her father and that he had pains in his swollen leg. This alleged call from her father is a complete fabrication as shown by the phone records. Apparently the purpose of her 8:38 pm call was to cause Phillip Bingham to go out to the situation she had left at her father's house and he did agree to go out.*
  - d. *Phillip Bingham arrived at his father's house to find his father apparently dead. And just in time to pick up Anne Beaty's 9:21 pm (3<sup>rd</sup>) call. He had taken about 43 minutes to go out (his sister had not indicated any urgency) so this may have contributed to her apparent stress at her farm gate. They spoke on Lachlan's mobile for 1 min:33sec.*
  - e. *At 9:26 pm Phillip Bingham called his sister back on Lachlan's mobile and they spoke for 17 min:21sec. At a time 16:08 after the start of this call (9:42 pm), Anne Beaty called Phillip Bingham on his mobile for a time of 30 sec. Since Lachlan is dead, Phillip Bingham is talking both on Lachlan's mobile and his own mobile for this 30*

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<sup>81</sup> T 46

<sup>82</sup> Submissions dated 25 July 2014; p 43-44

*second call. This can be checked by looking at the overlap of Optus Bacchus Marsh-1 cell and Telstra Balliang East cell. My current understanding is that this overlap does not extend to Phillip Bingham's house at Ruddick Place Bacchus Marsh, so Phillip Bingham is definitely at his father's house for this 9:42 pm call and not at his house as he attempted to claim with his false time change. All of the above agrees with the fact that his attempt to change his arrival time from about 9:15 pm was false. One can only presume that the reason for the above 3 calls after 9:21 pm was to fabricate some scheme to cover up the circumstances of Lachlan's death. Why would this be necessary if Lachlan had committed suicide? I submit that my current understanding re the coverage of the Telstra Balliang cell should be checked with Telstra and opinion sought as to the possibility that this signal could extend to 17 Ruddick Place, Bacchus Marsh.*

- f. Obviously Phillip Bingham used his father's phone for the 9:21 pm and 9:26 pm calls. Apparently Lachlan's mobile was then planted in his hand because this was how he was found.*
- g. Phillip Bingham's 10:07 pm call to 000 means that he delayed this call for help for 46 minutes after his 9:21 pm arrival at his father's house. Thus, either he was sure that his father was dead when he arrived or he contributed to his father's death by failing to immediately call for an ambulance."*

Dr Bingham's opinion as to the circumstances surrounding his brother's death is speculative and characterised by inexact proofs, indefinite testimony and indirect inferences.

75. Dr Bingham submits<sup>83</sup> that the contents of the ambulance records and Triple 0 recording "go against the suicide possibility and possibly show a murder cover up". In support of his submission, Dr Bingham relies on:

- a. The records showing a delay of about 50 minutes after Mr Phillip Bingham's arrival at his father's property before the Triple 0 call was made and
- b. The ambulance received several incorrect key direction from Mr Phillip Bingham and Mrs Beaty.

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<sup>83</sup> Submissions dated 25 July 2014; p 29

a) Mr Phillip Bingham's return arrival time.

76. In addressing the first of these submissions the records only show a 50 minute delay if it is accepted that Mr Phillip Bingham arrived at his father's property at about 9:15 pm. The evidence does not support this finding for the following reasons.
77. Mr Phillip Bingham spoke to attending police on the 13 April 2007, the night of his father's death, stating that he arrived at the property at approximately 9:10 pm. This time was then recorded in the Victoria Police Form 83, which reports the death to the coroner and the circumstances surrounding the death.
78. In his statement to police dated 4 May 2007, Mr Phillip Bingham said that he received a call from his sister at approximately 9:00 pm and as a result attended the property, arriving approximately 10-15 minutes later. This arrival time of approximately 9:10-15 pm was subsequently changed, with him stating that he realised, after subsequently looking at his phone, that he acted on his sister's call at 9:42 pm, resulting in his attendance at the property at about 9:55 pm.
79. When making the amendment during the course of giving evidence on the 24 November 2007, Mr Phillip Bingham explained that he thought it was after 9 when speaking to police on the night, but didn't realise it was later until subsequently looking at his phone and retrieving his sister's call.<sup>84</sup> He further stated that he could not have been at his father's property at 9:15 pm, because he was still at home with his wife who had not yet left for work.<sup>85</sup>
80. Dr Bingham submits that Mr Phillip Bingham lied in changing his farm return time from about 9:10-15 pm to about 9:55 pm, 'in an effort to take the heat off his sister'<sup>86</sup> whom he alleges, was apparently at the house right up to her father's death.<sup>87</sup> When Mr Bingham's phone was in use after 9:10-15 pm, Dr Bingham alleges it was being used by Mr Phillip Bingham, as his father was dead<sup>88</sup> and he waited about 46 minutes before calling for ambulance attendance.
81. Dr Bingham makes the following submissions:<sup>89</sup>
- a) "Phillip Bingham looked at his phone on 4 May, apparently at the police station.

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<sup>84</sup> T 29; Hearing 24 November 2008

<sup>85</sup> T 128

<sup>86</sup> Submissions dated 1st September 2014 in reply to Mr Moglia's submissions; p 19

<sup>87</sup> Submissions dated 25 July 2014; p 36

<sup>88</sup> Submissions dated 25 July 2014; p 44

<sup>89</sup> Submissions dated 1st September 2014 in reply to Mr Moglia's submissions; p 11



- b) As given by Optus and Nokia, his phone was a Nokia 3315 that was only capable of storing the last 10 received calls.
- c) As shown in Table 4.1,<sup>90</sup> the 13 April 21:42 call dropped off his phone at 11:53 on 16 April 2007.
- d) Thus Phillip Bingham lied when he claimed that he saw this call on his phone on 4 May 2007.
- e) Thus Phillip Bingham's reason for changing from the 20:38 call to the 21:42 call as the call that caused him to return to his father's house is false. Thus he actually did go out on the basis of the 20:38 call and arrived at about 21:10-15 as stated in the Form 83 and in his 4 May statement.
- f) Upon his arrival, he found his father apparently dead and he arrived just in time to take the 21:20:50 call from his sister who had just arrived at her farm gate on her return from her father's place. Thus his return arrival time is known exactly.
- g) Therefore he was the person using his father's phone as his father was dead.
- h) Thus Phillip Bingham planted Lachlan's phone in his father's hands after the above calls."

82. Dr Bingham makes a serious allegation regarding conduct of a criminal nature by Mr Phillip Bingham, which if accepted, has grave consequences flowing from it. In addition, he submits that D/S/C Tabbitt "apparently colluded with Phillip Bingham so as to mislead the court about Phillip Bingham's return arrival time at his father's house."<sup>91</sup> The evidence shows, however, how Dr Bingham has relied on 'inexact proofs and indefinite testimony', in order to conclude that Mr Phillip Bingham first learnt of the later time, when he looked at his phone on the 4 May 2007.

83. Mr Phillip Bingham's evidence is by no means exact as to when he looked at his phone, as indicated by the following extracts from his evidence:

- When he amended the time on the 24 November 2008, he stated he spoke to the police on the night of the death and "*I thought it was after nine but I didn't realise it was as late as 9:40 until I looked at my phone some days later.*"<sup>92</sup>
- He made his statement on the 4 May; "*Yeah, when I made the statement I thought it was after 9 but I couldn't pinpoint a time.*"<sup>93</sup>

<sup>90</sup> Submissions dated 25 July 2014; p 36

<sup>91</sup> Ibid; p 20,

<sup>92</sup> Hearing 24/11/ 2008; T 28

- In evidence on 3 March 2014 when cross examined by Dr Bingham, he was asked about phone calls received on the night of the death; ‘When did you sort of check on your phone?’---“*It was maybe a couple of days later, I don’t remember now.*” ‘A couple of days after the 4 May?’---“*No, it was probably about then.*” ‘Round about 4 May?’---“*Yeah, when I got rung up by Bacchus Marsh police to come in. I didn’t have any idea of exactly what time.*”<sup>94</sup>”
- ‘What was it that led you to change your estimate of your arrival time?’... “*By looking at my phone.*” ‘And when did you do that?’...“*I did that on the 4<sup>th</sup>.*” On the 4 May?...”*Yes.*”<sup>95</sup>”
- In response to a question by the court: ‘Did you interrogate your phone at the police station?’ (this being 4 May)---“*I don’t recall. I remember looking at it a few times, but---*” “*When looking at my phone, that I seen that it was, um, I think 9:40 on my phone I think was the- was the time.*” ‘And you did that at the police station?’---“*At the police station, yes.*”<sup>96</sup>”

84. In cross examination by Mr Moglia: ‘You’ve said this morning that you were certainly looking at your phone at the police station when you made your statement. Is it possible that during those few days in between your dad dying and going to the police station that you had also looked at your phone during that time?’...”*Quite possible, I made a lot of phone calls in the days after, there was a lot to do. I know I was ringing up the Coroner’s a fair bit to find out what was happening down there and when dad was going to be released, so it’s quite possible.*”<sup>97</sup>

85. The evidence highlights the uncertainty as to when Mr Phillip Bingham looked at his phone, with the variations in evidence being:

- some days after the death on the 13 April
- probably around the 4 May
- couldn’t recall interrogating his phone for the call time at the police station
- it was at the police station when looking at his phone he learnt of the time
- it was after the 4 May that he looked at his phone.

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<sup>93</sup> Hearing 24/11/2008; T 29

<sup>94</sup> T 118

<sup>95</sup> T 129

<sup>96</sup> T 139-140

<sup>97</sup> T 149

86. Mr Phillip Bingham's evidence on this issue is inexact and indefinite and in the circumstances of the serious allegations made by Dr Bingham, there can be no 'reasonable satisfaction' as to when he checked his phone. In these circumstances, the possibility remains of Mr Phillip Bingham observing the 9:42 call before it dropped off his phone at 11:53 on the 16 April 2007.<sup>98</sup>
87. Dr Bingham questions why Mr Phillip Bingham failed to inform Constable Young on 4 May of the need to change his arrival time, having claimed to attend the property on the basis of the 9:42 pm. He submits that D/S/C Tabbitt's claim that the telephone records corroborate the version of events given by Mr Bingham's children is 'absolutely false' and that he and Mr Phillip Bingham 'apparently colluded' to make this change after his statement was made.<sup>99</sup>
88. There is no evidence of collusion. Further, I am not satisfied Mr Phillip Bingham intended to mislead either police or the court, by failing to amend his statement earlier. There is no evidence of Mr Phillip Bingham being familiar with police or court procedures and I note when giving evidence before me, the error was not immediately corrected. After his statement was read to him and on being asked whether it was true and correct, he responded 'Yes,' yet he must have been aware of the need for amendment, as he subsequently raised it during his evidence.
- b) Directions given to the ambulance service.
89. In his second submission in support of a possible murder cover up, Dr Bingham relies on incorrect directions given to the ambulance service regarding the location of the farm.
90. The Triple 0 emergency services operator received a call from Mr Phillip Bingham at 10:07 pm, requesting ambulance attendance. Initial instructions were given and upon these being queried by the operator, further instructions were given by Mr Phillip Bingham, and subsequently by Mrs Beaty following her arrival at the property.
91. At the hearing on 24 November 2008, the inquest heard from Paramedic John Faulkner, one of two paramedics to attended the property. He stated they arrived at 10:34 pm having been dispatched at 10:13 pm and that the delay in locating the property was due to incorrect directions, or lack of consistent directions. As a result, he lodged a report with the

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<sup>98</sup> Table 4.1 Submissions dated 25 July 2014; p 36

<sup>99</sup> Ibid p 20-21

ambulance service, as the instructions given didn't make any sense to himself or his partner, despite knowing the area well.

92. Mr Phillip Bingham denied misleading the operator. Investigation subsequently found the Triple 0 operator was at fault. On being shown a transcript of the Triple 0 call request and the initial directions given by Mr Phillip Bingham, Paramedic Faulkner stated: "If those directions were given to us straight away, we would have known exactly where to go."<sup>100</sup> Mr Faulkner further stated that it was his understanding that the Triple 0 operator was subsequently retrained.
93. Although subsequent directions given by Mr Phillip Bingham and Mrs Beaty to the operator resulted in greater confusion as to the location, the evidence does not support a finding of intention to mislead. Attending police found both to be noticeably "highly distressed."<sup>101</sup> They were both confronted by a very stressful situation, with Mr Phillip Bingham giving additional directions to a confused operator, whilst performing CPR. I am satisfied that in such circumstances, mistakes could be innocently made.
94. The evidence does not support a finding that the ambulance records and Triple 0 recording go against the suicide possibility and possibly show a murder cover up.

#### **Circumstances leading to death:**

95. As previously indicated, there are four possibilities to explain the death:

a. Mr Bingham intentionally took the strychnine to end his life.

96. It is the belief of Mr Bingham's children that their father intentionally took his life by ingesting strychnine. This view was shared by the police investigators who found nothing inconsistent with a finding of suicide.<sup>102</sup>
97. This conclusion, however, is challenged by Mr Bingham's siblings, in part, on the grounds that there is no reliable evidence of self administration, nor of him being suicidal on the evening or around the time of his death.
98. Despite having no contact with their brother for some years (hence no opportunity to assess his state of mind), Mr Bingham's siblings do not believe he took his life. In support of their

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<sup>100</sup> Hearing 24/11/2008; T 2

<sup>101</sup> T 169

<sup>102</sup> Exhibits 10 and 24; T 178-250 and T 304-335

belief, they are adamant that he would not have done so by ingesting strychnine, since as a farmer, he would have been aware of the ‘horrific effects of strychnine poisoning.’<sup>103</sup>

99. I have no doubt farmers would be aware of the horrific effects of strychnine poisoning, however, it does not follow that this knowledge would stop a farmer using it as a means of committing suicide.<sup>104</sup> Equally, given its degree of toxicity, a farmer would no doubt be aware that it is an extremely effective life ending mechanism.
100. In addition, Mr Bingham’s siblings submit that if he were to intentionally self harm, ‘there were other more humane on farm methods’ available to him rather than using strychnine.<sup>105</sup> His sister in her evidence suggested a gun that he had available to him, as “it would be a quick way.”<sup>106</sup> However, what is considered humane from his siblings’ perspective, may have been outweighed by Mr Bingham considering the interests of his children. There is little doubt he would have anticipated that one of his children would find his body. Accordingly, it is not hard to imagine him considering the traumatizing impact on the family member finding him, had he shot himself, or perhaps hanged himself. On the other hand, poisoning gives the appearance of a natural cause death.

b. Mr Bingham ingested the strychnine by accident.

101. Appropriately, there are no submissions by interested parties that Mr Bingham would have accidentally ingested the strychnine, as there is no evidence whatsoever to support such a finding. He had a lifetime of farming experience, that included the use of strychnine for vermin control and its careful storage. In addition, it is unrealistic to contemplate accidental ingestion, given the volume described by the expert witnesses necessary to give rise to the reading found at toxicology. Further, the source of the crystals was from a distinctly coloured bottle and with the words clearly marked, ‘Pure Strychnine POISON,’ on a large red label.

102. I find the evidence does not support a finding of accidental ingestion.

c. Intentionally in an attempt to treat his declining health.

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<sup>103</sup> Submissions dated 25 July 2014 p 30

<sup>104</sup> A search of the National Coronial Information System shows, that in the last 15 years alone, there have been 9 strychnine related fatalities among farmers. Of these cases, 8 have been finalised with findings of suicide (NSW 3; Qld 2; W.A 2; SA 1). This is the outstanding case to be finalised.

<sup>105</sup> Submissions dated 25 July 2014; p 42

<sup>106</sup> Hearing 24/11/08; T p 45

103. Similarly, there is no evidence to support a finding that Mr Bingham was self medicating on strychnine. There is no current medicinal reason for taking strychnine,<sup>107</sup> however, historically it was used as a tonic, but in small doses of less than a milligram.<sup>108</sup> In his submissions to the court, Dr Bingham states; “In the opinion of his siblings, the notion that Lachlan would self-medicate with strychnine is absolutely ridiculous.”<sup>109</sup>

104. I find that the evidence does not support a finding of ingestion for medicinal purposes.

d. Mr Bingham was administered the strychnine by a third person.

105. Dr Bingham is adamant that his brother would not have intentionally used strychnine had he wished to end his life. Accordingly, he submits he must have ingested the poison unknowingly by a method wherein the bitter taste was concealed and hence he must have ingested it in a medicinal capsule.

106. As it was well known that Mr Bingham used Crampeze for relief, Dr Bingham submits that he could have unknowingly ingested one or more capsules filled with strychnine and there would be no bitter taste warning. He further submits,<sup>110</sup> “*the only way that this kind of murder can proceed with no witness is that the murderer has the following 3 attributes, all 3 of which were available to Anne Beaty on the evening of 13<sup>th</sup> April 2007:*

- *Access to strychnine. As executor of our mother’s estate, my sister Heather Willesdorf inspected our mother’s house, accompanied by Bacchus Marsh police, after settlement in November 2006. The house had been completely cleaned out and was bare. Only Lachlan and his family had access. If one studies the police photos of Lachlan’s house, then it would be very difficult to conclude that he had cleaned out his mother’s house. Anne Beaty was the one who always had the keys. She is the one who locked doors to rooms in our mother’s house and who interfered with our mother’s most personal possessions. Her pretence that she was unaware of the strychnine bottle is laughable.*
- *Access to capsules that the victim is using and the victim is accustomed to being handed the capsules by her.*
- *Access to the victim alone. Anne Beaty was the last known person to be with her father and she was with him from the time he was resting in bed at about 7:00 pm until about*

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<sup>107</sup> T p 15

<sup>108</sup> T p 16

<sup>109</sup> Submissions dated 25 July 2014

<sup>110</sup> Submissions dated 25 July 2014; p 43

*40 minutes before he was found dead and stiff (steady state, not transient) by Phillip Bingham at 9:21 pm.”*

107. The evidence of both Mrs Beaty,<sup>111</sup> her brother<sup>112</sup> and her sister,<sup>113</sup> is that they had no knowledge of the bottle of strychnine. This is the best evidence before me and it is uncontradicted. In addition, all children were said to have cooperated in dealings with the police.<sup>114</sup>
108. In determining whether Mr Bingham’s children were involved in his death, it is necessary to consider not only the seriousness of the allegation and ramifications flowing from it, but the inherent unlikelihood of such an occurrence. Dr Bingham raises the issue of murder and identifies Mrs Beaty as having available to her the three necessary ‘attributes’ for a murder to proceed.
109. Mrs Beaty attended the farm on the day of her father’s death, accompanied by her 10 year old son. Had she acted on the ‘attributes’ said to be available to her, she clearly would not only have been killing her father, but depriving her son of his grandfather. I am satisfied, that having her son present at the farm on the day of his grandfather’s death, would significantly add to the ‘inherent unlikelihood’<sup>115</sup> of her being implicated in the death.
110. In addition, Dr Bingham’s submission and the three ‘attributes’ he puts forward, are based on inexact proofs, indirect inferences and indefinite testimony.
111. I am satisfied that the evidence does not support a finding that Mr Bingham was administered strychnine by a third party.

Facts consistent with intentional ingestion.

112. D/Sgt Birch stated in evidence that on the facts as he understood them and ‘from the Homicide Squad investigator’s position,’ he did not know of ‘a single material fact’ that would cause him to believe that Mr Bingham’s death was other than the result of self administering the strychnine.<sup>116</sup> Further, there was no basis for believing that a person had

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<sup>111</sup> T 85

<sup>112</sup> T147

<sup>113</sup> T 154

<sup>114</sup> Hearing 24/11/08; T 51

<sup>115</sup> *Briginshaw v Briginshaw* (1938) 60 CLR 336

<sup>116</sup> Exhibit 24 and T 311 and 327

lied in giving their account of events.<sup>117</sup> In addition, D/S/C Tabbitt stated that he found nothing to contradict the accounts given by Mrs Beaty and Mr Phillip Bingham.<sup>118</sup>

113. Both Dr Bingham and Ms Sampson submit that very little weight should be given to D/Sgt Birch's conclusions because he was not appraised of various matters Dr Bingham had identified, during six years of investigations. An example, put to D/Sgt Birch by Ms Sampson during cross examination,<sup>119</sup> was inconsistencies as to where people were at the time of events as shown by mobile phone records. A further matter she raised was the expert evidence regarding the time it would take from ingestion of strychnine to the onset of symptoms and death. Whilst D/Sgt Birch conceded he was not aware of the additional material,<sup>120</sup> there is no evidence that had it been available to him, it would have changed his conclusion regarding self administration.

**Criticism of investigation:**

114. Dr Bingham is critical of my decision not to investigate his brother's CBA bank records. In addition, he is critical of my decision not to release copies of the February 2007 police interviews of Mrs Beaty and Mr Bingham, over the investigation of criminal activities in the estate of Mrs Beaty's grandmother. Further, he is critical of Professor Braitberg's report and highly critical of the police investigation into his brother's death. Criticism is levelled at Constable Young, D/S/C Tabbitt and D/Sgt Birch. Ms Sampson, on behalf of Ms Willersdorf, is also critical of the investigation undertaken by D/S/C Tabbitt.

Investigation of Mr Bingham's CBA bank account.

115. I do not accept Dr Bingham's submission that my failure to examine his brother's CBA bank account records, badly obstructed the investigation into his death. Section 67(1) of the Act requires that, in relation to a reportable death, the coroner must find if possible, the identity of the deceased, the cause of death and the circumstances in which the death occurred. The precise scope of an investigation into the circumstances of a death depends on the facts of the case. In general, a coroner will not need to investigate events that did not cause or contribute to the death.
116. I note the provisions of section 42 of the Act, which permits a coroner to require a person to produce documents if the coroner is of the opinion that a document is *required for the*

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<sup>117</sup> T 321

<sup>118</sup> Exhibit 10 and T 249

<sup>119</sup> T 329

<sup>120</sup> T 330



*purpose of the investigation.* The legislation therefore places restrictions on the documents I can cause to be produced. I do not have general powers of inquiry or detection and any inquiry undertaken by me must be relevant to the particular death under investigation. (*Harmsworth v State Coroner*).<sup>121</sup>

117. Dr Bingham raised a mere belief that the records may disclose fraudulent activity and in the event this was uncovered, a motive for foul play may be involved in the circumstances of his brother's death. In allowing some leeway to be given to next of kin in coronial inquests, and particularly when unrepresented, I granted Dr Bingham's request to examine Commonwealth Bank records of Mr Bingham and they disclosed nothing of an unusual character.
118. Dr Bingham's application to examine CBA records raised no material which enabled me to conclude that the production of further material was required for the purpose of my investigation and the statutory functions I am required to fulfil. Accordingly, I concluded that the production of this material would not be within the scope of my powers of investigation under the Act.

Police investigation of criminal activities in the estate of Hilda May Bingham.

119. Dr Bingham submits that by refusing his request to supply copies of the police interviews of Mrs Beaty and her father, that I obstructed 'any attempt to assess the relationship between the pair and thereby investigate possible murder motives.'<sup>122</sup>
120. In response to a request by Dr Bingham, I requested and received the prosecution brief concerning charges against Mrs Beaty and also the police interview of Mr Bingham. Having considered the material I determined it was not relevant to this enquiry and as a result, it would be inappropriate to release copies to Dr Bingham and other interested parties.

Professor Braitberg's report.

121. Dr Bingham is critical of the report provided by Professor Braitberg, the court engaged expert, submitting that it is "riddled with errors of fact" and based on "utterly inept police work"<sup>123</sup> and includes false non medical references. Dr Bingham submits, for example:
- a. Mrs Beaty did not leave her father's house at 8:00 pm as is claimed.

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<sup>121</sup> (1989)VR 989

<sup>122</sup> Submissions in reply to those of Counsel Assisting and dated 1 September 2014; p 9

<sup>123</sup> Submissions dated 25 July 2014; p7

- b. Mr Phillip Bingham did not return to his father's house at 9:55 pm, but at 9:15 pm.
- c. Mr Bingham couldn't be breathing at 10:06 pm as found by his son partially stiff.
- d. That he recorded his belief that the note reads, THE END.
- e. Telephone records corroborate the testimony of Mr Bingham's children.

I reject these criticisms apart from point d) where Dr Braitberg digresses from his role.

While Dr Bingham holds the view that these facts in issue are wrong, his criticism is based on unsupported evidence and speculation for the reasons set out in this finding.

Criticism of police investigators.

122. Dr Bingham's criticism of Constable Young includes;<sup>124</sup>

- a. His error in accepting Mr Phillip Bingham's change of his return arrival time at his father's house, from about 9:10 pm as initially stated, to about 9:50-9:55 pm, as it is refuted by the phone evidence.
- b. He should have been more concerned with the movement of items in and on Mr Bingham's bedside cabinet, before they were photographed on the 5 May 2007.

123. His criticisms of D/S/C Tabbitt are:<sup>125</sup>

- a. Showing strong early bias in favour of Mr Bingham having committed suicide
- b. Appearing to have acted in collusion with Mr Phillip Bingham so as to mislead the court as to Phillip Bingham's return arrival time at his father's house on the evening of his death.
- c. His claim that the telephone records tend to corroborate the version of events given by Mrs Beaty and Mr Phillip Bingham, as this is false.
- d. His failure to realise that Mrs Beaty's claim of having spent 50 minutes at Melton Shopping Centre was impossible.
- e. Selectively used versions of Mr Bingham's condition (as reported by Mr Phillip Bingham following his return to the farm), apparently in an attempt to 'take the heat of Anne Beaty.'

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<sup>124</sup> Submissions dated 25 July 2014; pp 16 - 17

<sup>125</sup> Ibid pp 20 - 28

- f. Him failing to note that incorrect directions had been given by Mr Phillip Bingham to the ambulance service.
  - g. His 'botched' search of the farmhouse.
  - h. His refusal to investigate all possibilities, including murder, with the strychnine being placed in a medicinal capsule prior to ingestion.
124. Dr Bingham is also critical of D/Sgt. Birch who gave assistance when required and his report containing factual errors. The criticism includes:<sup>126</sup>
- a. Acting on time errors relating to family presence at the house and incorrect telephone call times.
  - b. That he failed to carefully read the contents of the statements made by Mrs Beaty and Mr Phillip Bingham prior to having a conversation with them at Bacchus Marsh Police Station on the afternoon of 4 May 2007. Had he done so, he would have identified that when Mrs Beaty alleged she was having a phone conversation with her father at about 9:20 pm, he was already dead.
  - c. That he naively believed Mrs Beaty's story that her father insisted that she not return to see him, during his alleged 9:26 pm call to her.
  - d. His association of the strychnine bottle and the drinking glass with Mr Bingham committing suicide in bed, shows his lack of understanding in the matter of the extremely bitter taste and shocking death associated with strychnine poisoning.
  - e. Him fore-warning on 4 May 2007, to 'the two possible persons of interest', Mrs Beaty and Mr Phillip Bingham, of the intended police search of their father's premise and hence allowing 'time for a possible setup if desired.'
125. On behalf of Mrs Willersdorf, it was submitted:<sup>127</sup>
- a. That D/S/C Tabbitt failed to update the Homicide Squad of material obtained during the ongoing investigation, as for example the telephone records.
  - b. That D/Sgt Birch's statement of the 11 April 2008, was full of errors and inaccuracies.

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<sup>126</sup> Submissions dated 1st September 2014 in reply to Mr Moglia's submissions; pp 16-17

<sup>127</sup> Submissions dated 25 July 2014, p 8

126. I reject any suggestion of bias, collusion, intent to mislead the court or wrongful protection of any party, levelled at the police investigators. I accept the evidence has highlighted some short comings in the police investigation; as for example a potential crime scene not being properly preserved and a failure to keep the Homicide Squad updated with new investigative material. These and other shortcomings do not assist to bolster Dr Bingham's view of third party intervention. The police investigators, both Homicide Squad and Criminal Investigation Unit members, concluded that the death was consistent with suicide. I am not satisfied that their investigation was so flawed that I should disregard their finding.
127. Dr Bingham has consistently engaged in speculation and has relied on inexact proofs in order to draw adverse conclusions relating to the police investigation and circumstances of his brother's death. The following are some examples extracted from his submissions:
- 'Lachlan's time of death is definitely in range 8:15 pm...9:21 pm.'<sup>128</sup> This estimate in part was arrived at "by attempting to compare the stiffness descriptions of two cases (both strychnine related deaths), my rough estimate would be that Lachlan had been dead for at least ½ to 1 hour when found at 9:21 pm and hence the above estimate."<sup>129</sup>
  - That the call at 9:21 pm from Mr Bingham's phone to his daughter was made by Mr Phillip Bingham as his father was already dead at this time.<sup>130</sup>
  - Mr Phillip Bingham 'planted' his father's phone in his father's hand after using it<sup>131</sup>
  - Mr Phillip Bingham did not return to his father's house at about 9:55 pm but at about 9:15 pm<sup>132</sup>
  - Mr Phillip Bingham lied in changing his return time from about 9:15 pm to about 9:55 pm in an effort to take the heat off his sister<sup>133</sup>
  - Mr Phillip Bingham did not immediately ring the Triple 0 emergency service on finding his father but delayed doing so by 46 minutes<sup>134</sup>
  - Mr Phillip Bingham lied to the Triple 0 operator as to the time of death, 'apparently in an attempt to take the heat of his twin sister'<sup>135</sup>
  - The use of Crampeze capsules to conceal any bitter taste warning<sup>136</sup>
  - Mrs Beaty had access to strychnine<sup>137</sup>

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<sup>128</sup> Submissions in reply to those of Counsel Assisting and dated 1 September 2014; p 3

<sup>129</sup> Submissions dated 25 July 2014; p 42

<sup>130</sup> Ibid p 8

<sup>131</sup> Submissions dated 25 July 2014; p 44

<sup>132</sup> Ibid p 3

<sup>133</sup> Submissions dated 1st September 2014 in reply to Mr Moglia's submission; p 19

<sup>134</sup> Ibid p 13

<sup>135</sup> Ibid p 13

<sup>136</sup> Submissions dated 25 July 2014; p 42

<sup>137</sup> Ibid p 43

- Mrs Beaty did not leave her father’s house at about 8:00 pm as she claimed and must have left at about 8.38 pm<sup>138</sup>
- The ENb notation is a fake suicide note,<sup>139</sup> to disguise a murder as a suicide<sup>140</sup>
- The partial DNA sample could well be a ‘setup’ with it being possible Mrs Beaty put her father’s DNA on the bottle after his death<sup>141</sup>
- D/Sgt Birch was ‘conned’ by Mrs Beaty into believing that during the 9:26 pm call, Mr Bingham had insisted that his daughter not return to his house<sup>142</sup>
- D/S/C Tabbitt showed early bias in favour of Mr Bingham having committed suicide<sup>143</sup>
- D/S/C Tabbitt ‘apparently colluded’ with Mrs Beaty and Mr Phillip Bingham to mislead the court about Phillip Bingham’s return arrival time from 9:10-15 pm to about 9:55 pm<sup>144</sup>
- D/S/C Tabbitt apparently acted in collusion with Mr Phillip Bingham in an attempt to deceive the court about the “looked on my phone 4<sup>th</sup> May call.”<sup>145</sup>
- D/S/C Tabbitt has selectively used evidence ‘apparently in an attempt to take the heat off Anne Beaty’<sup>146</sup>
- D/S/C Tabbitt failed to note that incorrect directions had been given by Mr Phillip Bingham to Ambulance Victoria<sup>147</sup>
- Mr Phillip Bingham and Mrs Beaty colluded in representing their father’s death as a heart attack and then as a suicide<sup>148</sup>

**Conclusion:**

128. It is inappropriate to conclude suicide having merely eliminated the possibilities of accidental ingestion, self medicating or unintentional ingestion through third party involvement. What is required is an “affirmative conclusion...establish[ed] to the reasonable satisfaction of the judicial mind...”<sup>149</sup>
129. I am satisfied an affirmative conclusion can be drawn from the following facts:

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<sup>138</sup> Submissions dated 1st September 2014 in reply to Mr Moglia’s submission; p 7

<sup>139</sup> Ibid p 9

<sup>140</sup> Submissions dated 1st September 2014 in reply to Mr Moglia’s submission; p 20

<sup>141</sup> Submissions dated 25 July 2014; p 16

<sup>142</sup> Ibid p 19

<sup>143</sup> Ibid p 20

<sup>144</sup> Ibid p 20

<sup>145</sup> Submissions dated 1st September 2014 in reply to Mr Moglia’s submissions; p 19

<sup>146</sup> Submissions dated 25 July 2014; p 24

<sup>147</sup> Ibid p 25

<sup>148</sup> Submissions dated 1st September 2014 in reply to Mr Moglia’s submissions; p22

<sup>149</sup> Jones v Dunkel (1959) 101 CLR 298 at 305 per Dixon CJ

- The notation 'THE END,' which was temporal to the death, despite the hand writing not being positively identified
- Partial DNA on the strychnine bottle, which was consistent with Mr Bingham handling it, albeit without excluding all others
- The upturned cork in the strychnine bottle, which was Mr Bingham's way of doing things
- The direction to his daughter not to return to the farm on the night of his death
- His declining physical health
- His knowledge of the toxic affects of strychnine
- Unresolved police matters
- Conflict with extended family
- Difficulties in maintaining his farm and added demands placed on his children as a result

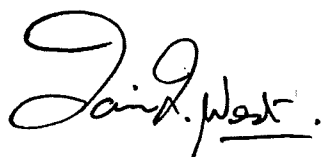
130. None of these facts in themselves form a reasonable basis for a definite conclusion of suicide, however, in combination they do.

131. **I find** that Lachlan James Bingham intentionally ingested strychnine to end his life.

I direct that a copy of this finding be provided to the following:

Solicitors acting on behalf of Mrs Helen Smith, Mrs Anne Beaty and Mr Phillip Bingham  
 Coroner's investigator, D/S/C Tabbitt  
 Dr Gordon Bingham  
 Solicitors acting on behalf of Mrs Willersdorf

Signature:





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IAIN WEST  
 DEPUTY STATE CORONER  
 Date: **30 April 2015**