

**REPORT OF PROCEEDINGS OF
TYNWALD COURT**

**Douglas, Tuesday, 25th January 2000
at 2.30 p.m.**

Present:

The President of Tynwald (the Hon Sir Charles Kerruish OBE LLD (hc) CP). In the Council: The Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr W J H Corlett QC), Hon C M Christian, Messrs E A Crowe, D F K Delaney, J R Kniveton, E G Lowey, Dr E J Mann, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

In the Keys: The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon W A Gilbey (Glenfaba); Hon S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Mr J P Shimmin and Hon A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc) and Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Clerk of Tynwald.

MFV Solway Harvester – Recovery – Expenditure Approved

The President: Hon. members, prayers having been taken in the branches earlier today, we will move on straight to the order paper and I call upon the Chief Minister to move the resolution standing at item 1 in his name.

Mr Gelling: Thank you, Mr President. I beg to move:

That Tynwald authorises the Treasury to apply from the general revenue during the year ending 31st March 2000, a sum not exceeding £1,000,000, being the estimated amount required by the Department of Home Affairs for the purpose of the recovery of the MFV Solway Harvester.

Mr President, I am grateful to you for exercising your right to summon a special sitting of Tynwald this afternoon. It is highly unusual for Tynwald to be summoned for an extra sitting, but we are dealing with a highly unusual circumstance, a situation which requires us to be decisive and to act quickly.

We are all painfully aware that two weeks ago today the fishing vessel *Solway Harvester* sank in our waters in atrocious weather conditions. She took with her seven young Scotsmen from the Whithorn area and it is believed that all of those young men still lie within the wreck of the vessel.

The loss of the *Solway Harvester* well known within Manx waters has been a grievous blow to the community from which she sailed, and especially so for the families of those young men. We can share in their feeling of grief and loss, and as an island which has lived in part from the sea we have had over the years our share of tragedies, our own losses of vessels, and losses of men and women.

The families of those who went down with the *Solway Harvester* have said that they want the bodies returned so that funerals can be held and so that the pain of their losses may be, in some small degree, eased.

The *Solway Harvester* is in Manx waters and the Council of Ministers feel that it is the responsibility of the Manx, in all humanity and in a spirit of common heritage, to do whatever we can to restore the loss seamen to their families. The bodies, we believe, lie within Manx waters, and our coroner of inquests has requested that the bodies be recovered so that an inquest can be held and so that the bodies can be released to the families. At a practical level it will assist the families if there can be an inquest, if the cause of death can be established and if death certificates can be issued. We have therefore been at one with the coroner in wishing to see the bodies recovered.

Members will know that there has been a survey of the site and the sunken vessel, and this survey took place last week. It was undertaken by the vessel *Mansal 18*, chartered by the Marine Accident Investigation Branch. The purpose of the survey was to establish the reason for the sinking, and we understand that the Marine Accident Investigation Branch will produce a report on the sinking within 12 months. The results of the video survey have been made available to the Isle of Man Constabulary, who are acting for the coroner of inquests in this matter, and there is evidence from that survey to suggest that there are bodies within the ship. The video is also helpful in terms of showing the condition of the *Solway Harvester* and how she is lying on the seabed. She is, we believe, largely intact and is lying on her side.

Our principal interest is not in the recovery of the *Solway Harvester* but in the recovery of the crew. However, we are advised that recovery of the bodies, whilst leaving the vessel in the seabed, is not a safe and practical proposition. She is on her side. Fishing boats, as we all know, are very confined with narrow passages and steep ladders. Working in the pitch black in a confined space when the vessel is on its side and cluttered with debris, hampered by breathing apparatus trying to manoeuvre the bodies, would be immensely difficult. Moreover, it would be hazardous and we have no wish to risk further loss of life in this recovery operation.

The only practical way to recover the lost crew is to raise the vessel and pump it out so that entry can be made above water. That is what we propose. We have on standby a vessel called the *Wellservicer*, which we are advised is a particularly suitable vessel for the recovery operation that we have in mind. Assuming Tynwald gives its approval, the *Wellservicer* will sail today and, after picking up whatever specialist crew and equipment it needs, she should be on station by the weekend. How long the recovery will take is weather-dependent, but with good fortune - and the *Wellservicer* can operate effectively in very inhospitable conditions - we anticipate that the *Solway Harvester* may be raised in two to three days. I repeat the caveat about the weather: we may encounter delays if the weather becomes really bad.

Once the *Solway Harvester* is raised we will, of course, make it available to the Marine Accident Investigation Branch for examination, and that examination can supplement what they were able to establish through their video film. Hopefully that facility will assist the investigation.

We have had to work quickly in putting together this proposal, so all the i's are not dotted and all the t's are not crossed. We will have to adapt as we go along. We have brought the proposal forward today with your permission, sir, because of the availability of the

Wellservicer, which will be required to go elsewhere very shortly, and because of the need of the families in Scotland to have returned to them the bodies of their lost sons as soon as we can make it possible.

The costs involved are substantial and at this stage are necessarily speculative. There are some elements of costs which are not yet definitely known and there is the huge unknown of the weather, which may require us to extend the charter of the *Wellservicer*. One million pounds is our best estimate of a figure that would be sufficient to cover the operation allowing for some weather delay. It may be offset by some realisation value of the vessel once it is raised. It may be offset by some contribution by the vessel's insurers. It may be that the Marine Accident Investigation Branch will feel it appropriate to make a contribution to our costs if they use our facilities to inspect the raised vessel. But at this stage, we must assume that we shoulder this burden ourselves as a responsible and caring government.

This is one of those situations where a lot of outside eyes are upon us, and those eyes will be looking to see how we respond to the wishes of the families and how we perform in delivering the service. The reputation of the Island as a caring and humanitarian society, and our ability to undertake a complex and delicate operation, is under scrutiny. I hope we can make the right decision today, and with the backing of Tynwald I am confident that our emergency services employing responsible contractors will deal with this issue efficiently and sensitively. Mr President, I beg to move.

A Member: Hear, hear.

Mr Bell: I beg to second, Mr President, and reserve my remarks.

Mrs Hannan: Eaghtyrane, I rise briefly to support this motion before the Court. I come from the main fishing constituency of Mann and I do know that the fishing community wish me to pass on to this hon. Court their extreme support for this motion. They are extremely impressed by the stance taken by the government in recommending this to this hon. Court today. Fishing constituency members and those further afield are very impressed by the care, the consideration and understanding that this motion before the Court today brings with it. So I support it.

A Member: Hear, hear.

Mr Houghton: Mr President, I rise to support the motion before the special sitting of this hon. Court today, and congratulate the Chief Minister and his Council for their swift and appropriate action to make this urgent

(**Mr Delaney:** Hear, hear.) provision to remove the bodies from the stricken vessel and deliver them to their kinsfolk, who will then have an opportunity to lay them to rest. I think this is the right and proper way to handle this situation, which is a regrettable disaster, and I do hope that all bodies are indeed recovered. I have no doubt also that, once recovered and accounted for, these bodies will be conveyed to their hometown by careful and compassionate arrangements.

When disasters happen at sea the Island is thoroughly equipped, and with highly skilled volunteers who take to life vessels and do what they possibly can to assist. I would also wish to commend all the crews who went to sea in lifeboats, not forgetting those who undertook many hours of duty searching the shores and coast on that fateful night; the Liverpool Coastguard, who, I might add thankfully, have recently been reprieved from closure, the crews

belonging to the rescue helicopters. Crews on the *Ben my Chree* and other ships who participated in the search must also be thanked for their sterling efforts.

Notwithstanding the stricken vessel sits on the seabed at a shallow depth of about 130 feet, there will be a rather difficult situation to be tackled by divers during the arrangements to raise the vessel. This therefore gives consideration by this Court today of the value we place in those divers and the dangers they face in their professional duties. Diving is, of course, a very popular recreation for amateurs and, in addition, for professionals, and when they themselves get into difficulties anywhere in the Irish Sea, this Island has another jewel in the crown to assist divers suffering from the bends. On a 24-hour basis that very important and vital jewel in the crown is indeed the hyperbaric chamber. Few are aware that the chamber itself has treated a casualty involved in a diving accident already this year. This is, of course, in addition to the many hundreds of people who are treated at the hyperbaric chamber by referral from Noble's Hospital and GPs.

The President: Hon. member, would you address the resolution, please?

Mr Houghton: Yes, thank you, sir. Unlike medical referrals, where as many as eight patients can be treated every hour during the daytime, a single diving casualty can be helped within any one of the two chambers in place at the Peel Road premises for days on end or even weeks. This requires 24-hour attention by the chamber operator, Mr Downie.

This other emergency service located in Peel Road, Douglas should also be properly equipped with such human resources to continue its vital role, not only for the beneficial treatment of patients but also for those occasions when others at sea find themselves in peril. Thank you.

Mr Cannell: Mr President, I wish at the outset to associate myself with the remarks of the hon. Chief Minister with all the compassion which is admirable and endorsed by myself and, I am sure, every member of this hon. Court. (**Several Members:** Hear, hear.) It is a further example of the price which is sometimes exacted in this industry, where young men such as those who would be going off to wars at times, very young men, not work-shy men, not bogus asylum seekers but people seeking to make a genuine living from the sea, perished on that evening.

So I hope that the Court will indulge me if I may ask the hon. Chief Minister a few points and will not see me as being churlish in any way. My point of view on this is that it has been long established that where such incidents occur it is a marine grave. That is a long tradition. Now, we heard this morning that new technology enables operations such as we are proposing to actually take place. The technology was not there, so Captain Carter told us, until about 30 years ago, and even the operation we are proposing to do with the expenditure, and rightly, of this sum of money to a ceiling of a million pounds will be exceptionally hazardous, and I am sure there will be no undertakings by a contractor that he can guarantee success in this - quite the reverse.

But there is a possibility of establishing a precedent here. We have what is said to be a one-off incident. Would that that were so! There could be many such incidences to come in the future with similar results - heaven forbid! But it is certainly possible that other vessels will find themselves in similar perilous positions and may founder. I say that without the slightest

intention of voting against the resolution on the paper today. I say it only because we could be faced with addressing such situations in the future.

So what do we do? By approving this today we set a marker for such other recoveries, and the hon. Chief Minister has referred to the possibility of recouping some of the costs. It is not my wish to try to lessen the responsibility of the Isle of Man Government nor the very laudable attempt to provide the complete wherewithal to satisfy the bereaved families' wishes to recover the crew. That is not the intention. However, we certainly have the possibility of having on-going costs in similar situations, and there is also, with the greatest of respect, the possibility of a discriminatory action being taken in the future as regards (a) the costs and (b) the size of the vessel. It would be very difficult, I am sure, to take a stance where you would say we will not fund a massive operation to recover something in the future, which may cost £5 million. That would be disrespectful to the people who foundered on that occasion, and I do not want to make too much of it.

I am fully in support of the motion, but I would like to have some further information on what is the likelihood of the Scottish Parliament contributing to the costs of recovering a vessel which is registered in their jurisdiction? It is, I am well aware, within the recently extended Manx waters. Even if it was not, if it was within the 10 miles and we were still running to the 3-mile limit I would thoroughly endorse taking a similar stance to the one being proposed here today, but I do think that there is a responsibility elsewhere for others to make their contribution up front, as it were, and the newly devolved Scottish Parliament, to say nothing of salvage, Lloyds insurers and everybody else.

So all I do is call upon the hon. Chief Minister to make sure that, whilst we are quite prepared to shoulder the burden here and to present a humane face to the world, if there is the possibility of recovering something to offset the Manx taxpayer's outlay on this, that finger is pointed directly at those who actually should legally be contributing. If that is the case, I am sure we can rely upon the hon. Chief Minister to make those endeavours.

It gives me no pleasure whatever to rise to my feet and make a point on a financial side when really speaking we are all thoroughly aggrieved by this situation. Our grief for the families is enormous; we shall, I hope, sir, support this motion unanimously and get this most harrowing job carried out.

Mr Downie: Mr President, hon. members, since this tragic situation which developed two weeks ago, I have been acting as a go-between, using my contacts in the Department of Agriculture in Scotland and through the various fishermen's and other associations in Scotland who have been affected by this present tragedy.

I would just like to take this opportunity of reading a letter which was sent to me on Monday of this week by a Mr John Hermse, who is the secretary of the Scallop Association, and he has been given the very difficult task of dealing with the problems which have arisen and how they relate to the various members of the families: 'Dear Alex, First of all thank you for keeping me well informed on the *Solway Harvester* situation. I met with all the relatives and the owner of *Solway Harvester* on Friday, 21st January to discuss progress on the recovery operation. I find it hard to put into words the feelings of gratitude expressed by all of them towards what the people and government of the Isle of Man are doing to achieve a timely conclusion to the recovery of the lads aboard the *Solway Harvester*. In a time of extreme

distress for them, they are finding great solace in the dignified and exemplary manner in which the situation is being dealt with. A great weight is being lifted from their shoulders. They charged me with writing a letter of appreciation to those involved. It is fortunate, if such a term can be used in such a situation, that the incident occurred in Isle of Man territorial waters. Your government's handling of the situation should be a lesson to other governments faced with similar tragic events. It is to the credit of Chief Minister Gelling and his ministers that so much progress can be achieved in so little time. Please convey the appreciation and thanks from the owner and relatives of the *Solway Harvester* crew, to Chief Minister Gelling, his ministers, the police, the coroner and all other agencies who have been dealing with the situation.' I think I have said enough, Mr President.

Sir Miles Walker: Mr President, I rise to align myself with the comments made by the Chief Minister when he was moving this resolution, and to support the resolution with a whole heart, I suppose, sir. I think the Chief Minister and the Council of Ministers, with their prompt action, have provided this Island with a service which is well recognised and reflected, I think, in the letter that has just been read out to this hon. Court. So I do think that the Council of Ministers do need support for the prompt action they have taken, and I would also like to state my admiration for the way the emergency services all responded to the call of duty on that day.

I suppose I think particularly about those who were involved in the search at sea. I suppose not a particularly terrible night or time to be out there, but it was certainly an unpleasant experience, and I know the disappointment and sadness felt by many members of those lifeboat crews that the search was not successful. I think that this Island owes a tremendous debt of gratitude to all those volunteers, who go out in terribly dangerous situations to try and put some solution to the problems that we face.

Finally, sir, as one of those individuals who was keen to extend this Island's responsibilities from three to 12 miles, I did say in the debate at that time that our responsibilities would also expand. Little did I think it would be in this particular direction, but I think it is a responsibility that is fairly and squarely on our shoulders as a jurisdiction, and I support wholeheartedly the resolution that is in front of this Court today.

Mr Braidwood: Mr President, for centuries the Island has been associated with the sea. The sea has been an integral part of our life, and the justification for this motion can be just on humanitarian grounds. Just to return one body to their loved ones (**A Member:** Hear, hear.) is enough justification. For those loved ones to be able to bury and have a proper funeral is enough justification. If - and may God forbid it - any of our vessels went down in territorial seas of another nation, I hope that nation would show the compassion that our nation has shown.

Mr Quine: Mr President, I unreservedly support this motion. In doing so, clearly we are respecting the wishes of the families of the victims of this terrible accident. But, the important humanitarian considerations apart - and they are very important - I think it is our responsibility as an Island nation to fully and sympathetically respond to this situation, and that is indeed what is embodied in the Chief Minister's motion. I believe we should do that, if that is what the Chief Minister is recommending; that I believe is what this hon. Court should support, and in doing that, sir, as an island nation we should hold our heads high.

Messrs Houghton and Cretney: Hear, hear.

The President: May I call upon the Chief Minister to reply?

Mr Gelling: Yes, thank you, Mr President. May I thank all the hon. members that have spoken and their support for the resolution. I feel I must respond, perhaps, to the questions that were raised, because these, of course, are all the questions that have been raised within our committees and within the committees that have been brought together, and of course it was suggested that the United Kingdom policy is that you have a marine grave. Well, that certainly is a policy of the United Kingdom Government, but I think it has been shown by the two recent trawler disasters that have been within the island scene and have both had to wait something about four months for the families to go out and beg for money to recover their menfolk from those trawlers that it does not seem like a fishermen's or a marine superstition that they should be left there, otherwise they would not have wished to retrieve the bodies of their family and husbands to take them home for burial.

So basically I would not agree, and the Council would not agree either, that we are setting a precedent, for the simple reason that we have said from the very beginning 'if it was practical to do so'. Now, you have got to take into consideration the circumstances of the loss, the nature of the vessel and its crew, the wishes of the next of kin. It could be that they could express a wish that their loved ones and their families should be left. The probability of bodies being found - these are all the areas - I do not want to go through them all - that we have gone through systematically and, as I say, the information we have to hand is that there is a very good chance that all are still on board; we wish therefore to try to help the families in that particular case.

Now, basically, what other help? We are still speaking with the agents of the insurance company, we are still speaking with the British Marine Investigation, we are speaking with all these people, but it is the time. What is the point of waiting for four months till we have all this unravelled, and then it is, I would suggest, absolutely useless going out there to try to retrieve anybody from a boat that has been on the bottom of the sea for three to four months.

Therefore I am delighted that members have on the whole supported the action that we have taken, because I think it is the speed at which we have reacted. I have many letters similar to the letter that our agricultural minister has read out, and I must again concur with the hon. member for Rushen, Sir Miles, because in those letters also they say that they applaud the way in which our emergency services reacted on the night of the tragedy, and the way in which they risked their lives to actually go and try and save these Scottish fishermen. But even after that, the way in which our emergency services on this Island have come together at this time. They have met, we have got all the ends brought together, they are working together, because there are quite a few ends here to be brought together before this operation can begin. So all I can say is thank you to hon. members, thank you to yourself for allowing this sitting today, Mr President, so that we can actually get on with the job, and hopefully the salvage ship will be sailing this afternoon, sir.

The President: Hon. members, I will now put the resolution set out at item 1 on the order paper. Will those in favour of that resolution please say aye; against no. The ayes have it. The ayes have it. I declare the resolution carried.

Hon. members, that concludes the business before the Court. Council will now withdraw and leave the House of Keys to transact such business as Mr Speaker may place before them.

The Council withdrew.

House of Keys

The Speaker: Hon. members, in line with my comments at our sitting this morning the House will stand adjourned till Tuesday next, at 10 a.m. in our own chamber. Thank you, hon. members.

The Court adjourned at 2.58 p.m.