

3. Provision should be made, if possible, in all cases, and at all events where a formal investigation appears likely to involve a question as to dealing with the certificate of a ship's officer, for the appointment of Assessors, of whom not less than two shall have had experience in the merchant service. (Section 466, subsections 3 and 4.)

4. It is imperative to conduct every formal investigation in such manner that the person against whom a charge is made shall have an opportunity of making a defence. (Section 466, subsection 11.)

5. The Court is to have the same powers and to exercise them in the same manner as a similar Court in the United Kingdom. (Section 478, subsection 5.) They should therefore be fully defined in colonial legislation, in agreement with "The Merchant Shipping Act, 1894."

6. No certificate can be dealt with unless a copy of the report or statement of the case on which the investigation has been ordered has been furnished to the holder of the certificate before the commencement of the investigation. (Section 470, subsection 4.)

7. A certificate can only be cancelled or suspended if the Court find that the loss or abandonment of or serious damage to a ship has been caused by the wrongful act or default of a ship's officer, and it is to be noted that the damage must be serious. (Section 470, subsection (1 a).)

8. The Court is prohibited from dealing with a certificate unless one at least of the Assessors concurs in the findings. (Section 470, subsection 1 a.)

9. The decision of the Court upon the question of cancelling or suspending a certificate must be stated in open Court. (Section 470, subsection 2.)

10. The Court is required to make a report to the Board of Trade in the manner defined by section 466, subsection (6), and if any certificate has been in question the evidence is also to be sent, and the certificate itself if cancelled or suspended.

11. 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. (Section 466, subsection 7.)

Summary of Points as to Inquiries into Incompetency or Misconduct.

The following requirements, some of which have been already mentioned as obligatory in the case of formal investigations, apply to these inquiries, namely:—

(1.) The incompetency or misconduct of a ship's officer in respect of which a colonial Legislature may authorise an inquiry to be held must be such as is defined in section 478, subsection (1 a), (1 e), and (1 f).

(2.) A colonial Court has no jurisdiction if the incompetency or misconduct has already been the subject of inquiry and reported on by a competent tribunal in any part of Her Majesty's dominions, or if an inquiry has already been commenced in the United Kingdom. (Section 478, subsections 3 and 4.)

(3.) A ship's officer against whom the charge is made must be afforded an opportunity of making his defence either in person or otherwise. (Section 471, subsection 3 c.)

(4.) The Court is to have the same powers and to exercise them in the same manner as a similar Court in the United Kingdom.

(5.) A certificate is not to be cancelled or suspended unless a copy of the report or statement of the case on which the inquiry has been ordered has been furnished before its commencement to the holder of the certificate. (Section 470, subsection 4.)

(6.) A certificate can only be cancelled or suspended if the Court find that a ship's officer is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that in the case of collision he has failed to render such assistance or give such information as is required under section 422. (Section 470, subsection 1 b.)

(7.) The decision in respect of the cancelling or suspension of a certificate must be stated in open Court. (Section 470, subsection 2.)

(8.) A full report, with the evidence, is to be sent to the Board of Trade in all cases, and also any certificates which may have been cancelled or suspended. (Section 470, subsection 3.)

General Observations.

Reference has been made to the subject of preliminary inquiries into shipping casualties held either under section 465 or section 517. A preliminary inquiry may or may not be followed by a formal investigation dealing with the certificates of ships' officers whose conduct may in the preliminary investigation appear likely to be called in question in connection with the circumstances of the casualty. In practice, the Board of Trade invariably determines after a perusal of the depositions taken at the preliminary inquiry whether or not a formal investigation shall be held, and it has been found that the preliminary inquiry is very useful as well for that purpose as for obtaining the statements of witnesses *recenti facto* immediately upon their landing, and, where a formal investigation is afterwards ordered, for the preparation of the report or statement of the case required by section 470 (4) to be served upon a ship's officer before the commencement of the investigation as an indispensable condition precedent to the cancelling or suspension of his certificate. The procedure of a preliminary inquiry is quite informal, and in practice is limited to the taking of the depositions of the witnesses immediately upon their landing after the casualty.

A preliminary inquiry is not held where the subject of inquiry is the incompetency or misconduct of a ship's officer, unconnected with the loss of or a casualty to a ship.

When the system of inquiries into shipping casualties was originally introduced, under "The Steam Navigation Act, 1846," they were confined to investigations into the causes of accidents to steamships, with a special view to the prevention of loss of life at sea by further legislative measures, and this primary feature of shipping inquiries, afterwards common alike to investigations with respect to steamships and sailing-ships, has given rise to successive Acts of Parliament relating to