

colonial Court of inquiry should be practically the same throughout Her Majesty's dominions, for the report of the Court may involve serious consequences to the owner of the vessel in connection with questions of insurance or the interests of charterers, while the interests of owners of cargo and others may also be injuriously affected.

A formal investigation in a British possession should therefore be surrounded as far as possible with the safeguards deemed essential in the United Kingdom. More especially is this similarity of procedure desirable, and even necessary, in the case of formal investigations in which the professional prospects of a ship's officer may be seriously affected by the decision of a colonial Court to cancel or suspend an Imperial certificate.

Moreover, this matter does not depend upon mere *à priori* considerations, for in empowering colonial Courts to hold investigations and to deal with Imperial certificates the Imperial Legislature has expressly provided not only that the colonial Court or tribunal holding an inquiry under the provisions shall have the same jurisdiction as if the matter investigated had occurred within their ordinary jurisdiction, and the same powers of cancelling and suspending certificates, but "shall exercise those powers in the same manner as a Court holding a similar investigation or inquiry in the United Kingdom." (See section 478, (2) and (5) "Merchant Shipping Act, 1894.")

It is essential, therefore, that the Legislatures of British possessions shall follow closely the lines of Imperial legislation in framing enactments for the holding of inquiries into shipping casualties and into charges of incompetency or misconduct on the part of masters, mates, and engineers holding Imperial certificates.

The provisions of the Merchant Shipping Act upon the subject thus become of essential importance in the framing of colonial legislation, and it is accordingly proposed to pass briefly in review the substance of those provisions.

The existing legislation relating to the inquiries in question is contained in Part VI. of that Act.

The occurrences which for the purposes of inquiries and investigations in the United Kingdom are to be deemed shipping casualties are defined in section 464, and, in accordance with section 468, include casualties to fishing-vessels when attended by loss of life.

By section 465 provision is made for holding a preliminary inquiry into shipping casualties, and another kind of preliminary inquiry is held in certain cases under section 517. Some observations on these inquiries are made at a later part of this memorandum.

Formal Investigations into Shipping Casualties.

The constitution of the Courts of formal investigation is next dealt with in section 466. They are to be held in England or Ireland either

- (a.) Before a Wreck Commissioner, or
- (b.) A Court of summary jurisdiction—*i.e.*, two Justices of the Peace or a Stipendiary Magistrate.

In Scotland the Board of Trade may remit the case to the Lord Advocate to be dealt with as he may direct (subsection 13). By arrangement, formal investigations in Scotland are always now heard before the Sheriff's Substitute, who are placed in direct communication with the Board of Trade.

No Wreck Commissioner has been appointed since the death of the late Mr. Rothery in 1888.

It is made imperative by subsection (3) that the Court shall be assisted by one or more Assessors, of nautical, engineering, or other special skill or knowledge, appointed by the Secretary of State out of a list of persons approved by him for that purpose, in accordance with rules made by the Lord Chancellor.

Section 467 contains further provisions relating to the compilation of the list of Assessors.

If a formal investigation appears likely to involve a question as to the cancellation or suspension of the certificate of a master, mate, or engineer, not less than two Assessors of experience in the merchant service are to be appointed. (Subsection 4.)

In accordance with subsection (5), the Board of Trade superintends, through its legal department, the preparation and conduct of the case.

The Court is required by subsection (6) to make a report to the Board of Trade containing a full statement of the case, and of the opinion of the Court thereon, accompanied by such report of or extracts from the evidence and such observations as the Court thinks fit.

Each Assessor must either sign the report or state in writing to the Board of Trade his dissent therefrom, and the reasons for that dissent. (Subsection 7.)

Provision is made by subsection (8) for the making of such order as the Court thinks fit respecting the costs of the investigation or any part thereof, and for the enforcement of such order.

The Board of Trade is empowered by subsection (9) to pay the costs of any formal investigation, if they shall think fit to do so.

For the purposes of section 466, the Court holding a formal investigation is invested with all the powers of a Court of summary jurisdiction when acting as a Court in exercise of their ordinary jurisdiction. (Subsection 10.)

It is made imperative by subsection (11) that every formal investigation shall be conducted in such manner that if a charge is made against any person he shall have an opportunity of making a defence.

Provision is made by subsection (12) for holding investigations in a public building or other suitable place other than an ordinary Police Court, which is not to be resorted to except in case of absolute necessity, and all enactments relating to the Court shall, for the purposes of the investigation, have effect as if the selected place were a place appointed for the exercise of the ordinary jurisdiction of the Court.