



## CORONER'S COURT

<b>Inquest:</b>	John Ewen SCHRECK (aka - John Charles Stewart)
<b>Hearing dates:</b>	20 April 2015
<b>Date of findings:</b>	20 April 2015
<b>Place of findings:</b>	Coroner's Court, Glebe NSW 2037
<b>Findings of:</b>	Paul MacMahon Deputy State Coroner
<b>Catchwords:</b>	CORONIAL LAW – Missing person suspected deceased, Open findings made following inquest, Fresh inquest directed on discovery of new evidence, Findings made in substitution for those made at previous inquest.
<b>File number:</b>	2010/2648
<b>Representation:</b>	Mr P Bush – Coronial Advocate

**Non-publication order made pursuant to Section 74(1)(b) Coroners Act 2009:**

Nil

**Findings made in accordance with Section 81(1) Coroners Act 2009:**

John Ewen Schreck (a.k.a - John Charles Stewart)(born 16 July 1938) died on 21 October 2012 at 1/191 Gooch Street, Thornbury in the State of Victoria. The manner of his death was natural and the cause of his death was due to Ischaemic Heart Disease.

**Recommendations made in accordance with Section 82 (1) Coroners Act 2009:**

Nil

Paul MacMahon  
Deputy State Coroner

20 April 2015

## Reasons

1. In 1978 John Ewen Schreck (who I will refer to as John) resided in Moree in the north west of New South Wales with his wife Norma and their children.
2. On 7 August 1978 John left home to go to work. Later that day Norma phoned his workplace to remind him to collect their children from school. Norma was told that John had left work early because he did not feel well.
3. On her return home Norma found a note advising her that John had '*gone away*'.
4. John subsequently sent a letter, and a number of cards, to his children the last of which was received in May 1979.
5. After May 1979 there was no contact between John and any member of his extended family.
6. On 11 April 2008 the suspected death of John was reported to the coroner in accordance with the requirements of the Coroners Act 2009 (the Act).
7. On 26 October 2011 I conducted an inquest at Mudgee touching on John's disappearance and suspected death.
8. Having considered the evidence available I made findings in accordance with Section 81(1) that:

*John Ewen Schreck (born 16 July 1938) died sometime after May 1979. As to the place of his death and the cause and the manner thereof the evidence available does not enable me to make a finding.*
9. Fresh evidence as to the circumstances of John's death subsequently became available.
10. An application was made for the conduct of a fresh inquest in accordance with Section 83 of the Act. The State Coroner, having considered the application, formed the opinion that the discovery of new evidence made it necessary or desirable in the interests of justice that a fresh inquest be held.
11. The State Coroner directed that I conduct the fresh inquest.

12. Where a fresh inquest is conducted Section 83(7) provides that the findings at that inquest may be expressed to be in addition to, or in substitution for, the findings made at a previous inquest. In this case I propose that my findings will be in substitution for the findings that I made on 26 October 2011.

### **The Fresh Evidence**

13. On 21 October 2012 the death of John Charles Stewart, who resided at 1/191 Gooch Street, Thornbury in the State of Victoria was reported to the coroner in accordance with the requirements of the Coroners Act 2008 (Victoria).

14. On 16 September 2013 Coroner Phillip Byrne, at the Coroners Court at Melbourne, made findings in accordance with the Coroners Act 2008 (Victoria) that John Charles Stewart (born 16 July 1938) died on 21 October 2012 at 1/191 Gooch Street, Thornbury Victoria and that the cause of his death was Ischaemic Heart Disease.

15. In making findings as to the cause of Mr Stewart's death Coroner Byrne had available, and accepted, an autopsy report provided by forensic pathologist Dr Jacqueline Anita Lee following her having undertaken a post mortem examination of Mr Stewart. Dr Lee had found that the cause of Mr Stewart's death was due to Ischaemic Heart Disease.

16. Subsequent to Mr Stewart's death evidence became available that suggested that the deceased John Charles Stewart may have been the same person as John Ewen Schreck.

17. As a result DNA samples recovered from the deceased John Charles Stewart were compared by Zane Benjamin Kerr, a forensic biologist employed by the NSW Forensic & Analytical Service, with DNA samples from Marion Ann Ashton, the sister of Mr Schreck.

18. It was the evidence of Mr Kerr that the DNA recovered from Mr Stewart was 120,000 times more likely to have originated from the biological brother of Marion Ann Ashton than from an unknown, unrelated individual in the Australian population.

## **Consideration and conclusion**

19. I accept the evidence of Zane Benjamin Kerr and am satisfied, on the balance of probabilities, that the person known as John Charles Stewart who died on 21 October 2012 at Thornbury Victoria was one and the same person as John Ewen Schreck who in 1978 lived in Moree and who, after May 1979, had no further contact with any member of his extended family.
20. On the basis of the evidence now available I am satisfied that following him leaving Moree on 7 August 1978 John, at some time, relocated to Victoria, and assumed, but did not formally change his name to, the name of John Charles Stewart. He eventually came to reside in Thornbury in the State of Victoria where he died.
21. In accordance Section 83(7) of the Act I therefore propose to find, in substitution for the findings I made on 26 October 2011, that:

*John Ewen Schreck (born 16 July 1938) died on 21 October 2012 at 1/191 Gooch Street, Thornbury in the State of Victoria. The manner of his death was natural and the cause of his death was due to Ischaemic Heart Disease.*

## **Section 82 Recommendations**

22. This is a case where the searches undertaken in preparation for the first inquest failed to discover that Mr Schreck had adopted a fresh identity and commenced residing in Victoria after he left his home in Moree in 1978. This was notwithstanding the fact that during the course of that investigation Victorian Government records were searched. Were things not to have changed this issue may have given rise to the making of recommendations in accordance with Section 82.
23. I am however aware, during the almost 40 years, that have passed since these events occurred there have been significant legislative and other changes that would make such an occurrence unlikely today. In the circumstances I do not

consider that the making of recommendations in this case are necessary or desirable and do not propose to do so.

Paul MacMahon

Deputy State Coroner

20 April 2015