

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2014 001886

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, PARESA ANTONIADIS SPANOS, Coroner,
having investigated the death of DENIS ADRIAN FITZGERALD
without holding an inquest:
find that the identity of the deceased was DENIS ADRIAN FITZGERALD
born on 21 August 1935
and the death occurred on 12 April 2014
at 310 Melaluka Road, Leopold, Victoria 3224 .

from:

1a CHEST INJURIES SUSTAINED WHEN STRUCK BY A TRACTOR

*Pursuant to section 67(1) of the **Coroners Act 2008** there is a public interest to be served in making findings with respect to **the following circumstances:**

1. Mr Fitzgerald was a 78-year old retired man who had been married to his wife, Joan, for 55 years. The Fitzgeralds had five daughters and three sons and lived much of their married life on the family property in Leopold. Mr Fitzgerald had been involved in cattle and sheep farming for much of his life, and after retiring from dairy farming had worked as a cartage contractor and ran a small, part-time hay cutting and bailing business with his cousin, Thomas Fitzgerald, and their friend, John Hayes.
2. Upon his cousin's death, two of Mr Fitzgerald's sons inherited a 25-acre property on Melaluka Road in Leopold on which they kept cattle. Each week, Mr Fitzgerald would attend the property to distribute feed to the cattle using a tractor. The tractor, a Ford 5000 Selectomatic manufactured in the 1970s, had been in the family since 1987 and Mr Fitzgerald had used it, and been

involved in its regular general maintenance, since that time. Major mechanical maintenance, including the engine rebuild that occurred in about 2004, was conducted by a qualified mechanic at Geelong Rural Pty/Ltd.

3. At 8.20am on 12 April 2014, Mr Fitzgerald collected tractor from its shed, having told his son, Michael, that he would feed the cattle on the Melaluka Road property. He drove the tractor to the front paddock and, using the hay fork attached to the rear of the tractor, collected a hay bale. Mr Fitzgerald then drove north-easterly across the paddock and towards the gate at the northern side of the property. About three-quarters of the way across the paddock, the tractor stalled.
4. Mr Fitzgerald left the tractor in gear and alighted, standing on the right-hand side of the tractor between the front and rear wheels to examine the engine. After checking the engine, he leaned across the tractor to start the ignition by turning a key on the left-hand side of the machine. The engine re-started and the tractor moved forward slowly, knocking over Mr Fitzgerald, the rear right wheel running over his chest. The tractor continued out of control across the paddock, through a wire fence and across Maleluka Road only coming to a stop when it stalled partway up an incline in parkland on the other side of the road.
5. Mssrs Manoel and Miller had seen Mr Fitzgerald using the tractor, and standing between its wheels, and realized something untoward had happened when they saw the tractor crossing the road without its operator near where they were parked. Mr Manoel ran to Mr Fitzgerald's aid, and upon seeing that he was injured, told Mr Miller to call the emergency services.
6. While awaiting the ambulance, Mr Fitzgerald was calm, conscious and lucid. He told Mr Manoel what had happened and was evidently frustrated by his own actions saying he 'should have known better' and was a 'bloody idiot'.
7. A road ambulance and mobile intensive care ambulance arrived within about 15 minutes of dispatch. Paramedics found Mr Fitzgerald to be diaphoretic (sweating) and a little short of breath with abdominal distension and other obvious soft tissue injuries. An air ambulance was requested.

8. Paramedics applied a spine board and cervical collar, commenced oxygen fluid therapy and cardiac monitoring and gave pain relief. They performed bilateral chest decompression with both air and a large amount of blood being released from Mr Fitzgerald's chest. As Mr Fitzgerald was being loaded onto the air ambulance he went into respiratory failure and was intubated but soon went into cardiac arrest. Blood products were administered and cardio-pulmonary resuscitation was commenced. After 25 minutes of unsuccessful resuscitative efforts, family members who had by this time arrived at the farm, asked that life saving measures be ceased and Mr Fitzgerald was declared deceased at 10.53am.
9. Forensic pathologist Dr Sarah Parsons from the Victorian Institute of Forensic Medicine (VIFM) performed an external examination and reviewed post-mortem CT scans of the whole body (PMCT) and the circumstances of the death as reported by the police to the coroner when preparing a report of her findings. Dr Parsons advised that she found soft tissue injuries (lacerations, abrasions and bruising) on examination and multiple fractures to ribs and bilateral pneumothoraces and haemothoraces on PMCT. Toxicological analysis revealed morphine, metoclopramide, ketamine and lignocaine at levels consistent with their therapeutic administration. In the absence of an autopsy, Dr Parsons advised that it would be reasonable to attribute Mr Fitzgerald's death to chest injuries sustained when struck by a tractor.
10. The Fitzgeralds' Ford 5000 tractor was examined by Sergeant Leigh Booth of the Mechanical Investigation Unit. Sgt. Booth observed that the tractor has a 4 cylinder diesel engine with an automatic transmission. The hand throttle and a fuel cut off button are positioned to the right of the steering column and an ignition switch (key) on the left. The gear selector (slightly misaligned with the gear selector indicator) is a ratchet type, situated below the steering wheel. There are ten forward gears, two reverse gears, and neutral and park gears. The tractor has a split brake system (the left and right brakes can be operated independently, or latched together) and the left brake was inoperative (but this would not have had any bearing on the tractor incident).
11. Sgt. Booth found that the tractor could be started in gear, and in any gear up to

and including the seventh forward gear, with the throttle positioned at 'idle', without stalling. It did not appear that there was an inhibitor switch to prevent the operator from starting the tractor in any gear but 'park'. However, Sgt Booth's further inquiries at Geelong Rural revealed that this model of tractor is fitted with an inhibitor switch (fitted to the transmission). Sgt Booth concluded that the Fitzgerald's Ford 5000's inhibitor switch was inoperative – though it was impossible to say how long it had been inoperative – and that any regular driver would have been aware of it.

12. Sgt. Booth found that the ignition switch on the left side of the steering column could be reached while standing at the right-hand rear wheel. He observed that if the tractor were started in gear from that position, the operator would be vulnerable to being run over.
13. Overall, Sgt. Booth noted that the Ford 5000 was in a condition consistent with its age and work environment. He found no fault that may have caused the engine to stall, noting that it was possible for a temporary fuel blockage to occur and then clear spontaneously. However, he opined that the inoperative inhibitor switch and starting the tractor from the ground between the wheels, leaning from the right-hand side to turn the ignition on the left, are factors likely to have contributed to the incident in which Mr Fitzgerald sustained fatal injuries.
14. I find that Denis Fitzgerald, late of Fitzgerald Road, Leopold, died on 12 April 2014 of the chest injuries he sustained when struck by a tractor on his son's property in Melaluka Road.
15. Although there is no evidence before me to suggest that the Fitzgeralds' Ford 5000 tractor was poorly maintained mechanically, the available evidence supports a finding that the model was manufactured with an inhibitor switch and that this safety device was inoperative at the time of the incident. Given the regularity with which Mr Fitzgerald used the Ford 5000, it is likely that he was aware that the inhibitor switch was faulty and that the tractor could be started while in gear. As Mr Fitzgerald's clear frustration at himself attests, the inoperability of safety features on heavy machinery necessarily places a greater burden on the operator and requires greater care, judgment and skill to

ensure safe use.

16. The available evidence supports a finding that Mr Fitzgerald did not realise that the tractor was in gear at the time he attempted to re-start it from the ground, rather than from the seat. I am satisfied that inattention to these factors likely contributed to the tractor incident that resulted in Mr Fitzgerald's accidental death.

COMMENTS

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comment(s) connected with the death:

1. The dangers surrounding the use of farm equipment, particularly tractors, have been identified and highlighted for years in coronial findings as well as other forums. Unfortunately, fatalities continue to occur.
2. Research undertaken by the Coroners Prevention Unit [CPU] of data in the National Coronial Information System identified 84 tractor-related fatalities in Victoria between January 2000 and June 2015. Among those deaths, 34 involved a tractor's wheels running over the deceased and, of these, 14 deaths occurred when the deceased attempted to start or work on a tractor without being in the operator's seat. Significantly, three of these deaths occurred in circumstances where operators were required to start the tractor from outside the operator's seat and in these two, and one separate investigation, the safety start switches were not operating so that the tractor could be started in gear.
3. The CPU noted that while the tractors involved in the 34 tractor run-over deaths (including that of Mr Fitzgerald) ranged in condition from poor to good, operator complacency played a major part in the deaths. Even though users of farm machinery are interested in and cautioned by reports of incidents of injury and death involving such machinery, injuries and fatalities continue to occur. Research suggests this may be because farmers consider safety a lower priority than the need to make a living, increase productivity or minimize costs.
4. The use of safe tractor operating practices has been emphasized for sometime by agricultural and other safety agencies and in coronial recommendations. The key recommendations are consistent and include the following factors as contributing to safe tractor use:

- a. Tractors that have compromised safety systems (like the ability to start in gear should not be used.
- b. It is inadvisable to purchase or use a secondhand tractor without having it checked by a suitably qualified person for modifications or faults within safety devices on the machinery.
- c. Maintenance and repairs to tractors should only be attempted by appropriately qualified individuals.
- d. Safety start switches should be fitted to tractors wherever possible to prevent the operator from starting the tractor from the ground or while in gear from the operator's seat.
- e. Tractors should not be started from the ground.
- f. Tractors should not be started when in gear.
- g. Tractors should not be started when the handbrake is not engaged.
- h. Consideration should be given to retro-fitting a tractor with a step and handrail guard to the operator's seat to prevent operators from standing between the front and rear wheels.
- i. Tractors should not be used if the operator's judgment or reflex times may be impaired by fatigue or the use of alcohol or other substances.

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

Mr Fitzgerald's family
L/S/C Pamela Taylor, Bellarine Police Station
Department of Environment and Primary Industries
Australian Centre for Agricultural Health and Safety
Farm Safe
Victorian Farmers Federation

Signature:



Coroner Paresa Antoniadis Spanos

Date: 22 October 2015

