



MAGISTRATES COURT of TASMANIA

CORONIAL DIVISION



Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Olivia McTaggart, Coroner, having investigated the deaths of Thomas Charles Fletcher and Leonard Roger Priest

Find, pursuant to Section 28(1) of the Coroners Act 1995, that:

- a) The identity of the deceased is Thomas Charles Fletcher;
- b) Mr Fletcher drowned when his boat capsized in heavy seas, the circumstances of his death being further set out in this finding;
- c) The cause of Mr Fletcher's death is drowning; and
- d) Mr Fletcher died on 15 January 2017 in waters west of Park Beach in Tasmania.

And find, pursuant to Section 28(1) of the Coroners Act 1995, that:

- a) The identity of the deceased is Leonard Roger Priest;
- b) Mr Priest drowned when his boat capsized in heavy seas, the circumstances of his death being further set out in this finding;
- c) The cause of Mr Priest's death is drowning; and
- d) Mr Priest died on 15 January 2017 in waters west of Park Beach in Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into the deaths of Thomas Charles Fletcher and Leonard Roger Priest. The evidence comprises an opinion of the forensic pathologist who conducted the autopsies; relevant police and witness affidavits; medical records and reports; forensic and photographic evidence; meteorological information; and a report from Marine and Safety Tasmania containing opinions regarding the vessel and personal flotation devices.

I make the following further findings.

Thomas Charles Fletcher

Mr Fletcher was born in Hobart on 28 March 1934 and was aged 82 years at the time of his death. He was a retired mechanical and civil engineer. He was married to Robyn Fletcher

and has two adult sons, Andrew and Stephen. Mr and Mrs Fletcher lived in Berriedale and regularly frequented their shack in Dodges Ferry.

Mr Fletcher was healthy, and had few medical conditions. He was very active and mentally alert. He drank only in moderation, had stopped smoking many years ago, and was managing his high blood pressure using medication.

Leonard Roger Priest

Mr Priest was born in Hobart on 25 August 1936 and was aged 81 at the time of his death. He was a retired mechanic. Mr Priest was married to Pamela Rae Priest and the couple had three children - David (who passed away in 2000), Brett and Lisa. Mr Priest was known to his family and friends as "Joe".

Mr Priest was active and mentally alert. In 2013 he was diagnosed with a blood disorder and was prescribed medication to treat the condition. In June 2016 his specialist reduced his medication as it was working effectively. Mr Priest subsequently suffered no symptoms relating to this disorder.

In late December 2016 Mr Priest had fluid drained from his knee and was prescribed cortisone. This treatment was successful, although his symptoms had worsened again in the week before his death. Mr Priest's general practitioner prescribed him Norspan patches for the pain. Mr Priest commenced applying the patches two days before his death and had not complained of any ill-effect from these.

Background

Mr Fletcher and Mr Priest both had long experience in fishing and boating. Both had owned boats for many years and Mr Fletcher had built a number of boats himself. At the time of their deaths they both held current boat licences. They had been using the waterways around the Dodges Ferry area for over 50 years. Both owned cray pots and had many years' experience working their pots. Mr Fletcher and Mr Priest had been fishing and working their pots together on a regular basis since 2009. During the cray season, Mr Fletcher and Mr Priest would check their pots by boat on an almost daily basis.

The vessel that was predominantly used by Mr Fletcher and Mr Priest was the 'Lewy Lady III' (registration number 46444) owned by Mr Priest. The vessel was 4.92 metres in length, constructed from aluminium and powered by a 70hp four stroke Yamaha outboard motor with tiller control. The vessel was purpose-built for Mr Priest in 2012 by Tristar Marine. The design of the vessel was one used commonly in the professional fishing industry in Tasmania.

The evidence indicates that both men applied high standards of safety in their boating and fishing activities. They would assiduously study the weather forecasts and visually check the weather at the Dodges Ferry boat ramp before deciding whether to launch the vessel.

Mr Priest was diligent and careful in maintaining his vessel and ensuring that it contained all the required safety equipment. Both Mr Fletcher and Priest always wore lifejackets whilst boating. Mr Priest did not allow any person on his boat without a life jacket. Both Mr Fletcher and Mr Priest's did not drink alcohol whilst using the boat.

Since the opening of the cray season in November 2016, Mr Fletcher and Mr Priest had been working their cray pots on a daily basis in and around the waterways of Dodges Ferry. They were usually accompanied by Mr Priest's son, Brett, and also Mr Geoffrey Clark, a resident of Dodges Ferry. Mr Clark was aged 52 and had known Mr Fletcher and Mr Priest for many years. He had his own cray pots and since the 2014/2015 cray season, Mr Clark had regularly accompanied Mr Fletcher and Mr Priest on the boat.

In his affidavit for the coronial investigation, Mr Clark stated that since the opening of the season in November 2016 they were having very good success with their pots. He stated that the usual procedure would be to set the four pots in or around Spectacle Island and in the channel between that island and Spectacle Head or Tiger Head Bluff. Their general arrangement was for the four of them to meet every morning at the Dodges Ferry boat ramp at about 5.45am and leave from there, with the boat trip taking about an hour. He further stated that they would all check the weather forecast and make their decision in the morning whether or not the conditions were suitable for boating in the area. Mr Clark said that during the time he had been boating with Mr Fletcher and Mr Priest, he had never considered that they had placed themselves at risk due to bad conditions or due to exceeding the capabilities of themselves or the boat. I accept that this is the case.

Circumstances surrounding the deaths

On Saturday 14 January 2017 Mr Fletcher, Mr Priest and Mr Clark made the decision not to check the cray pots as the weather conditions were unsuitable. The Bureau of Meteorology forecast indicated a strong wind warning for that day, indicating west to south-westerly winds between 25 and 35 knots with seas at 1.5 to 2 metres.

Mr Clark said in his affidavit that when he spoke to Mr Priest on the evening of 14 January he was of the belief that they would not go out the following morning as they expected conditions to be "a bit average". Mr Clark understood that Mr Fletcher was of the same belief. However, Mr Clark received a phone call from Mr Priest at about 6.00am on Sunday 15 January 2017 in which he suggested that they head out. Mr Priest told Mr Clark that he was on his own as Brett was away. He said that he would get the boat ready and they should meet at 6.45 am at the ramp. Mr Clark then called Mr Fletcher and woke him up, letting him know that they were going. Mr Clark said that Mr Fletcher appeared surprised but agreed to come. The Bureau of Meteorology forecast available at that time indicated that the winds were westerly at 15 to 20 knots decreasing to about 10 knots in the late evening. It indicated that the swell was 1 to 1.5 metres decreasing to 1 m during the morning.

Therefore, at approximately 6.45am the following morning, Sunday 15 January 2017, Mr Fletcher and Mr Clark went to the Dodges Ferry Boat Ramp where Mr Priest already had the vessel in the water.

Mr Clark, as the survivor, was the only witness to the events that subsequently occurred resulting in the tragic deaths of Mr Fletcher and Mr Priest. His affidavit sets out that sequence of events and I fully accept his account. It is appropriate to set out his account as follows:

"I arrived at the boat ramp at about 6:45am and Tom and Joe already had the boat in the water, I jumped in and off we went. I was aware there was a big swell on, but there was no wind. Before we set off we all were wearing life jackets. I had my Stormy Seas on while Tom and Joe had the foam jackets on.

Tom was at the helm when we first drove out of the bay. We nosed around the point and started to head towards Tiger Head, we noticed the swell was breaking between Spectacle Island and Tiger Head, so we decided to go out and around the back of Spectacle Island as it was safer.

We went out and around the back of the island and started to head towards the Bluff to where the pots were. Once we were around the island, we could see a number of pots. At this stage we had a brief discussion about the conditions and drew the conclusion that we were not going to pull the pots as the conditions were going to prevent us from doing so.

While we were having this discussion, Tom continued to head in the direction of the pots. We were nosing into the bluff, when Tom, who was on the helm, became uneasy with the conditions while operating the boat and handed over the helm to Joe who continued to head towards the bay where the pots were set.

Tom's pot was wedged on the eastern side of the cove and Joe's was set near the point on the western side of the cove. We could not tell who (sic) buoys were whose and were unable to locate them.

We nosed into the cove trying to look for the buoys, we were convinced that we were not going to be able to pull them because of the conditions. We were unable to even identify them so we headed back out of the bay.

As we headed back out it was (sic) we popped over a large swell. Once it had passed, Joe turned the boat around and was now facing the shore again sitting in a trough. I was wondering why he was turning around, however I was still confident in Joe's actions.

Joe didn't head back into the bay, we just sat there in idol. We were still looking trying to locate the buoys when I turned around and noticed a large swell heading in our direction. The swell was approaching the stern of the boat. I was a bit concerned, however I assumed that Joe thought that the swell would pass and track underneath the boat. Unfortunately this was not the case and we were slightly too much on the inside.

The swell picked up the boat and we started to 'surf' it. The swell had not broken and we rode it in the direction of the shore for about 20 odd meters. The further we made it to shore, the steeper the face of the swell, now a wave, became. It was at this point

the wave began to curl causing the boat to breach. The boat was now on the face of the wave and as the wave broke, it took the boat with it causing it to capsize.

I was standing at the bow of the boat on the port side, Tom was sitting at the bow on the starboard side and Joe was on the helm. As the boat capsized, Tom, Joe and myself were thrown from the boat, as did (sic) all the gear.

I remember popping up out of the water, I kicked my gumboots off to help me stay afloat. I saw Tom upright in the swell, I assumed he was ok, however I didn't see any movements. Joe was at the back of the boat with his head up looking around. The swell kept on pounding in. I don't know how many times I was navigating the waves. I was under and out heaps of times. I recall seeing Joe a couple of times. I could hear Joe yelling 'swim to shore'.

I was struggling to swim, so I took my Stormy off which made it a lot easier to move in the water. After a battle, I eventually made it to the rocky shoreline. I looked out and couldn't see Joe or Tom. I then called '000' and tried to explain what had happened and where we were, although the phone worked, I was having trouble hearing. Whilst on the phone I spotted both Tom and Joe with their faces down in the water at which time I dumped the phone and went back into the water to retrieve them. I got Tom first and got him to shore, turned him over, looked at him and noticed a large cut to his forehead. I tried to find a pulse, but I couldn't find one. I then left Tom on the rocks and tried to find Joe.

I went back into the water and retrieved Joe, I dragged him back to shore and sat him next to Tom. Joe looked ok injury wise. I was unable to find a pulse on him also.

I got back on the phone to emergency services and explained the situation.

The tide was on the way in, because of this I continued to pull Tom and Joe higher up the beach. Because the waves were washing them around I found a rope and decided to tie them together through their belts and further attach it to a rock to keep them from being washed about.

I then waited for someone to arrive. It wasn't long before emergency services turned up.

It was an unexpected, unfortunate situation where no person to blame."

The evidence indicates that the emergency calls were made by Mr Clark at 7.00am and 7.05am in which Mr Clark provided information that the boat had capsized and that two persons were still in the water and had possibly drowned.

Police immediately responded with several units from Bellerive and Sorell proceeding to the Dodges Ferry area. The exact location of the men proved difficult to establish, although it was soon ascertained that the scene could be observed on land via Poina Street in Dodges Ferry. At 7.55am police arrived at this location but were unable to negotiate their way down the cliff to gain access and subsequently began to find an alternate route. A local, Michael Paxton, assisted by guiding Sergeant David Walkley across the cliff base to the location.

At approximately 8.05am Mr Paxton and Sergeant Walkley arrived at the scene where they observed two males laying together at the water's edge, apparently deceased, and loosely tied with white rope which was attached to a nearby rock. Both were wearing heavy garments, wet weather gear and life jackets. Both males, being Mr Fletcher and Mr Priest, were cold to the touch. Both had lacerations to the head. Sergeant Walkley and Mr Paxton began checking for vital signs but they were unsuccessful. Sergeant Walkley commenced CPR on Mr Priest while Mr Paxton commenced CPR on Mr Fletcher. They continued for a period of 10 minutes before ceasing as there were still no signs of life.

At this time, Mr Clark was sitting above the high tide line and appeared to be shaken and suffering from the cold. The vessel was situated upside down on the rocks. It was evident that the vessel had capsized and impacted heavily.

In his affidavit for the investigation, Mr Paxton stated that the tide was rising and significant waves were washing around the bodies of Mr Fletcher and Mr Priest. He also stated that he and Sergeant Walkley were swamped by waves whilst attempting CPR. Mr Paxton stated that in his opinion, Mr Clark did a remarkable job in such rough surf in retrieving Mr Fletcher and Mr Priest from the water and securing them with rope to try and save them.

At 8.20am four police officers gained access to the scene and offered assistance to Mr Paxton and Sergeant Walkley who outlined that there was nothing more that could be done.

At approximately 8.25am, Tasmania Ambulance Service paramedics attended. They declared both Mr Fletcher and Mr Priest deceased. Their bodies were airlifted from the scene using the Search and Rescue helicopter and subsequently conveyed to the mortuary at the Royal Hobart Hospital.

At about the same time Marine and Rescue Services launched the Police Vessel 'Resolute' from the Dodges Ferry boat ramp and attended the location on water. However, the weather conditions prevented them from accessing the shore as the swell tracking into the bay was large, approximately 3 to 4 metres in height at its peak.

On 16 January 2017 autopsies were performed upon Mr Fletcher and Mr Priest by forensic pathologist Dr Donald Ritchey.

Dr Ritchey observed that Mr Fletcher had abrasions and contusions of the forehead, right side of face, nose and chin. There were two large scalp lacerations and extensive scalp contusions, but no skull fracture and no intracranial bleeding. His lungs were hyper expanded, markedly congested and oedematous, findings frequently seen in individuals who drown. In Dr Ritchey's opinion the cause of Mr Fletcher's death was drowning following blunt trauma of the head.

Dr Ritchey noted that Mr Priest had suffered abrasions and contusions of the forehead and face and two small scalp lacerations. There was a transverse fracture of the anterior body of the sixth cervical vertebra that likely resulted from a hyperextension mechanism. Mr Priest's

lungs were also markedly expanded and congested. In Dr Ritchey's opinion, the cause of Mr Priest's death was drowning following blunt trauma of the head and neck.

I accept Dr Ritchey's opinion as to cause of death in respect of both Mr Fletcher and Mr Priest.

Toxicological testing of the blood of Mr Fletcher and Mr Priest revealed that neither had consumed any alcohol or illicit substances. Only appropriate levels of their prescription medications were detected in their blood.

The 'Lewy Lady III' was also retrieved by police. Safety equipment, ropes and spare life jackets from the vessel were also collected by police as part of the investigation.

On 17 January 2017 a search of the area was conducted using police vessel 'Relentless'. The search retrieved two white buoys which were tangled together and were attached to two cray pots. The buoys were marked with the numbers PL0835P and FT0334P and were later confirmed as being registered to Mr Fletcher and Mr Priest.

An inspection of the vessel was conducted by Peter Keyes from Marine and Safety Tasmania (MAST). Mr Keyes formed the opinion that 'Lewy Lady III' was well constructed and maintained to a high standard. It was correctly registered at the time of the incident. I am satisfied, based upon Mr Keyes' conclusion from the inspection of the vessel that there were no defects or problems that contributed to the capsizing of the vessel or to the deaths of Mr Fletcher and Mr Priest.

Peter Hopkins, General Manager, Recreational Boating and Facilities, MAST, conducted an inspection of the life jackets worn by Mr Fletcher and Mr Priest. He noted that both life jackets were older style jackets which, but being of the 'PFD type 1' category, nevertheless complied with the legal requirements for the size of the vessel and classification of waters in the area (sheltered waters).

The life jacket worn by Mr Fletcher was 10 years old but appeared to be in fair condition, with the zip and straps in working order at the time of the inspection. The life jacket worn by Mr Priest was 15 years old and was in poor condition with rips and pieces of the flotation foam exposed. Mr Hopkins could not determine whether the damage occurred during the incident or was already present. Given the sea conditions and rocky nature of the shore, I am satisfied that the life jacket sustained significant tearing in the incident, partly due to the thin, worn covering. I also note that the life jacket was designed for a body weight of 40 – 60 kilograms, and Mr Priest weighed 65 kilograms.

Notwithstanding these matters, I do not consider that the outcome for Mr Priest would have been different even if he had been wearing a better quality, more suitable life jacket. Both men unfortunately suffered significant head and neck injuries in the incident that rendered them unable to rescue themselves in the extremely rough conditions.

Conclusion

Having regard to the evidence in the investigation I am therefore satisfied of the following:

- That Mr Fletcher, Mr Priest and Mr Clark were very experienced and knowledgeable in respect of the waterways in the area.
- That they all possessed the correct boat and fishing licences and registrations.
- That all were safety conscious, alert to weather and sea forecasts, and did not have any propensity to take risks in their boating activities.
- That the vessel "Lewy Lady III" was well maintained and seaworthy.
- That the life jackets worn by Mr Fletcher and Mr Priest complied with regulations.
- That, although Mr Priest's life jacket was in poor condition, this fact did not contribute to his death.
- That Mr Fletcher and Mr Priest were healthy, with no physical or mental conditions impacting on their decision making.

Mr Fletcher, Mr Priest and Mr Clark were aware, on the evening before the trip, that the sea conditions might not be suitable for boating. They maintained their watch on the forecast conditions and noted a forecast improvement in the wind strength and swell. I cannot find that the decision to proceed was, in the circumstances, foolhardy or inappropriate, notwithstanding the tragedy that followed.

Having proceeded closer to the vicinity of the pots, the three men then became aware of an unexpectedly large swell. At that point, the appropriate decision would have been to proceed no further towards their pots and the shore, and to return to the boat ramp. It is quite likely that this could have been successfully achieved. It was a most unfortunate decision to proceed towards the shore where the high swell cast the vessel rapidly in towards the breaking waves and dangerous conditions.

It is not useful in the circumstances to attribute responsibility for the decision to bring the vessel closer to the shore. It appears, however, that both Mr Fletcher and Mr Priest, who were separately at the helm during this time, may have been reluctant to leave the area without attempting to sight their pots. It seems that they did not appreciate the extent of the danger until they were unable to extricate the vessel from the perilous situation.

In the capsizing of the vessel, both Mr Fletcher and Mr Priest suffered head and neck injuries that severely affected their ability to survive in the water. As elderly gentlemen, a lack of strength may have also prevented them from overcoming the rough seas and reaching the shore. Their deaths in such sad circumstances are tragic for their families and have impacted greatly upon members of their local community.

I extend my appreciation to investigating officer, Constable Richard Cunliffe, for his investigation and report. I also acknowledge the dedicated efforts of all attending police officers, paramedics, and Mr Paxton.

I particularly commend Mr Clark's brave actions in his retrieval of Mr Fletcher and Mr Priest from the surf and securing them on the shore, his actions undertaken in the most difficult and traumatic circumstances.

The circumstances of Mr Fletcher and Mr Priest's deaths are not such as to require me to make any comments or recommendations pursuant to Section 28 of the Coroners Act 1995.

I convey my sincere condolences to the family and loved ones of Thomas Charles Fletcher and Leonard Roger Priest.

Dated: 24 May 2018 at Hobart in the State of Tasmania.

Olivia McTaggart
Coroner