



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 41/19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Peter John Edward SETTREE** with an inquest held at the **Coroner's Court, Court 83, Central Law Courts, 501 Hay Street, Perth, on 28 August 2019** find the death of **Peter John Edward SETTREE** has been established beyond all reasonable doubt, and that the identity of the deceased person was **Peter John Edward SETTREE** and that death occurred on **19 September 1979** at **sea in the vicinity of Port Hedland Anchorage about 7 nautical miles southwest of Port Hedland** in the following circumstances:*

Counsel Appearing:

Senior Constable Craig Robertson assisting the Coroner.

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INTRODUCTION

In the early hours of Wednesday 19 September 1979 Peter John Edward Setttee (Mr Setttee) was seen on board a bulk carrier, the Tambo River, while anchored off Port Hedland waiting clearance for the port. By the time the Tambo River had docked at Port Hedland later that morning it had been established that Mr Setttee was no longer on board and no trace of him has been brought to the attention of the police since that time.

The inquest into the disappearance of Mr Setttee was held in Perth. Documentary evidence comprised the brief of evidence, Exhibit 1, attachments 1-18 and Exhibit 2, the Public Notice of Inquest dated 16 August 2019. Oral evidence was heard from Detective Senior Constable Dedier Mayo who prepared a comprehensive report from the missing person file.

Long Term Missing Person's Project (LTMP)

In 2017 it was confirmed there were a considerable number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance.

Section 23(1) of the *Coroners Act 1996* WA (the Act) allows the State Coroner to direct an investigation into a suspected death in certain circumstances without a body, for the purposes of allowing a coroner, under s 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be done by way of inquest and will attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of s 25 of the Act and allows registration of the death under the Births, Deaths and Marriages Registration Act 1998.

The reported number of LTMP made it unrealistic for the Office of the State Coroner (OSC) to absorb those matters into the already long outstanding inquest list in a timely manner. A plan was proposed for a project to clear the backlog of LTMP files once it had been determined the matters fitted the circumstances set out in s 23(1) of the Act. That is, the State Coroner or delegate had reasonable cause to suspect the person had died and the death was a reportable death (s 3 of the Act).

In 2018 approval was given for a coroner to work exclusively on the LTMP cases, on a part-time basis for twelve months, as a separate listing from the OSC general inquest list. This followed a pilot project of four inquests conducted in 2018.

In 2019 a coroner was appointed for that project with the support of an in-house Coronial Investigation Squad (CIS) police officer as Counsel Assisting (CA).

Work on the files indicated a number of disappearances related to specific areas for Western Australia such as the Kimberley around Kununurra or Broome, and Albany. For these matters it was decided that, while there is always a preference for inquests to be held in the communities to which they relate, especially for indigenous communities where there is an emphasis on oral history, resources would not be effectively utilised for all matters to be heard in the place of disappearance. Instead matters where the disappearance occurred outside the

metropolitan area were considered from the perspective of the best availability for relevant witnesses. Where there were no witnesses available in the relevant area of disappearance the matter would be heard in Perth for the purposes of hearing of the relevant evidence and then adjourned sine die, pending the hearing of any matters, where there were available or related witnesses in the place of disappearance.

The intention was where an inquest was to be held with available or relevant witnesses in the area of disappearance that matter along with those already considered for the area would be advertised locally in advance. In that way it was hoped local persons, with relevant information, would attend Court and provide that information to the Court at the time of those hearings. All matters for that area would then be finalised as further information became available, or closed.

In the case of Mr Settree, while he disappeared in the vicinity of the Port Hedland coast within Australian waters, he appeared to have no other nexus with Western Australia and no relevant witnesses could be located for the purposes of the inquest. It was therefore held in Perth and finalised at the time of hearing.

The anticipated outcome of the LTMP project was that by June 2020 the majority of LTMP matters would be resolved and that future missing person files would be dealt with in the normal course of the OSCs usual business.

THE DECEASED

Initially there was almost no information available relevant to Mr Settree other than the fact he was an able seaman on the Tambo River, born sometime in 1933.¹ The initial missing person report (MPR) gave his name and outlined the fact he had disappeared from the Tambo River in the early hours of 19 September 1979 with no information other than it was believed he had been born in Sydney, New South Wales, which was where he had boarded the Tambo River.

Later enquiries revealed Mr Settree was born on 7 November 1933 in Sydney, New South Wales. There is absolutely no information whatsoever available about Mr Settree's early life other than the fact he spoke of "a niece in Brisbane",² and the shipping company had him listed as being married, although it transpired the name they had for his wife was his common law wife. Mr Settree also had a legal wife who, in 1979, had last been heard of in Launceston, Tasmania, in 1971. No further trace of Mrs Settree was ever located. It is not known what her relationship was to the niece referred to by Mr Settree or whether Mrs Settree was still alive at the time of Mr Settree's disappearance.

Presumably, as a result of Mr Settree's occupation as an able seaman, he at some stage met Tak On Leung (Ms Leung), who lived in Hong Kong. Her's was the address listed for Mr Settree with the shipping company.³ Enquiries of Ms Leung through the Royal Hong Kong Police in November 1979 disclosed his legal marriage to Ethel Dawn Settree. Mr Settree was believed by Ms Leung to be in good health and that he normally stayed at BHP Newcastle when he was either working or

¹ Exhibit 1, tab 3

² Exhibit 1, tab 12

³ Exhibit 1, tab 2

residing in Australia. He had been cohabiting with Ms Leung since Thursday 23 December 1971 and as far as she knew he had no other dependents or children, although he did support her.⁴

More recent enquiries with respect to Mrs Settree and Ms Leung have been unable to make contact. The latest information from Ms Leung was that she had not heard from Mr Settree again following 19 September 1979.

Mr Settree boarded the Tambo River on 5 September 1979 as a member of crew and from the information available it does not appear any of the other crew knew him prior to that date. Ordinary Seaman Philip David Everill (Mr Everill) joined the Tambo River on the same date in Kembla as Mr Settree.⁵

There is no significant mention of Mr Settree prior to the events surrounding his disappearance, however, it was the general consensus he seemed to be of good mood and did not appear to have any health or emotional issues.

Mr Settree had been seen by the Bosun of the Tambo River, Arthur Lawrence (Mr Lawrence), at approximately 6 o'clock on 18 September 1979, socially. Mr Settree had advised the Bosun he would work a shift once the ship was anchored at the Port Hedland Anchorage.⁶ Mr Lawrence had been on the Tambo River for three months in September and described Mr Settree as being very content, happy and that he got on well with all the other crew. There was no indication at any point that Mr Settree had any problem with the crew.

The Tambo River

Unfortunately the Tambo River is no longer afloat and was broken up on 6 September 1998, so the only information is historic. That information does not reveal the discovery of any human remains. Although the vessel was searched at the time of Mr Settree's disappearance by Detective Miller, there is no detailed outline of the vessel.

It is recorded as a bulk carrier, chartered to Australia National Line (ANL) in September 1975 and the historic photographs of the ship indicate the main quarters and the Bridge were close to the stern (rear of the ship).⁷

It was built in 1972 and in September 1975 was transferred to the Northern Bulk Carriers Ltd, Hong Kong, following which she was chartered and renamed the Tambo River. She was returned to her owners in September 1979 and renamed. Following which she incurred a number of other names until she was broken up in September 1998.⁸ During her time as the Tambo River she was chartered to the ANL.

The Tambo River departed Port Kembla, New South Wales (NSW) on 5 September 1979 with approximately 40 crew. It was bound for Port Hedland in Western

⁴ Exhibit 1, tab 6, 13, 16

⁵ Exhibit 1, tab 12

⁶ Exhibit 1, tab 11

⁷ Exhibit 1, tab 2

⁸ Exhibit 1, tab 18

Australia (WA) to load Iron Ore. It arrived at the Port Hedland Anchorage in the early hours of 19 September 1979.

The intention was the Tambo River would wait at the Port Hedland Anchorage until given clearance to enter the Port Hedland docks and load. The Port Hedland Anchorage is a staging post for ships waiting entry into the docks at Port Hedland and is approximately 7 nautical miles (NM) out of the Port.

DISAPPEANCE

The affidavit of Christopher Alan Hart (Mr Hart), second mate on the Tambo River disclosed he was on duty at 11.00 pm on 18 September 1979 on the Bridge of the Tambo River. Shortly after his watch commenced Mr Settree was on the Bridge and asked the Master of the vessel, John Taylor (Mr Taylor), whether he would be needed on the forecastle. It was Mr Hart's impression that Mr Settree appeared to be affected by alcohol to the extent he had difficulty comprehending the instructions given to him by Mr Taylor. Mr Taylor's version at the time was that Mr Settree had been drinking but was not drunk.⁹

Mr Hart advised that he remained on the Bridge with Mr Everill until 4 o'clock in the morning on Wednesday 19 September 1979 and did not see Mr Settree again.¹⁰ However, Mr Everill advised police he had been to the recreation room between 1.15 and 2.00 am that Wednesday morning and Mr Settree was also in the recreation room. Mr Settree and Mr Everill had a conversation about work and Mr Settree told Mr Everill he was intending to visit his niece in Brisbane the next time his ship was in dry dock. There is no other information about Mr Settree's relatives. Mr Everill described Mr Settree as drinking two cans of beer while they were together and he seemed to be happy. They left the recreation room together and Mr Settree told Mr Everill he was going to his cabin to sleep while Mr Everill returned to the Bridge for fire and anchor watch.¹¹ When Mr Everill went back to the recreation room at 2.20 am Mr Settree was not there.

The Tambo River had anchored at the Port Hedland Anchorage at approximately 12.31 am on Wednesday 19 September 1979 approximately 1.4 NM from the Number 6 Beacon. It departed for Port Hedland docks shortly after 6.30 am. Mr Lawrence assisted with raising the anchor before returning to his cabin.¹²

Sometime later Mr Lawrence was approached by Don MacMillan who was unable to locate Mr Settree. He told Mr Lawrence Mr Settree's cabin was empty and the cabin door wide open. The Bosun immediately conducted a search of the ship's cabins before reporting Mr Settree as missing to Mr Taylor. He was then instructed to carry out a comprehensive search of the ship, however, Mr Settree was not located nor was there any evidence to suggest where he might be or any suggestion of any attempt at self-harm.

⁹ Exhibit 1, tab 9

¹⁰ Exhibit 1, tab 10

¹¹ Exhibit 1, tab 12

¹² Exhibit 1, tab 11

The ship's log for the hours of 2.00 - 6.30 am on 19 September 1979 indicated that at Port Hedland "*Peter Settree AB No 51 in A of A, disappeared whilst vessel at anchor at Port Hedland between the hours of 0200 hours to 0630. It is assumed that he fell overboard, after a full search of the ship failed to locate him. Police and MMO have been informed. Wages and effects landed with MMO*". The entry is signed by both the Master, Mr Taylor, and the First Mate, Mr Walker.¹³

The indications are that Mr Taylor also alerted ANL who instigated a search by Vowell Air Services (Helicopters) Pty Ltd. Their report indicated that the crew of the helicopter were notified of a search requirement at 8.20 am on 19 September 1979, with take-off being at 8.35 am from the Port Hedland Port Authority Helipad for a search pattern. The pilot was briefed by a Mr John Wright of Dalgety Shipping, that a seaman was missing, believed to be overboard, from the ore carrier Tambo River. The search was conducted at 500 degrees AMSL at approximately 300 metre flight line intervals for a distance of 3 NM either side of the channel from Beacon Number 10 to midway between Beacons C4 and C5. There was no sign of any person in the water and the search was terminated at 9.50 am.

The police were notified at approximately 9.50 am on 19 September 1979 and following notification of the police, two further helicopter searches were carried out during the course of the day by the same company at 1203 hours and 1430 hours. Mr Settree was not located.¹⁴

INVESTIGATION

Once the police had been notified of the disappearance of Mr Settree, Sergeant Dwyer and First Class Detective Constable Miller boarded the Tambo River and made a number of enquiries.¹⁵

Sergeant Dwyer advised the waters at the anchorage had been calm overnight and that when he boarded the Tambo River on the morning of 19 September 1979 to interview the Master of the vessel Mr Taylor, he was originally a little evasive as to the possibility Mr Settree had been intoxicated. Following enquiries with other crew members Mr Taylor agreed that Mr Settree had been drinking but in his view was not drunk.

Sergeant Dwyer inspected the ship's railing and found it to be intact and there were no blood stains located on the deck which may have indicated foul play. An area of oil was found on the ship's deck near the stern, presumably where the crews quarters were, but there is no explanation given. Mr Settree's cabin was searched and no suicide note or documentation located which would indicate he was in a depressed state of mind or had any reason to have disappeared.¹⁶

Aside from the search by helicopter, the police also organised a group of local seaman to search the area in a launch hired from Elder Prince Marine. Both the helicopter searches and the water searches were funded by ANL for the Tambo

¹³ Exhibit 1, tab 4

¹⁴ Exhibit 1, tab 5

¹⁵ Exhibit 1, tab 9

¹⁶ Exhibit 1, tab 9

River. They were carried out in conjunction with the Port Hedland Port Authority and police.¹⁷

The police contacted Dr John Hilton, Government Pathologist, for his views as to the likely survivability of Mr Settree. They were advised that if Mr Settree had drowned it was unlikely they would recover his body for about three days, if his body were to surface. As a result another search was organised by customs officers at Port Hedland on the third day of his disappearance. There is no detail of the search other than to say a wide area was covered, but none of Mr Settree's possessions nor his body were located during any of the searches.¹⁸

By 29 September 1979 it was the view of the WA Police that Mr Settree had disappeared at sea and information was sought from ANL as to his next of kin so that appropriate arrangements could be made for further information. It was at this stage it was discovered Mr Settree had both a common law wife and a legal wife, however, the legal wife could not be found. Enquiries with BHP Newcastle did not reveal any further information nor did discussions with his common law wife, or enquiries with Mr Settree's solicitors reveal any further relevant information.

It is likely Mr Settree's estate has been dealt with by his solicitors, but there is no record of a death certificate confirming his death in this state where I am satisfied his death occurred.

Enquiries were largely completed by August 1980 with no further information available about Mr Settree.

In 2006 and 2009 enquiries were made with all Federal and State Law Enforcement agencies, banking institutions and several Government agencies by the Missing Person Unit (MPU) but there was no record of Mr Settree within any of the data bases either pre or post 1979.¹⁹

There was no evidence that any person had made or established any contact with Mr Settree after Wednesday 19 September 1979.²⁰

HAS DEATH BEEN ESTABLISHED?

There is no evidence Mr Settree was anything other than fit and healthy in the early hours of 19 September 1979, but there was a clear indication he was intoxicated. There was no reason established for him to intentionally disappear and the opportunity to do so without being located in busy shipping lanes in and out of Port Hedland are unlikely.

Mr Settree would be 86 years of age in 2019 and nothing has been heard of him since September 1979. While it is perfectly possible he would still be alive in the normal course of events, the circumstances surrounding his disappearance satisfy me that he is deceased, and was deceased on the day of his disappearance.

¹⁷ Exhibit 1, tab 8

¹⁸ Exhibit 1, tab 8

¹⁹ Exhibit 1, tab 17

²⁰ Exhibit 1, tab 2

While there is no explanation for his disappearance, other than his intoxication, it is clear that for him to have disappeared, and no remains be found on board the Tambo River at the time or once broken up, then the only reasonable conclusion I can come to is that he fell overboard, possibly as a result of being intoxicated, and drowned. Had he fallen into the water but survived, it is likely he would have been located during the searches commenced in the area that day.

The physiology of drowning and the response of a body following immersion are such that the body will sink and not surface again for some days. The body will only surface if it is in a state to surface. The lack of any trace of Mr Settree satisfies me beyond all reasonable doubt he drowned at the time he fell overboard which is the only possible explanation for his disappearance.

MANNER AND CAUSE

While I am unable to determine whether Mr Settree was injured in any way when he either fell from, or before he fell from, the Tambo River, I am satisfied that whatever the circumstances he drowned. He drowned without trace. I am satisfied he disappeared under the water and did not leave any significant debris to mark the incident.

To have disappeared so completely and so quickly leaves the only reasonable explanation to be that he died very shortly after entering the water in the location in which he entered the water. All the indications are he disappeared overboard while the Tambo River was at the Port Hedland Anchorage and before the anchor was raised at approximately 6.30 am on 19 September 1979.

CONCLUSION

I am satisfied there was no good apparent reason for Mr Settree to disappear other than some form of accident. He appears to have been happily cohabitating with Ms Leung in Hong Kong, and there is no indication there were any outstanding disputes with Mrs Settree reported by his solicitors in NSW.

There was no known reason for him to disappear, and Ms Leung was dependent on his ongoing wellbeing.

There is no record of him having a dispute with any person aboard the Tambo River and he appears to have been looking forward to catching up with his niece in Brisbane. This would imply he had a family supportive of him.

Consequently, I have to conclude that unfortunately Mr Settree somehow fell overboard from the Tambo River while at Port Hedland Anchorage and drowned before his disappearance was noted. A search implemented before the police were advised failed to locate him and a continued search throughout that day with the assistance of police and the port authorities did not reveal him in those waters.

I am satisfied he fell overboard while intoxicated from the Tambo River in the vicinity of where the Tambo River was anchored between 12.30 & 6.30 am, in the vicinity of Number 6 Beacon approximately 7 NM from Port Hedland docks.

I find death occurred by Misadventure.

E F Vicker

Coroner

6 September 2019