

1924

337

KENYA

49103

Date

19th September 1924.

17 OCT 24

By Dep. DEMEAN.

1264

SHIPPING BILL.

Submits Bill, dealing with Detention of Unsafe Ships, Inquiries into Shipping Casualties, Wrecks, Seamen's Repatriation, etc.

MINUTES

Part I of this new Bill reproduces the Bill approved in draft on 8045/23 subject to certain amendments. Of the various criticisms offered on that Bill

1. (Para 3.6. of draft on 8045/23) Amendment Officer has been substituted for Surgeon in Section 12. (now Section 13)

2. (Para 3.6. of draft on 8045/23) The reference to the Customs Officer has been replaced by reference to the Medical Officer. Sections 16, 17, 18 - now 17, 18, 19

3. (Para 2 of 1st letter on 18142/23) The only step taken to indicate that Sections 5-19 (now 5-20) apply to British Ships only is the parenthetical inserted before Section 5. This hardly

Handwritten notes:
24
24607.04 24607.525
28 JAN 1925
13 APR 1925
13 JUN 1925
19 AUG 1925
18 SEP 1925
Ref 13811/24

Subsequent Paper
8357A

appears adequate, but we
might ask Bf if it meets
their purpose, re^o of para
2 of 1844/23.

4. There is a new Section (8) ^o
providing for compensation
for improper deletion. This
is quite rightly inserted in
Section 460 (b) of the Pensions
Clipping Act, 1844, but we
may as well just call
attention to the fact that
it is new.

We shall have to
consider § 2 of the Attorney-
General's report, but I
think we may as well
forget the stress of Bf first.

re^o of 1844/10, send
him a copy of the draft & all
enclosures. Assume that
he has not been
informed in any way
and that the S of S
has had to have their
views on the new bill

Draw attention ^{especially} (to paras
3. and 5. of the Attorney's

General's Memorandum;
Add with regard to the section on deletion)
and add (that it will be

observed that the amendment
suggested in their letter on 1844/23
has been effected by the
insertion of a parenthesis in before
Section 5. [Enquire whether this
adequately meets the intention
of the Board.] Draw attention
further to the new Section 8
as to Compensation for
deletion, ^{to which it does} ~~and~~
that any objection need be
taken.

further details can be
his report & examination by
The Legal Adviser may assist
Bf's views.

8/14/24

I agree, except that
part of I would suggest
saying 'but this does not
appear to meet the case

satisfactorily.

I think it is clear
that it does not)

11/11/24

Al. 11/11/24

I think our drawing
attention at the point
of the drawing in detail.
I think it should be
done in a different
style.

Wed. 11.11.24

Not a part of the drawing

was expected

10/11

7/4/24

at a distance

Remains again it.

MS
10/11
at a distance

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

No. 1264.



C.O.
49103
17 OCT 24

19th September, 1924.

Sir,

With reference to Colonial Office despatch No. 558 of the 19th April/1923 relative to a draft Bill, making provision with respect to the detention of unsafe ships, I have the honour to state that upon further consideration with my legal and technical advisers it has appeared desirable to draft a comprehensive Bill dealing with:-

1. The Detention of Unsafe Ships.
2. Inquiries and Investigations into Shipping Casualties.
3. Survey of Steamships.
4. Wrecks and Salvage.
5. Seamen's Repatriation.

2. A copy of this Bill is now enclosed for your consideration, together with copies of a Statement of Objects and Reasons prepared by the Attorney General and a covering memorandum by that Officer in further explanation of the Bill.

I have the honour to be,

Sir,

Your most obedient, humble servant,

G. GOVERNOR

Bill.
Statement of
& Reasons.
Memorandum
31-7-24.

RIGHT HONOURABLE

J. H. THOMAS, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

B. 87
18/142
25

31st July, 1924.

The Hon'ble Colonial Secretary,

Nairobi.

re: THE SHIPPING ORDINANCE, 1924.
Ref: OUR NO. 177/24 of 21st instant.

1. I enclose herewith a draft Bill dealing with the following topics:-
 1. Detention of Unsafe Ships;
 2. Inquiries and Investigation into Shipping Casualties;
 3. Survey of Steamships;
 4. Wrecks and Salvage;
 5. Seamen's Repatriation.

2. The Bill is based mainly on the Merchant Shipping Act and has been drafted after consultation with the Port Captain who conferred with the Port Advisory Committee.

3. I have refrained from introducing Registration Provisions, as our principal Port (which would be the normal Port of Registry) is in the Protectorate and it is thought that the Secretary of State might prefer to declare Mombasa to be a Port of Registry by Order-in-Council under Section 68, Merchant Shipping Act.

- In that case I suggest that the Order-in-Council contain powers authorising the Governor-in-Council to make rules for the Registration of ships owned in the Colony

The Hon'ble Colonial Secretary,
Nairobi.

re: THE SHIPPING ORDINANCE, 1924.
Ref: GOV. NO. 8/E. 111/24/2 of 21st instant.

1. I enclose herewith a draft Bill dealing with the following topics:-

- 1. Detention of Unsafe Ships;
- 2. Inquiries and Investigation into Shipping Casualties;
- 3. Survey of Steamships;
- 4. Wrecks and Salvage;
- 5. Seaman's Repatriation.

2. The Bill is based mainly on the Merchant Shipping Act and has been drafted after consultation with the Port Captain who conferred with the Port Advisory Committee.

3. I have refrained from introducing Registration Provisions, as our principal Port (which would be the normal Port of Registry) is in the Protectorate and it is thought that the Secretary of State might prefer to declare Mombasa to be a Port of Registry by Order-in-Council under Section 88, Merchant Shipping Act.

In that case I suggest that the Order-in-Council contain powers authorising the Governor-in-Council to make rules for the Registration of ships owned in the Colony

Coleony and Protectorate which are not British ships within the meaning of Section 1, Merchant Shipping Act.

4. The Bill should be submitted to the Secretary of State before it is passed in Legislative Council.

The Bill probably comes under Article XIIIIV (8) of the Royal Instructions dated 11th September, 1922.

5. Great care has been taken not to infringe unnecessarily on the principles of the Imperial Act but the attention of the Secretary of State should be invited to Sections 3, 55-63 and 95 to which possibly exception might be taken.

Sd. R. W. Lyall Grant
ATTORNEY GENERAL.

Colony and Protectorate which are not British ships within the meaning of Section 1, Merchant Shipping Act.

4. The Bill should be submitted to the Secretary of State before it is passed in Legislative Council.

The Bill probably comes under Article XIII (8) of the Royal Instructions dated 11th September, 1922.

5. Great care has been taken not to infringe unnecessarily on the principles of the Imperial Act but the attention of the Secretary of State should be invited to Sections 3, 55-63 and 95 to which possibly exception might be taken.

Sd: R. W. Lyall Grant

ATTORNEY GENERAL.

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4. This Bill should be submitted to the Secretary of State before it is passed in Legislative Council.

The Bill probably comes under Article XXXIV (8) of the Royal Instructions dated 11th September, 1920.

5. Great care has been taken not to infringe unnecessarily on the principles of the Imperial Act but the attention of the Secretary of State should be invited to Sections 3, 55-63 and 95 to which possibly exception might be taken.

Sd: R. W. Lyall Grant
ATTORNEY GENERAL.

THE MERCHANT SHIPPING BILL.

Objects and Reasons.

The object of the Bill is to provide machinery for carrying out the provisions of the Merchant Shipping Act respecting

- Detention of Unsafe Ships;
- Inquiries into Shipping Casualties;
- Survey of Steamships;
- Wreck and Salvage;

and to provide for the repatriation of seamen and to remove any possible doubt as to the applicability of the provisions of the Act relating to the above topics to the Colony.

In "The Sussex" 3 B.L.R. at page 44 Bonham J. said

"I have no doubt that the Merchant Shipping Act of 1894 must be held to apply to this Province by Article 11 of the Order-in-Council, 1897. Although part of the machinery for enforcing the Act is absent and probably many portions of the Act are inapplicable to this Protectorate"

In "The Volendam" case it was held that the Governor could not see its way to act under section 400 and call an inquiry.

The reason for the Bill is that there have been occasions when a need arose for exercising the powers conferred in England by the Act.

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"I have no doubt that the Merchant Shipping Act of 1894 must be held to apply to this Protectorate by Article 11 of the Order-in-Council, 1897.

although most of the machinery for enforcing the Act is absent and probably many portions of the Act are wholly inapplicable to this Protectorate".

In "The Wairoa" case (3.77/7) the Board of Trade could not see its way to act under section 460 and hold an inquiry.

The reason for the Bill is that there have been occasions when a need arose for exercising the powers conferred in England by the Act.

In the summer of last year the Catalina was lost on a voyage from Honolulu to Kilauea. There was no power in the Colony to hold a Court of Inquiry and it is not clear that there is any power to appoint a Registrar of Wreck in the Colony.

~~It has also arisen where a wreck had to be raised in the Hawaiian Islands. (The Albatross). The cost of the same was estimated to be \$100,000.00 and it is understood that the same was paid for by the Government of the Hawaiian Islands.~~

Sd. R. W. LYALL-BRANT.
ATTORNEY GENERAL

Comparative Table of Sections.

Section.	Remarks.
	Short title.
	Cf. Merchant Shipping Act, 1894, sections 267, 268, 742.
	" Grenada Cap.62, Definitions.
" "	Section 2.
" "	" 3.
"	Merchant Shipping Act, 1894, Section 457.
"	Grenada Section 4.
"	St. Lucia No.40, Section 3.
"	Merchant Shipping Act, 1894, Section 458
"	Grenada Section 5.
"	St. Lucia Section 4.
"	Merchant Shipping Act, 1894, Section 459.
"	Grenada Section 6.
"	St. Lucia Section 5.
"	Merchant Shipping Act, 1894, Section 460.
"	St. Lucia Section 6 (1).
"	Merchant Shipping Act, 1894, Section 460.
"	Grenada Section 7.
"	St. Lucia Section 7.
"	Merchant Shipping Act, 1894, Section 461.
"	Grenada Section 8.
"	St. Lucia Section 28.
"	Merchant Shipping Act, 1894, Section 460, (2) & (3).
"	Grenada Section 9.
"	St. Lucia Section 8 (2).
"	Merchant Shipping Act, 1894, Section 461.
"	Grenada Section 10.
"	St. Lucia Section 9 (1).

RECORDS OF THE
 RECORDS OFFICE LONDON

THE SHIPPING ORDINANCE, 1924.

341

Comparative Table of Sections.

1107.	Remarks.
	Short title.
	Cf. Merchant Shipping Act, 1894, sections 167, 265, 74. " Grenada Cap.62, Definitions.
" "	Section 2.
" "	" 3.
"	Merchant Shipping Act, 1894, section 457, " Grenada section 4, " St. Lucia No.40, Section 3.
"	Merchant Shipping Act, 1894, section 458, " Grenada Section 5, " St. Lucia Section 4.
"	Merchant Shipping Act, 1894, section 459, " Grenada section 6, " St. Lucia Section 5.
"	Merchant Shipping Act, 1894, section 460, " St. Lucia Section 6 (1).
"	Merchant Shipping Act, 1894, section 460, " Grenada section 7, " St. Lucia Section 7.
"	Merchant Shipping Act, 1894, section 469, " Grenada section 8, " St. Lucia Section 28.
"	Merchant Shipping Act, 1894, section 460, (2) & (3), " Grenada section 9, " St. Lucia Section 8 (2).
"	Merchant Shipping Act, 1894, Section 461, " Grenada Section 10, " St. Lucia Section 9 (1).

ation.

Remarks.

14. Cf. Merchant Shipping Act, 1894, Section 463,
" Grenada Section 11,
" St. Lucia Section 10.
15. Cf. Grenada Section 17.
16. " " " 18.
17. " Merchant Shipping Act, 1894, Section 415,
" Grenada Section 19.
18. " " " 20 modified.
19. " " " 21.
20. W.V.
- " Merchant Shipping Act, 1894, Section 462,
" Grenada Section 18,
" St. Lucia Section 11.
- " Grenada Section 13,
" St. Lucia Section 11 (2).
- " Merchant Shipping Act, 1894, Section 427,
" Grenada Section 24,
" St. Lucia Section 19.
- " Merchant Shipping Act, 1894, Section 464,
" Indian Merchant Shipping Act, 1883, Section 6,
" St. Lucia Section 3.
- " Merchant Shipping Act, 1894, Section 465,
" Indian Merchant Shipping Act, 1883, Section 5.
- " Merchant Shipping Act, 1894, Sections 466, 467,
" Indian Merchant Shipping Act, 1883, Section 7.
- " Merchant Shipping Act, 1894, Section 466.
- " " " " 466,
" Indian Merchant Shipping Act, 1883, Section 9.

ation.

Remarks.

14. Of Merchant Shipping Act, 1894, Section 463.
 " Grenada Section 11.
 " St. Lucia Section 10.
15. Of Grenada Section 17.
16. " " " 18.
17. " Merchant Shipping Act, 1894, Section 315,
 " Grenada Section 19.
18. " " " 20 modified.
19. " " " 21.
20. Nov.
- " Merchant Shipping Act, 1894, Section 463,
 " Grenada Section 12,
 " St. Lucia Section 11.
- " Grenada Section 13,
 " St. Lucia Section 11 (2).
- " Merchant Shipping Act, 1894, Section 427,
 " Grenada Section 14,
 " St. Lucia Section 13.
- " Merchant Shipping Act, 1894, Section 464,
 " Indian Merchant Shipping Act, 1883, Section 6,
 " St. Lucia No. 42, Section 3.
- " Merchant Shipping Act, 1894, Section 465,
 " Indian Merchant Shipping Act, 1883, Section 6.
- " Merchant Shipping Act, 1894, Sections 466, 467,
 " Indian Merchant Shipping Act, 1883, Section 7.
- " Merchant Shipping Act, 1894, Section 466.
- " " " " 466,
 " Indian Merchant Shipping Act, 1883, Section 9.

Cf. Merchant Shipping Act, 1894, section 466 (4),
" Indian Merchant Shipping Act, 1883, section 13.

" Merchant Shipping Act, 1894, section 470 modified,
" Indian Merchant Shipping Act, 1883, section 24 A
modified Chap. III.
" St. India No. 42, Section 11.

Considered necessary and sufficient,
Jr. St. India No. 42, Section 13.

" Merchant Shipping Act, 1894, section 466 (8).

" " " " " " 466.

" St. India No. 42, Section 15.

" " " " " " 16.

" " " " " " 17.

" " " " " " 18.

Nov.

Merchant Shipping Act, 1894, section 271,
" Indian Steamships Act, 1884, section 4.

" " " " " " 6 for (a) and
(b) and first paragraph of (c), second paragraph of
(c) is a new provision.

" Merchant Shipping Act, 1894, section 271 (2),
" Indian Steamships Act, 1884, section 4.

" Merchant Shipping Act, section 724 (see also section
727),
" Indian Steamships Act, 1884, section 9 (1), (2), also
for (2) reg. under section 6 of Ordinance 10 of 189,
" St. India.

" Merchant Shipping Act, 1894, section 725.

" Indian Steamships Act, 1884, section 4 A.

" Merchant Shipping Act, 1894, section 727,
" Indian Steamships Act, 1884, section 11.

tion.

Act, 1884.

Merchant Shipping Act, 1894, section 273.
 Indian Steamships Act, 1884, section 12.

Merchant Shipping Act, 1894, section 274.
 Indian Steamships Act, 1884, section 13.

Merchant Shipping Act, 1894, section 281.
 Indian Steamships Act, 1884, sections 6 and 15.

Merchant Shipping Act, 1894, section 279.
 Indian Steamships Act, 1884, section 17.

Merchant Shipping Act, 1894, section 280.
 Indian Steamships Act, 1884, section 18.

New. Usual Provisions.

Merchant Shipping Act, 1894, section 276.
 Indian Steamships Act, 1884, section 16.

Merchant Shipping Act, 1894, section 363.
 Indian Steamships Act, 1884, section 21.

Merchant Shipping Act, 1894, section 275.

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Section.	Remarks.
	Of Merchant Shipping Act, 1894, Section 510.
65	" " " " " " 565.
66	" " " " " " 511.
67	" " " " " " 513.
68	" " " " " " 514.
69	" " " " " " 516.
70	" St. Lucia No. 42, Section 15.
71	" Merchant Shipping Act, 1894, Section 515.
72	" " " " " " 518.
73	" " " " " " 520.
74	" " " " " " 521.
75	" " " " " " 522.
76	" St. Lucia No. 42, Section 31.
77	" " " " " 32.
78	" " " " " 33.
79	" " " " " 34.
80	" " " " " 36.
81	" " " " " 37.
82	" " " " " 38.
83	" " " " " 40.
	" Merchant Shipping Act, 1894, Section 523.

tion. Remarks.

Of. St. Lucia No. 42, Section 44.

" Merchant Shipping Act, 1894, Section 526.

" St. Lucia No. 42, Section 46.

Now.

" Merchant Shipping Act, 1894, Section 530.

" " " " " 534.

" St. Lucia No. 42, Section 41.

" " " " " 42.

" " " " " 43.

" Merchant Shipping Act, 1894, Section 544.

" " " " " 547.

" " " " " 548.

" " " " " 549.

" " " " " 551.

" " " " " 552.

" " " " " 553.

" St. Lucia No. 42, Section 56.
 " Merchant Shipping Act, 1894, Section 555 (2).
 " " " " " 555 (3).

" St. Lucia No. 42, Section 61.

" Merchant Shipping Act, 1894, Section 567.

tion.	Remarks.
	Of Merchant Shipping Act, 1894, Section 585.
	" Section 4 of Repatriation Bill.
	" " 5 " " "
	" " 6 " " "
	" Merchant Shipping Act, 1894, Section 699, Grenada Section 24.
	" " " 27.
	New.
	" Sections 2 and 3 of Ordinance 13 of 1904.
	New.
Muls.	See Schedule Twentieth of the Merchant Shipping Act, 1894.

A BILL
INTITLED
AN ORDINANCE TO MAKE PROVISION AS RELATIVE TO
MERCHANT SHIPPING AND MATTERS
RELATING THEREON.

ENACTED by the Governor of the Colony of ...
with the advice and consent of the Legislative
Council thereof:-

1. This Ordinance may be cited as "The Shipping
Ordinance, 1924".

In this Ordinance the following terms shall
have the respective meanings hereby assigned to them
unless the context otherwise requires, that is to say:-

"Coasting trade" means trade carried on a sea
voyage from any place on the coast of the Colony to
any other place whatever, where the distance between
such places does not exceed 600 miles, or such other
distance as may be prescribed from time to time by
the Governor-in-Council by Order published in the
Gazette.

"Consular Officer" means any Consul-General,
Vice-Consul, Consul, Agent or other officer
recognized by the Government as a Consular Officer
of a foreign State.

"Magistrate" means a Magistrate of the
Court of the 1st Class or 2nd Class.

"Master" includes every person (except a pilot)
having command or charge of any ship.

"Passenger" includes any person carried in a
ship other than the master and crew and the owner,
his family and servants;

"Port

"Port Captain" means the chief executive Officer appointed to take charge of the Port and Marine Department (whether as a separate Department or as a Department of the Uganda Railway) for the control of all sea-ports of the Colony;

"Crewman" shall mean any person employed in any capacity on board any ship, except the master thereof and shall include an apprentice;

"Ship" includes every description of vessel used in navigation, not propelled by oars, and not the property of His Majesty.

"Statute adult" means any person of the age of twelve years or upwards, and two persons between the ages of one and twelve years shall be treated as one statute adult;

"Steamship" means any ship propelled by machinery;

"The Merchant Shipping Act" means the Merchant Shipping Act, 1894 (57 and 58 Victoria, Chapter 60), and any Act in amendment thereof or in substitution thereof;

Save as hereinafter provided, terms relating to shipping shall have the same meaning as in the Merchant Shipping Act, 1894.

3. The Merchant Shipping Acts so far as they are inconsistent with this Ordinance shall not be deemed to be applicable to this Colony.

PART I.

DEPARTMENT OF MARITIME AFFAIRS

4. It shall be lawful for the Governor-in-Council to fix the fees payable for the survey or inspection of ships, for obtaining the surveyor's certificate of seaworthiness

Shipping
as far as
inconsistent with
this Ordinance not
being in

Governor-in-Council
of

C.O. 33
313
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 10/10/2001 BY 60322 UCBAW/STP/STP

"Port Captain" means the chief executive Officer appointed to take charge of the Port and Marine Department (whether as a separate Department or as a Department of the Uganda Railway) for the control of all sea-ports of the Colony:

"Seaman" shall mean any person employed in any capacity on board any ship, except the master thereof and shall include an apprentice;

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PART I.

DEFINITION OF SURVEYOR

4. It shall be lawful for the Governor-in-Council to fix the fees payable for the Survey or Inspection of ships, for obtaining the surveyor's certificate of seaworthiness

at shipping
as far as
consistent with
the provisions of
this Ordinance not
in

Governor-in-Council
to fix the fees of

seaworthiness hereinafter mentioned, or for any other purpose under this Ordinance or under the Merchant Shipping Act and the fees so fixed shall be paid in such manner, and to such person or persons, or for the public uses of the Colony, according as the Governor-in-Council shall direct: provided that when any fees are so fixed notice of the same shall be published in the Gazette.

(British ships).

to send
worthy ship

5. (1) Every person who sends or attempts to send, or is party to sending or attempting to send a ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of an offence, and shall be liable to a fine not exceeding £1000 and in default of payment to imprisonment for a term not exceeding one year, or to imprisonment of either description for any period not exceeding two years or to both such fine and imprisonment unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence to the effect that

(2) Every person who

the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of an offence and shall be liable to a fine not exceeding £1000 or in default of payment to imprisonment not exceeding one year, or to imprisonment of either description for any period not exceeding two years, or to both such fine and imprisonment

unless

seaworthiness hereinafter mentioned, or for any other purpose under this Ordinance or under the Merchant Shipping Act and the fees so fixed shall be paid in such manner, and to such person or persons, or for the public uses of the Colony, according as the Governor-in-Council shall direct: provided that when any fees are so fixed notice of the same shall be published in the Gazette.

(British ships).

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worthy ship

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(2) Every Master of a ship who knowingly takes the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of an offence and shall be liable to a fine not exceeding £1000 or in default of payment to imprisonment not exceeding one year, or to imprisonment of either description for any period not exceeding two years, or to both such fine and imprisonment unless

unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purposes of giving such proof he may give evidence in the same manner as any other witness.

(3) A prosecution under this section shall not be instituted without the sanction of the Governor.

6. In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master and every agent charged with the loading of the ship, or the preparation of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage of the time when the voyage commences and to keep her in a seaworthy condition for the voyage during the same, provided that nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state, if the owner can prove that the sending of the ship to sea in such a state was reasonable and justifiable.

7. Where a ship, being at any place on the coast of the colony, is an unseaworthy ship, that is to say, is by reason of the defective condition of her hull, equipments, or machinery, or by reason of undermanning, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life,

having regard to the nature of the service to which she is intended, any such ship (hereinafter referred to as "unsafe"), may be provisionally detained for the purpose of being surveyed, or for ascertaining the sufficiency of her crew and either finally detained or released, as follows:-

(1) The Governor, if he has reason to believe on complaint or otherwise, that a ship is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed, or for ascertaining the sufficiency of her crew.

(2) When a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Governor may, if he think fit, appoint some competent person or persons to survey the ship and report thereon to him accordingly.

(3) The Governor, on receiving such report, may either order the ship to be released, or if in his opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions, with respect to the execution of repairs or alterations, or the unloading or re-loading of cargo or the manning of the ship as the Governor thinks necessary for the protection of human life.

(4) Before the order for final detention is made, a copy of such report shall be served upon the master of the ship, and within seven days after such service the owner or master of the ship may appeal in the prescribed manner to the Court of Survey as

hereinafter

same power as the Governor has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her; and, if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(11) A detaining officer shall forthwith report to the Governor any order made by him for the detention or release of a ship.

8. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner or master for the provisional detention of a ship under this part of this Ordinance as an unsafe ship the Government of the Colony shall be liable to pay to the owner compensation not exceeding fifty cents of a shilling for each ton of the ship's net registered tonnage for each twenty-four hours' detention, or part thereof.

9. (1) A Court of Survey shall consist of a first class magistrate for the district sitting with two assessors who shall be appointed by the Governor and who shall be, so far as possible, persons of nautical or engineering skill.

(2) Any person who shall knowingly or wilfully do or cause to be done any act by which the person appointed to make a survey under this Ordinance is prevented or obstructed in making such survey, shall be liable on conviction before a magistrate to a penalty not exceeding fifty pounds.

(3) It shall be lawful for the Governor-in-Council to prescribe the remuneration of assessors and such remuneration shall be paid in the first instance out of

the General Revenue of the Colony.

10. With respect to the Court of Survey the following provisions shall have effect:-

(1) The case shall be heard in open Court,
 (2) The Magistrate and each assessor may survey the ship, and shall have for the purposes of this Ordinance all the powers of an inspector appointed by the Board of Trade in England, under the Merchant Shipping Act, and all persons wilfully impeding them in the execution of their duties shall be subject to the penalty imposed by the said Act for impeding inspectors in the execution of their duty.

(3) The Magistrate may appoint any competent person or persons to survey the ship and report thereon to the Court and all costs to such survey shall be payable and recoverable in the same manner as is provided by Section 13 of this Ordinance.

(4) The Magistrate shall have power to order the ship to be released or finally detained, but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(5) The owner or master of the ship, and any person appointed by the owner or master, and also any person appointed by the Governor, may attend at any inspection or survey made in pursuance of this section.

(6) The Magistrate shall send to the Governor the prescribed report, and each assessor shall either sign the report or report to the Governor the reasons for his dissent.

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11. The Governor-in-Council may from time to time make general rules to carry into effect the provisions of

of this Ordinance with respect to a Court of Survey, and in particular with respect to the summoning of and procedure before the Court, the requiring of an appeal, security for costs and damages, the amount and application of fees, and the publication of the rules.

of detention
survey of ship.

12. If a ship is finally detained under this Ordinance or if it appears that a ship provisionally detained was, at the time of such detention, unsafe within the meaning of this Ordinance, the owner of the ship shall be liable to pay the costs of and incidental to the detention and survey of the ship which costs shall be recovered with the costs of the action on complaint of the surveyor in an action of debt. For the purposes of this Ordinance the costs of and incidental to any proceedings before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Government shall be deemed to be part of the costs of the detention and survey of the ship.

to require
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security for costs.

13. Where a complaint is made to a Detaining Officer that a ship is unsafe, the Detaining Officer may if he thinks fit, require the complainant to give security to his satisfaction for the costs incidental to the detention and survey which the owner of the ship may not become liable to pay under the preceding section provided that where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship and is not, in the opinion of the Detaining Officer, frivolous or vexatious, such security shall not be required, and the Detaining Officer shall, if the complaint is

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the General Revenue of the Colony.

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10. With respect to the Court of Survey the following provisions shall have effect:-

- (1) The case shall be heard in open Court,
- (2) The Magistrate and each assessor may survey the ship, and shall have for the purposes of this Ordinance all the powers of an inspector appointed by the Board of Trade in the Land, under the Merchant Shipping Act, and all persons wilfully impeding them in the execution of their duties shall be subject to the penalty imposed by the said Act for impeding inspectors in the execution of their duty.

(3) The Magistrate may appoint any competent person or persons to survey the ship and report thereon to the Court and all costs to such survey shall be payable and recoverable in the same manner as is provided by Section 13 of this Ordinance.

(4) The Magistrate shall have power to order the ship to be released or finally detained, but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(5) The owner or master of the ship, and any person appointed by the owner or master, and also any person appointed by the Governor, may attend at any inspection or survey made in pursuance of this section.

(6) The Magistrate shall send to the Governor the prescribed report, and each assessor shall either sign the report or report to the Governor the reasons for his dissent.

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of survey of ship.

12. If a ship is finally detained under this Ordinance or if it appears that a ship provisionally detained was, at the time of such detention, unsafe within the meaning of this Ordinance, the owner of the ship shall be liable to pay the costs of and incidental to the detention and survey of the ship which costs shall be recovered with the costs of the action on complaint of the surveyor in an action of debt. For the purposes of this Ordinance the costs of and incidental to any proceedings before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Government shall be deemed to be part of the costs of the detention and survey of the ship.

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13. Where a complaint is made to a Detaining Officer that a ship is unsafe, the Detaining Officer may, if he thinks fit, require the complainant to give security to his satisfaction for the costs incidental to the detention and survey of the ship. The owner of the ship may not become liable to pay under the preceding section: provided that where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship and is not, in the opinion of the Detaining Officer, frivolous or vexatious, such security shall not be required, and the Detaining Officer shall, if the complaint is

made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained under this Ordinance.

provisional
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detention of ship.

14. (1) A surveyor shall have for the purpose of his duties under this Ordinance the same powers as an inspector appointed by the Board of Trade in England, under the Merchant Shipping Act.

(2) An order for the detention of the ship, provisional or final, and order waiving the same, shall be served as soon as may be on the master of the ship.

(3) When a ship has been detained under this Ordinance she shall not be released by reason of her British register being subsequently closed.

(4) For the purposes of a survey of a ship under this Ordinance any person authorized to make the survey may go on board the ship to inspect the same and every part thereof, the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

(5) The provisions of the Merchant Shipping Act with respect to persons who wilfully disobey or disobey a requisition or order of an inspector shall apply as if those provisions were herein enacted, with the substitution for the inspector of any Registrar, assessor, officer or surveyor appointed under this Ordinance has the same powers as an inspector appointed to survey a ship.

(6) A surveyor may be appointed under this Ordinance for the purpose of any survey required by Section 463 of the Merchant Shipping Act and the cost of such survey shall be paid in the first instance

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person or persons who made the demand and shall
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(3) If on a survey held under section 463
Merchant Shipping Act it is found that the ship
in a fit condition to proceed to sea, or the
condition is insufficient, and the
of the ship shall

the ship until
costs are paid and in default of payment within
to call the ship and to deduct from the
purchase price such costs together with all dues and
charges which could be levied by such ship had she
voluntarily been detained.

(9) The master, mate or crew shall also be liable to
to the seaman or apprentice, who has been detained
consequence of the said proceedings before the court
Merchant Shipping Act
at any award.

313
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19. The Detaining Officer is hereby empowered to detain any ship which he may have good reason to believe to be by reason of overloading, improper loading, over-crowding, unseaworthy condition or non-compliance with any of the provisions of this Ordinance, unfit to proceed on a voyage, and he shall forthwith report such detention to the Governor with a statement of the grounds of such detention.

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20. Compliance with the terms of any certificate in force issued to a ship by the Board of Trade, and compliance by a British ship with any rules for the time being in force made by the Board of Trade shall be deemed to be compliance with this Ordinance.

Ships other than British Ships.

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21. Where a ship other than a British ship, being at any place on the coast of the Colony, is unsafe by reason of the defective condition of her hull, equipment or machinery or by reason of over-loading or improper loading or by reason of under-cannily, the provisions of this Ordinance with respect to the detention of ships shall apply with the following modifications:-

(1) A copy of the order for the provisional detention of the ship shall be forthwith served on the Consular Officer, should there be one, for the State to which the ship belongs or should there not be one, on the consignee of the ship.

(2) Where such ship has been provisionally detained the Consular Officer, should there be one, or should there not be one the consignee of such ship acting at the request of the owner or master thereof, may require that the person appointed by the Governor to survey such ship shall be accompanied

24.

Such person as the Consular Officer or consignee may select and in such case, if the carrier and such person agree the Governor shall order such ship to be detained or released accordingly; but if they differ the Governor may act as if the objection had not been made and the Consular Officer or consignee, as the case may be, shall have the appeal as provided in Section 7.

22. The foregoing provisions of this Ordinance shall not affect a ship, other than a British ship, which is not bound for a port of the Colony and which comes to any place on the coast of the Colony for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo.

23. The Governor-in-Council may, from time to time, make rules with respect to:-

(a) The arranging of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried.

(b) The supply of distilled water for the passengers on ships: provided that the requirements of this Ordinance respecting food shall not (except as to the provision of a reserve supply of water and of biscuit) be applicable to ships carrying passengers who have contracted to supply their own provisions.

(c) The number and description of the boats, life-jackets or other appliances for saving life at sea to be carried by ships according to the class in which they are arranged, and the mode of their construction, also equipments to be carried by the boats and the method to be provided to get

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Inquiries and Investigations into Shipping Casualties.

... casualty
... of same.

24. (1) For the purpose of inquiries and investigations under this Ordinance, a shipping casualty shall be deemed to occur when:-

(a) Any ship has been lost, abandoned, stranded, or materially damaged on or near the coast of the Colony; or

(b) Any loss of life ensues by reason of any casualty happening to, or on board of any ship on or near these coasts; or

(c) Any ship has caused loss or material damage to any other ship on or near these coasts; or

(d) Any such loss, abandonment, stranding, damage or casualty has happened elsewhere to, or on board of any ship, and any witness is found in the Colony; or

(e) Any British ship is lost or is supposed to have been lost, and any evidence ... is obtained ... the circumstances ... which she ... was last heard of.

(2) of subsection (1) hereof, the master or other person

person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and in cases under clause (d) of sub-section (1) hereof where the master of the ship concerned, or other person in charge of the ship at the time of the shipping casualty, proceeds to any place in the Colony from the place where the shipping casualty has occurred, the master or such other person shall, on arriving in the Colony, immediately report the shipping casualty to the Port Captain.

(3) Any person bound to give notice under this Section and wilfully failing to give the same shall be guilty of an offence triable by a Magistrate of the First Class and shall on conviction be liable to a penalty not exceeding fifty pounds, and in default of payment, to simple imprisonment for a term not exceeding three months.

25. (1) Where a shipping casualty has occurred; a preliminary inquiry may be held, respecting the casualty by the Port Captain or other person appointed by the Governor-in-Council in that behalf.

(2) For the purpose of any such inquiry, the Port Captain or other person appointed as aforesaid shall have the powers of an Inspector appointed under Section 728 of the Merchant Shipping Act, 1894.

(3) If any person wilfully impedes any person lawfully acting under this Section in the execution of his duty whether on board a ship or elsewhere, the person so impeding shall for each offence be liable on conviction by a First Class Magistrate to a fine not exceeding ten pounds, and in default of payment to simple imprisonment not exceeding one month.

and any person so impeding may be seized and detained by the person holding the preliminary inquiry or by any person or persons whom the Inquirer may call to his assistance, until he can be conveniently taken before a Magistrate.

24. (1) The Port Captain or other person authorized as mentioned in Section 4 shall, in any case where it appears to him requisite or expedient (whether upon a preliminary inquiry or without holding such an inquiry) that a formal investigation should be held, and in any case where the Governor so directs, apply to a Special Court to hold a formal investigation, and that Court shall thereupon hold the formal investigation.

(2) The Special Court shall consist of not less than two and not more than four persons. One of the members of the Court shall be a Judge or a Magistrate of the First Class, who will be assisted by one or more assessors of nautical, engineering or other special skill or knowledge.

(3) The assessors will be appointed out of a list of persons for the time being approved by the Governor. The list shall be in force for three years only, but persons whose names are on any such list may be approved for any subsequent list.

(4) The Governor may at any time add or withdraw the name of any person to or from the list.

(5) In all cases of formal investigation, it shall be the duty of the Port Captain, as being the person who has applied to a Court to hold such investigation, to superintend the management of the case, and to render such assistance to the Court as

person accused
be heard.

is in his power.
27. Every formal investigation into a shipping
casualty shall be conducted in such manner that if a
charge is made against any person, that person shall
have an opportunity of making a defence.

quiry into con-
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officer.

28. The Court may cause a formal investigation
into a shipping casualty may inquire into any charge
of incompetency or misconduct arising, in the course
of the investigation, against any master, mate or
engineer, as well as into any charge of a wrongful
act or default on his part causing any such loss,
abandonment, stranding, damage or casualty as
aforesaid.

The Court may summon any such master, mate or
engineer to appear, and shall give him every opportunity
of making a defence, either in person or otherwise.

ors.

29. Where any investigation involves, or appears
likely to involve, any question as to the cancellation
or suspension of the certificate of a master, mate or
engineer, the Court making the investigation shall
constitute as its assessors at least two persons having
experience in the merchant service holding no lower
certificate than that of of master or first class
engineer.

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officers.

30. If a Court conducting an investigation under
this Ordinance, finds that the loss, stranding or aban-
donment of, or damage to, any ship, or loss of life,
has been caused by the wrongful act or default of the
master, mate or engineer, or that he is incompetent, or
has been guilty of any gross act of drunkenness, tyranny
and other misconduct, such Court may recommend that the
certificate of such master, mate or engineer be cancelled
or suspended. But such Court shall not have power to

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part to the Board of

31. (1) The Board of Trade, in the case of all investigations under this Act, shall transmit to the Governor a full report of the results of which it has arrived, together with the reasons.

(2) Each assessor shall sign the report mentioned in sub-section (1) of this section, or shall append to it or otherwise transmit to the Governor his dissent therefrom and the reasons for that dissent.

(3) The Governor shall send a copy of the report and of the reasons given by any dissenting assessor to the Board of Trade for action or decision regarding any cancellation or suspension.

of Court.

32. The Court may make such order as the Court may think fit respecting the costs of the investigation. Such order may be enforced by the Court in the same manner as a Magistrate's order for costs may be enforced and it shall be lawful for the Judge or Magistrate who was a member of the Court, after the inquiry to do all such acts to enforce an order as the Special Court could do or could have done.

in case of life from

33. When any loss of life arises by reason of any casualty happening to or on board any launch or boat propelled by oars, or other small boat or craft, the Port Captain may, if he thinks fit, cause an inquiry to be made or a formal investigation to be held as in the case of a shipping casualty and the provisions of this Act relating thereto shall apply accordingly.

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34. (1) For the purpose of the investigation and attendance of witnesses and for the regulation of all proceedings, the Court shall have the same powers as are possessed by a Magistrate or as near thereto as circumstances permit.

permit, including the power to order and enforce payment of costs, to be awarded or apportioned and paid in such manner as may be deemed just.

(2) The Court shall have the like powers of visitation and inspection as are conferred upon an Inspector by Section 729 of the Merchant Shipping Act.

(3) Every person who assaults, obstructs, or resists any member of the Court in the exercise of any such power shall, on being convicted thereof, be liable to a penalty not exceeding twenty pounds.

35. An inquiry shall not be held under this Ordinance into any matter which has once been the subject of an investigation or inquiry and has been reported on by any competent Court or tribunal in any part of His Majesty's Dominions, or in respect of which the certificate of a master, mate or engineer, has been suspended or cancelled by a Naval Court.

36. When an investigation or inquiry has been commenced in the United Kingdom with reference to any matter, an inquiry with reference to the same matter shall not be held under this Ordinance in the Colony.

37. The Board of Trade may order the re-hearing of any inquiry made or held under this Ordinance in like manner as they may order the re-hearing of a similar investigation or inquiry in the United Kingdom, but if an application for re-hearing either is not made or is refused, an appeal shall lie from any order or finding of the Court or tribunal holding the inquiry to the High Court in England: provided that no appeal shall lie:-

(a) from any order or finding of an inquiry into a casualty affecting a ship registered in

a British Possession, or

- (b) From a finding affecting the certificate of a master, mate or engineer, unless that certificate was granted in His Majesty's Dominions under the authority of the laws for the time being in force relating to Merchant Shipping.

38. A certified copy of the finding of a Court of Inquiry under this Ordinance on a wreck, stranding, collision or abandonment shall be evidence as to whether or not such wreck, stranding, collision or abandonment was due to the negligence or misconduct of the captain or crew.

Provided that when a re-hearing of an inquiry has been ordered, the original finding shall not be evidence unless confirmed on re-hearing.

PART III.

Survey of Steamships.

39. A steamship shall not carry more than twelve passengers, between places in the Colony, or to or from any place in the Colony from or to any place out of the Colony unless she has a certificate of survey under this Ordinance, in force and applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed.

40. Nothing in the last foregoing section shall apply to:-

- (a) A steamship having a certificate of survey granted by the British Board of Trade, or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage

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on which the steamship is about to proceed, or the service on which she is about to be employed, unless there is reason to believe that the steamship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient, or

(b) Any steamship belonging to or in the service of His Majesty, or

(c) Any steamship carrying passengers during the interval between the time at which her certificate of survey under this Ordinance expires, and the time at which it is first practicable to have the certificate renewed.

Provided, however, that, in the case of a steamship in possession of a passenger certificate as described in sub-division (a) of this Section, and employed in carrying passengers on regular voyages between sea or river or lake ports in the Colony, and which does not proceed to the country of origin of her certificate within three months after the expiration of such certificate, but continues on her service between sea or lake or river ports of the Colony, the owner of such steamship shall cause her to be surveyed at Mombasa or at such other place as the Governor may by rule prescribe.

ation of ships.

41. If any steamship for which a certificate of survey is required by Section 39, attempts to leave any port of the Colony whether on sea lake or river without a certificate the Port Captain or his Deputy may detain her until she obtains a certificate.

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42. (1) The Governor may, when necessary, appoint so many persons as he thinks fit to be surveyors of ships for the purpose of this Ordinance, at the Port of Mombasa or elsewhere.

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on which the steamship is about to proceed, or the service on which she is about to be employed, or unless there is reason to believe that the steamship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient, or

(b) Any steamship belonging to or in the service of His Majesty, or

(c) Any steamship carrying passengers during the interval between the time at which her certificate of survey under this Ordinance expires, and the time at which it is first practicable to have the certificate renewed.

Provided, however, that, in the case of a steamship in possession of a passenger certificate as described in sub-division (a) of this section, and employed in carrying passengers on regular voyages between sea or river or lake ports in the Colony, and which does not proceed to the country of origin of her certificate within three months after the expiration of such certificate, but continues on her service between sea or lake or river ports of the Colony, the owner of such steamship shall cause her to be surveyed at Mombasa or at such other place as the Governor may by rule prescribe.

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41. If any steamship for which a certificate of survey is required by Section 39, attempts to leave any part of the Colony whether on sea lake or river without a certificate the Port Captain or his Deputy may detain her until she obtains a certificate.

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tors.

42. (1) The Governor may, when necessary, appoint so many persons as he thinks fit to be surveyors of ships for the purpose of this Ordinance, at the Port of Mombasa or elsewhere.

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(2) Provided that the Chief Ship Surveyor, shall, in the absence of an Engineer Surveyor, have power to nominate an Engineer Surveyor to aid and assist him in the surveying or inspecting of any steamship.

... surveyor so appointed by the Governor of the Governor.

A surveyor of ships may, in the execution of his duties, go on board any steamship at all reasonable times, and inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, or any certificates of the Master, Mate or Engineer to which the provisions of the Merchant Shipping Acts or any of the regulations made under these Acts apply, without, however, unnecessarily detaining or delaying the said proceeding on any voyage.

If any person hinders any surveyor of ships from going on board any steamship or otherwise impedes him in the execution of his duties under this Ordinance, that person shall, for each offence, be liable to a fine not exceeding five pounds.

44. Before a survey under this Ordinance is completed the owner or master of the steamship surveyed shall pay to the Governor or other person appointed by the Governor in that behalf, such fee as may be prescribed by rules made under this Ordinance.

45. When a survey under this Ordinance is completed, the surveyors making it shall, if satisfied that they can with propriety do so, give to the owner or master of the steamship surveyed, a declaration of survey in the form to be laid down by rules and containing the following

(a) That the Chief Ship Surveyor or the Chief Engineer Surveyor of the steamship

are sufficient for the service intended and in good condition.

(b) That the boats, life buoys, lights, signals, compasses, and shelter for deck passengers are in such condition as are required by the Merchant Shipping Acts.

(c) The time (if less than one year) for which the hull, equipments and machinery will be sufficient.

(d) The limits (if any) beyond which, as regards the hull, equipments and machinery, the steamship is in the surveyor's judgment not fit to ply.

(e) The number of passengers which the steamship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the connective members to be carried on deck and in the cabins; these numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires.

(f) That the certificates of master and mate or mate and pilot, and of engineers, are such as are required by the Merchant Shipping Acts.

(g) That the safety valves and fire huddles are such and in such condition as are required by the Merchant Shipping Acts.

(h) The limit of the weight to be placed on the safety valves.

46. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof,

send the declaration to the Port Captain.

(2) If he fails to do so, he shall forfeit a sum not exceeding ten shillings for every day during which the sending of the declaration is delayed, and any sum so forfeited shall be payable on the granting of a certificate in addition to the fee.

47. (1) On receipt of the declaration of survey by the Port Captain, the Governor shall, if satisfied that the provisions of this Ordinance have been complied with, cause a certificate stating such compliance to be issued in duplicate through the Port Captain or any other Government Official, to the owner or master of the steamship surveyed on his applying and paying the proper fees, and other sums, if any, mentioned in this Ordinance as payable on delivery of a certificate.

(2) Such certificate shall be in the form approved from time to time, and shall contain the particulars concerning the steamship which clauses (c), (d) and (e) of Section 45 require the declaration by the surveyor to contain, and any other prescribed particulars.

(3) When a certificate is ready for delivery, the Port Captain or other Government Official, as the case may be, shall cause notice thereof to be given by post or otherwise to the owner or master of the steamship to which the certificate relates.

48. (1) The owner or master of every passenger steamship required to have passenger steamship certificate, shall forthwith on the receipt of the certificate by him or his agent cause one of the duplicates to be put up in some conspicuous place on board

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board the steamship, so as to be legible to all persons on board, and to be kept so put up and legible while the certificate remains in force, and the steamship is in use.

(2) If the owner or master fails without reasonable cause to comply with this section, he shall for each offense be liable to a fine not exceeding £10.

(3) If a passenger steamship plies or goes to sea with passengers on board, and this section is not complied with, then for each offense, the owner thereof shall be liable to a fine not exceeding £100 and the master shall also be liable to a further fine not exceeding £20.

49. A certificate of survey granted under this Ordinance may be annulled or suspended by the Governor, if he has reason to believe:

(a) That any declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously; or

(b) That the certificate has been issued upon false or erroneous information; or

(c) That since making the declaration, the hull, equipments or machinery have sustained any injury, or are otherwise insufficient.

50. (1) The Governor may require any certificate of survey granted under this Ordinance, which has expired, or has been annulled or suspended, to be delivered up as he directs.

(2) If any owner or master fails without reasonable cause to comply with such requirements, he shall for each offense be liable to a fine not exceeding £10.

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an board, and to be kept out up and left while the
certificate remains in force, and the steamship in
use.

(2) If the owner or master fails without reasonable cause to comply with this section, he shall be liable to a fine not exceeding £100 for each offence. If the owner or master of a passenger steamship plies or goes to sea with passengers on board, and this section is not complied with, then for each offence, the owner thereof shall be liable to a fine not exceeding £100 and the master shall also be liable to a further fine not exceeding £20.

49. A certificate of survey granted under this Ordinance may be cancelled or suspended by the Governor if he has reason to believe:

- (a) That any declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously; or
- (b) That the certificate has been issued upon false or erroneous information; or
- (c) That since making the declaration the hull, equipments or machinery have sustained any injury, or are otherwise insufficient.

50. (1) The Governor may require any certificate of survey granted under this Ordinance, which has expired or has been cancelled or suspended, to be delivered up as he directs.

(2) If any owner or master fails without reasonable cause to comply with this section, he shall be liable to a fine not exceeding £20.

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51. A survey under this Ordinance shall ordinarily be made by two Surveyors, viz. a Ship Surveyor and an Engineer Surveyor.

52. A passenger certificate issued under this Ordinance shall not be in force for more than one year from the date of its issue, or any shorter time specified in the certificate, nor after notice is given by the Port Captain to the owner, agent or master of the steamship, that the Governor has cancelled it.

53. When a foreign steamship requires to be furnished with a certificate of survey under this Ordinance and the Governor is satisfied, by the production of a certificate of survey attested by a British Consular officer at the Port of survey that the ship has been officially surveyed at a foreign port, and that the requirements of this Ordinance are proved by that survey to have been substantially complied with, the Governor may, if he thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Ordinance.

54. (1) If the owner of a steamer feels aggrieved by the declaration of survey of a ship surveyor or engineer surveyor, or by the refusal of such a surveyor to give such declaration, he may appeal to the Court of Survey for the port or district where the steamer for the time being is, in a manner directed by the rules of that Court.

(2) On any such appeal the Magistrate of the Court of Survey shall report to the Governor on the question raised by the appeal and the Governor, when satisfied that the requirements of the report and of the

the foregoing provisions of this Part of this Ordinance has been complied with, may grant a passenger steamer's certificate.

(3) Subject to any order made by the Magistrate of the Court of Survey the costs of and incidental to the appeal shall follow the event.

(4) A ship-surveyor or engineer surveyor in making a survey of a steamer for the purpose of a declaration of survey shall, if the owner of the steamer so requires, be accompanied on the survey by some person appointed by the owner, and in that case if the surveyor and the person so appointed agree, there shall be no appeal under this section to the Court of Survey.

of ship.

55. (1) Every ship registered in the Colony shall before registry be marked permanently and conspicuously to the satisfaction of the Governor-in-Council as follows:-

(a) Her name shall be marked on each of her bows, and her name and the name of her port of registry must be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth.

(b) Her official number and the number denoting her registered tonnage shall be cut in on her main beam;

(c) A scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than six-inches in length.

the lower line of such letters or figures to coincide with the draught line denoted thereby, and these letters or figures must be marked by being put in and painted white or yellow on a dark ground, or in such other way as the Governor-in-Council approve.

(2) The Governor-in-Council may exempt any class of ships from all or any of the requirements of this section.

(3) If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall be liable to a fine not exceeding one hundred pounds.

(4) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Ordinance.

(5) If the owner or master of any ship registered in the Colony neglects to cause his ship to be marked as required by this section, or to keep her so marked, or if any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his command to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master, or person shall for each offence be liable to a fine not exceeding one hundred pounds, and on a certificate from a surveyor of ships, or of any person authorised under this Ordinance or by the Governor-in-Council to inspect ships, that a ship is insufficiently or inaccurately marked the ship may be detained.

detained until the insufficiency or inaccuracy has been remedied.

draught of
to be recorded.

56. (1) The Governor may, in any case or class of cases in which he thinks it expedient to do so, direct any person appointed by him for the purpose, to record, in such manner and with such particulars as he directs, the draught of water of any sea-going ship, as shown on the scale of feet on her stem and stern post, and the extent of her clear side in feet and inches, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, and the person so appointed shall thereupon keep that record, and shall forward a copy thereof to the Governor.

(2) That record or copy, if produced out of the custody of the Governor, shall be admissible in evidence in manner provided by this Ordinance.

(3) The master of every sea-going ship registered in the Colony shall, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water and the extent of her clear side in the official log book, and shall produce the record to any chief officer of Customs or other officer retained by him, and if he fails without reasonable cause to produce the record when lawfully demanded he shall be liable to a fine not exceeding twenty pounds.

(4) The master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit the person so appointed to board the ship and to make such inspections and such measurements as may be required for the purpose, and if any master fails to comply with this section he shall be liable to a fine not exceeding twenty pounds.

so appointed in the execution of his duty, he shall for each offense be liable to a fine not exceeding five pounds.

(5) In this section the expression "clear side" means the height from the water to the upper side of the plank from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

of deck-

57. Every ship registered in the Colony (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts, and ships employed exclusively in trading or going from place to place in any river or inland water the whole or part of which is in any British Possession) shall be permanently and conspicuously marked with lines (in this Ordinance called deck-lines) of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amid ships, or as near thereto as is practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of the deck lines must be level with the upper side of the deck planks next the waterway at the place of marking.

(3) The deck-lines must be white or yellow on a dark ground, or black on a light ground.

(4) In this section the expression "amid ships" means the middle of the length of the load water-line as measured from the fore side of the stem to the aft-side of the stern-post.

58. (1) The owner of every ship registered in the

of load-

the Colony proceeding on voyages from a port in the Colony (except under eighty tons) or employed solely in the coasting trade or ships employed solely in fishing and pleasure yachts) shall, before the time hereinafter mentioned, mark upon each of her sides, amid-ships within the meaning of the last preceding Section, or as near thereto as is practicable in white or yellow on dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with an horizontal line eighteen inches in length drawn through its centre.

(2) The centre of this disc shall be placed at such level as may be approved by the Governor below the deck-line marked under this Ordinance and specified in the certificate given thereunder, and shall indicate the maximum load-line in salt water to which it shall be lawful to load the ship.

(3) The position of the disc shall be fixed in accordance with the tables used at the time of the passing of this Ordinance by the Board of Trade in England, subject to such allowance as may be made necessary by any difference between the position of the deck-line marked under this Ordinance and the position of the line from which freeboard is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may be approved by the Governor-in-Council.

(4) In approving any such modifications the Governor-in-Council shall have regard to any representations made to him by any corporation or association for the survey or registry of shipping for the time being

being appointed or approved by the Governor-in-Council, as hereinafter mentioned, for the purpose of approving and certifying the position of the load line.

59. If a ship is so loaded as to submerge in the water in which she is proceeding or is about to proceed the centre of the disc indicating the load line, the ship shall be deemed to be an unsafe ship within the meaning of Part I of this Ordinance and such submission shall be reasonable and probable cause for the detention of the ship.

60. (1) Where a ship proceeds on any voyage from a port in the Colony for which the owner is required to enter the ship outwards, the disc indicating the load-line shall be marked, before so entering her, or if that is not practicable as soon afterwards as may be.

(2) The owner of the ship shall upon entering her outwards insert in the form of entry a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the deck lines which is above that centre, and if default is made in inserting that statement, the ship may be detained.

(3) The master of the ship shall enter a copy of that statement in the agreement with the crew before it is signed by any member of the crew, and a superintendent shall not proceed with the engagement of the crew until that entry is made.

(4) The master of the ship shall also enter a copy of that statement in the official log-book.

(5) When a ship to which this Section applies has been marked with a disc indicating the load-line,

she shall be kept so marked, or, if the mark has been altered abroad in accordance with regulations made by the Board of Trade for the purpose, marked with the mark as so altered, until her next return to a port of discharge in the Colony.

61. (1) Where a ship employed in the coasting trade is required to be marked with the disc indicating the lead line, she shall be so marked before the ship proceeds to sea from any port; and the owner shall also once in every twelve months, immediately before the ship proceeds to sea, transmit or deliver to the Port Captain a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the deck-lines which is above that centre.

(2) The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall transmit or deliver to the Port Captain notice in writing of that renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(3) If default is made in transmitting or delivering any notice or statement under this section, the owner shall, for each offence, be liable to a fine not exceeding one hundred pounds.

(4) When a ship to which this section applies has been marked with a disc indicating the lead-line, she shall be kept so marked until notice is given of an alteration.

62. (1) If:-

(a) any owner or master of a British ship which includes a ship owned in the Colony fails

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with the view of ~~ensuring~~ to ensure his ship to be marked as by this part of this Ordinance required, or to keep or so marked, or allow the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load-line; or any marks, removes, alters, defaces orobliterates, or suffers any person under his command to conceal, remove, alter, deface orobliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, he shall for each offence be liable to a fine not exceeding one hundred pounds.

(2) If any mark required by this part of this Ordinance is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall for each offence be liable to a fine not exceeding one hundred pounds.

63. (1) The Governor-in-Council may appoint the Port Captain or his Deputy or any other fit and proper person to survey shipping requiring to be loaded in the Colony to approve and certify on his behalf from time to time the position of any disc indicating the load line, and any alteration thereof, and any fees to be taken in respect of any such approval or certificate.

(2) The Governor in-Council may make regulations,

(a) determining the lines or marks to be used in connexion with the disc, in order to indicate the maximum load-line under different

Circumstances

circumstances and at different seasons, and declaring that this Part of this Ordinance is to have effect as if any such line were drawn through the centre of the disc; and

(b) as to the marks in which the disc and the lines or marks to be used in connexion therewith are to be marked or affixed on the ship, whether by painting, cutting, or otherwise; and

(c) as to the mode of... and form of certificate...

(d) requiring... the delivery of...

...while in force.

...and if any person... liable to a fine not exceeding...

...such certificate is required to be delivered, a statement in writing as to the disc and deep-lines of a ship, need not be inserted in the form of entry or transmitted or delivered to the Port Captain under the provisions hereinbefore contained.

PART IV.

WRECK AND SALVAGE.

64. In this Part of this Ordinance unless the context otherwise requires:-

(1) The expression "wreck" includes jetsam, flotsam, lagan, and derelict found in the territorial limits of the Colony.

(2) The expression "salvage" includes all expenses, properly incurred by the salvor in the performance of the salvage services.

65. (1) The Port Captain shall have the general superintendance throughout the Colony of all matters relating to wreck, and may, with the consent of the Governor appoint any District Commissioner or Assistant District Commissioner, or any officer of Customs, or when it appears to the Port Captain to be more convenient any other person to be a Receiver of Wrecks (in this Part of the Ordinance referred to as "a Receiver") in and for any part of the Colony, and to perform the duties of receiver under this Part of this Ordinance.

(2) Notice of every appointment of a receiver shall be published in the Gazette, and the publication of such notice in the Gazette shall be conclusive proof of such appointment.

66. (1) Where a British or foreign vessel is wrecked, stranded, or in distress at any place within the territorial limits of the Colony the receiver of wreck for the district in which that place is situated shall, upon being made acquainted with the circumstances forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as

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he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel (in this part of this Ordinance referred to as "shipwrecked persons") and of the cargo and apparel of the vessel.

(2) If any person wilfully disobeys the directions of the receiver, he shall for each offence be liable to fine not exceeding fifty pounds, but the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

pass over
the lands.

57. (1) Whenever a vessel is wrecked, stranded, or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel, or of saving the lives of the shipwrecked persons, or of saving the cargo or apparel of the vessel, unless there is some public road equally convenient, pass or repass, either with or without carriages or horses, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on those lands any cargo or other articles recovered from the vessel.

(2) Any damage sustained by the owner or occupier in consequence of the exercise of the rights given by this section shall be charge on the vessel, cargo or articles in respect of or by which damage is occasioned, and the amount payable in respect of the damage, shall, in case of dispute, be determined and shall in default of payment, be recoverable in the same manner as the amount of salvage is under this part of this Ordinance determined or recoverable.

(3) If the owner or occupier of any land:

(a) impedes or hinders any person in the exercise of the rights conferred by law by locking his gates, or by closing or locking open the same, or otherwise;

(b) impedes or hinders the deposit of cargo or other articles received as aforesaid on the land;

(c) prevents or endeavours to prevent such cargo or other articles from remaining on the land for a reasonable time until it is removed to a safe place of public deposit he shall for each offence be liable to a fine not exceeding one hundred pounds.

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68. (1) Whenever a vessel is wrecked and or in distress as aforesaid, and any person obstructs or hinders, or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or apparel of the vessel, the receiver may cause that person to be apprehended.

(2) The receiver may use force for the suppression of any such plundering, disorder, or obstruction, and may demand all his expenses subject to an audit in respect of such force.

(3) If any person is killed, maimed, or hurt by reason of his resisting the receiver or any person acting under the orders of the receiver in the execution of the duties of that part of this Ordinance committed to the receiver, neither the receiver nor the person acting under his orders shall be liable to any punishment, or to pay any damages by reason of the person being so killed, maimed, or hurt.

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69. (1st. here's receipt is not present, the
 following officers or persons in succession (each in
 the absence of the other, in the order in which they
 are named) shall have full administrative powers, of the peace
 of the territory, and shall have the same powers as a
 justice of the peace, or a justice of the peace in the naval service
 of the United States, or a commission officer on full pay
 in the military service of His Majesty, may do anything
 which a justice of the peace is authorized to do, and
 shall have full power of jurisdiction for a
 term of years, and shall have full power to sell
 the goods or articles of personal property which to the
 satisfaction of the court, be considered
 as such, and shall place the same
 in the hands of the receiver; but he shall not be
 held liable to receivers, or be
 liable for any loss of any right to
 which he or others may be entitled.

And in case of the failure of the receiver, any
 administrator or executor of the estate, or
 trustee of the same, shall be deemed to have authority
 may be accepted, and shall be deemed to have authority
 and shall be deemed to have authority any person
 who is authorized to administer any estate which may be
 in the territory, or in any other person who may be
 authorized to administer any estate of the cargo or
 stores thereof, or to do any of the ordinary
 matters, that is to say:

- (1) The name of the captain of the ship,
- (2) The names of the master and the owners,
- (3) The names of the consignees of the cargo;

RECORDS OFFICE
Reference

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sent to
address

(d) The ports or places from and to which the ship was bound;

(e) The occasion of the distress of the ship;

(f) The services rendered; and

(g) Such other matters or circumstances relating to such ship, or to the cargo on board the same, as the Receiver, Magistrate, Assistant District Commissioner or Justice thinks necessary.

(2) Such Receiver, Magistrate, Assistant District Commissioner, or Justice shall cause a written statement in writing, and shall make two copies of the same, one of which he shall send to the Governor and the other to the Commissioner of Customs.

(3) For the purposes of this Ordinance, every Receiver, Magistrate, Assistant District Commissioner or Justice shall have all the ordinary powers given to a Magistrate of the first class by the Customs Ordinance, 1913, and to a Court of Sessions by article II of this Ordinance.

71. (1) Where a vessel is wrecked, stranded, or in distress at any place within the territorial limits of the Colony and any cargo or other articles belonging to or separated from the vessel, which may be washed on shore or otherwise lost or taken from the vessel, shall be delivered to the receiver.

(2) If any person, whether the owner or not, seizes or keeps possession of any such cargo or articles, or refuses to deliver the same to the receiver or any person authorised by him to demand the same, that person shall for each offence be liable to a fine not exceeding one hundred pounds.

(d) The ports or places from and to which the ship was bound:

(e) The occasion of the distress of the ship;

(f) The services rendered; and

(g) Such other matters or circumstances relating to such ship, or to the cargo on board the same, as the Receiver, Magistrate, Assistant District Commissioner or Justice thinks necessary.

(2) Such Receiver, Magistrate, Assistant District Commissioner, or Justice shall take such examination in writing, and shall make two copies of the same, one of which he shall send to the Governor and the other to the Commissioner of Customs.

(3) For the purposes of any such examination, every Receiver, Magistrate, Assistant District Commissioner or Justice shall have all the ordinary powers given to a Magistrate of the first class by the Criminal Procedure Ordinance, 1913, and to a Court of Inquiry or Court of this Ordinance.

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71. (1) Where a vessel is wrecked, stranded, or in distress at any place within the territorial limits of the Colony and any cargo or other articles belonging to or separated from the vessel, which may be washed on shore or otherwise lost or taken from the vessel, shall be delivered to the receiver.

(2) If any person, whether the owner or not, seizes or keeps possession of any such cargo or articles, or refuses to deliver the same to the receiver or any person authorized by him to demand the same, that person shall for each offense be liable to a fine not exceeding one hundred pounds.

(3) The receiver or any person authorised as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

72. Where any person finds, or takes possession of or brings any wreck within the limits of the Colony he shall:-

(a) If he is the owner thereof, give notice to the receiver of the district stating that he has found or taken possession of the same, and describing the marks by which the same may be recognised.

(b) If he is not the owner thereof, as soon as possible deliver the same to the receiver of the district.

and if any person fails, without reasonable cause, to comply with this section, he shall, for each offence, be liable to a fine not exceeding one hundred pounds, and shall in addition, if he is not the owner, forfeit any claim to salvage, and shall be liable to pay to the owner of the wreck if it is claimed, or, if it is unclaimed to the person entitled to the same, double the value thereof, to be recovered in the same way as a fine of a like amount under this Ordinance.

73. Where a receiver takes possession of any wreck he shall within a reasonable time -

(a) cause it to be posted in the Custom House nearest to the place where the wreck was found or was seized by him a description thereof and of any marks by which it is distinguished; and

(b) if in his opinion the value of the wreck exceeds twenty pounds, also transmit a similar description to Lloyds Agents for East Africa who shall post it in some conspicuous position for inspection.

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- (a) the date when
- (b) the marks, number and description of the goods taken into possession.
- (c) their quantity and description in accordance with the official invoice.
- (d) the value (without any deduction for deterioration) of such goods as are liable to specific duty and ad valorem duty respectively.
- (e) an estimate of the present value of such goods, allowing for deterioration;
- (f) the place at which such owner has such goods in possession;

(g) the place to which such goods were consigned; and

(h) the place at which such goods were put in the ship.

The owner shall at the time of filing make a statutory declaration that the statement is correct and that the sums and prices in figures therein contained are the real and bona fide value at the place from whence the goods have been imported.

(3) Every owner taking possession as aforesaid shall refrain from using, selling, or disposing of the goods aforesaid until the latter have been inspected by or on behalf of the Commissioner of Customs and until he has paid the proper duty thereon and any such owner who does not comply with the provisions contained in this Section shall in addition to his liability to pay the duty be liable to a fine of fifty pounds.

79. No person shall be deemed to have established a claim for delivery of any wreck unless he shall:-

(a) supply to the Commissioner of Customs such information as the latter may deem necessary in order to ascertain the amount of duty payable in respect of the wreck, delivery of which is claimed; and

(b) pay to the Commissioner of Customs the proper duty on such wreck.

80. It shall not be lawful for a receiver to release any cargo or wreck unless and until arrangements have been made to the satisfaction of the Commissioner of Customs for the payment of any customs duty that may be due and in respect of such goods.

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81. Duty on wreck subject to ad valorem duty shall be payable on the gross value of such goods or, if such goods are sold, on the gross purchase price thereof: Provided that if any goods subject to specific duty realize by reason of their damaged condition a sum which in the opinion of the Commissioner of Customs is less than the amount which would otherwise have been paid, it shall be lawful for the Commissioner of Customs in his discretion to reduce the specific duty to an extent which will make the duty deducted be in the same proportion to the whole specific duty as the price realized bears to the sum which the Commissioner of Customs estimates would have been realized if the goods had been undamaged.

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goods payable.

82. With respect to the goods of the kinds referred to in Sections 78 and 79 of this Ordinance full ad valorem duty or specific duty shall be paid unless the goods are in the opinion of the Commissioner of Customs damaged; and in the latter case the Commissioner of Customs may fix the amount to be paid as duty at a sum bearing the same proportion to the whole specific duty or ad valorem duty that the value of the injured goods bears to what would be the gross value of the goods if undamaged.

83. The owner of any wreck or the person acting on his behalf shall for all intents and purposes be taken as the importer thereof and shall be liable for the duty thereon.

UNCLAIMED WRECK.

84. His Majesty and His Royal Successors are entitled to all unclaimed wreck found in, or brought into

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and wreck.

85. Subject to the foregoing provisions respecting the liability of wreck to duty, if no owner establishes a claim to wreck found in or brought into any part of this Colony before the expiration of six months from the date at which the same came into the possession of the Receiver, the Receiver may forthwith sell the same, and shall, after paying all expenses attending such sale and deducting all expenses incurred by him, and paying to the salvors such amount of salvage as the Governor may, in such cases or by any general rule established, pay the proceeds of such sale into the General Treasury of the Colony.

86. (1) If any dispute arises between the Port Captain or any Receiver and any person as to the validity of such person's claim to wreck found at any place or where more persons than one claim title to that wreck and a dispute arises between them as to that title that dispute may be referred and determined in the same manner as if it were a dispute as to salvage to be determined summarily under this part of this Ordinance.

(2) If any party to the dispute is unwilling to have the same so referred and determined, or is dissatisfied with the decision on that determination, he may within three months after the expiration of a year from the time when the wreck has come into the receiver's hands, or from the date of the decision, as the case may be, take proceedings in any Court having jurisdiction in the matter for establishing his title.

87. Upon the delivery of wreck or the proceeds of wreck by the Port Captain, or by a Receiver, to any person in pursuance of the provisions of this Ordinance, the

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(a) to take possession of or destroy the whole or any part of the vessel, her equipment, stores, seal, cargo or ballast, and

(b) to light or buoy any such vessel or part until the raising, removal, or destruction thereof; and

(c) to sail, in such manner as he thinks fit, any vessel, her equipment, stores, seal, cargo, ballast or part so raised or removed, and also any other

other property recovered in the course of his
 proceedings under this Section, and out of the proceeds
 of the sale reimburse himself for the expenses
 incurred by him in relation to this
 section, and the proceeds shall be paid to the officer
 in charge of the vessel.

(3) At any time before any property is sold
 under this section, the owner thereof shall be
 entitled to have the same delivered to him on pay-
 ment to the Port Captain or such other Officer of
 the fair market value thereof, to be ascertained
 by agreement between the Port Captain or such other
 Officer and the owner, or failing agreement by some
 person to be named for the purpose by the Govern-
 in-Council, and the sum paid to the Port Captain
 or such other Officer as the value of any property
 under this provision shall, for the purposes of
 this Section, be deemed to be the proceeds of sale
 of that property: and

(3) If the total proceeds of the sale of
 such vessel or of her equipment or stores or coal
 or cargo or ballast are insufficient to pay the
 costs

costs of their removal (including the payment of salvage claims if any arising out of such removal) the excess of such costs over and above the amount realised by any such sale or sales shall be a debt due from the owner of such vessel to the Crown, and such debt may be recovered in any Court of competent jurisdiction in the Colony.

90. The powers conferred by this Part of this Ordinance on a Port Captain or other Officer specially appointed for the removal of wrecks shall be in addition to and not in derogation of any other powers for a like object.

OFFENCES IN RESPECT OF WRECK.

91. (1) If any goods, merchandise, or articles of any kind belonging to any ship in distress, or wrecked, stranded, or cast on shore, are found in the possession of any person or on the premises of any person with his knowledge, and such person, being taken or summoned before a Magistrate, does not satisfy such Magistrate that he came lawfully by the same, then the same shall by order of such Magistrate, be forthwith delivered over to the Receiver of the District to be disposed of according to law.

(2) Every such person shall be guilty of an offence, and being convicted thereof, shall be liable to a penalty not exceeding Twenty pounds.

92. Every person who:-

(a) Wrongfully carries away or removes any part of any ship stranded, or in danger of being stranded, or otherwise in distress, in the territorial limits of the Colony, or any part of the cargo or apparel thereof, or any wreck; or

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(b) endeavours in any way to impede or hinder the saving of such ship, cargo, apparel, or wreck; or

(c) secretes any wreck, or obliterates or defaces any mark thereon.

shall be guilty of an offence, and being convicted thereof, shall, in addition to any other penalty or punishment to which he may be subject under this or any other law, be liable to a penalty not exceeding Fifty pounds, or to imprisonment of either description for any term not exceeding six months.

93. Every person who, not being a Receiver or person authorised to take the command of ships are stranded or in distress, or not acting under the orders of such Receiver or person but without the master's leave, endeavours to board any such ship, shall for every such offence, on being convicted thereof, be liable to a penalty not exceeding Fifty pounds; and it shall be lawful for the master of such ship to repel by force any such person so attempting to board the same.

SALVAGE

94. (1) Where services are rendered wholly or in part within the territorial waters of the Colony in saving life from any British or foreign vessel, or elsewhere in saving life from any British vessel, there shall be payable to the saviour by the owner of the vessel, cargo, or apparel saved, reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life when payable by the owners of the vessel shall be payable in priority to all other claims for salvage.

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(3) Such salvage shall be a first charge on the proceeds of the sale of such vessel or part of the vessel, her equipment, stores, coal cargo or ballast as may have been saved.

(4) Any salvage money received by a Receiver of Wrecks for services rendered by him shall be paid into the General Revenue of the Colony, provided that nothing herein contained shall be deemed to preclude a receiver from recovering salvage money in any manner as any other salvor may be entitled to receive due to himself.

ORDINANCE

55. (1) Disputes as to the amount of salvage, whether of life or property, and whether rendered within or without the territorial limits of the Colony, between the salvor and the owners of any vessel, cargo, apparel, or wreck, shall, if not settled by agreement, arbitration, or otherwise be determined summarily in manner provided by this Ordinance, in the following cases, namely:-

(a) In any case where the parties to the dispute consent;

(b) In any case where the value of the property saved does not exceed one thousand pounds

(c) In any case where the amount claimed does not exceed two hundred pounds.

(2) Subject as aforesaid, disputes as to salvage shall be determined by the Supreme Court, but if the claimant does not recover in such Court more than two hundred pounds he shall not be entitled to recover any costs charges or expenses incurred by him in the

prosecution

presentation of his claim, unless the court before which the case is tried certifies that the same is a fit case to be tried otherwise.

(b) Disputed, or otherwise, cases.

on the application of the claimant or of the party claiming the property, the court may order that the case be referred to a referee to determine the facts.

by the court, and the referee may report to the court the facts as found by him, and the court may thereupon determine the claim.

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(2) Any Court to whom a dispute as to salvage is referred for summary determination may, for the purpose of determining any such dispute, call in to its assistance any person conversant with maritime affairs as assessors, and there shall be added as part of the costs of the proceedings such assessor in respect of his attending to the said dispute as the Court shall think fit.

Disputes relating to salvage may be referred to the Court in summary proceedings as provided by section 10 of the Act, and the decision of the Court shall be final, but only if the sum claimed does not exceed fifty pounds and the appellant withholds objection to the award of judgment given in such proceedings. If the appellant gives notice of his intention to appeal within twenty days after the date of the judgment taken in such proceedings, the provisions of the Act relating to the practice of the Court, are necessary for the institution of an appeal.

(2) In the case of an appeal from a Magistrate the Magistrate, shall transmit to the Registrar of the Supreme Court a copy on unstamped paper certified under his hand, to be a true copy of the proceedings had before him and of his judgment accompanied by his certificate in writing of the gross value of the article respecting which salvage is claimed; and such copy and certificate shall be admitted in the Court of Appeal as evidence in the case.

98. (1) Where any dispute as to salvage arises, the receiver of the district where the property is in respect of which the salvage claim is made, may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.

(2) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true

copy by the receiver, shall be admissible as evidence in any subsequent proceeding.

(2) There shall be paid in respect of the valuation by the person applying for the same such fees as the Governor may direct.

99. (1) Where salvage is due to any person under this Ordinance, the receiver shall:-

(a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under the Ordinance, detain the wreck.

(2) Subject as hereinafter mentioned, the receiver shall detain the vessel and the cargo and apparel, or the wreck (hereinafter referred to as "detained property") until payment is made for salvage or process is issued for the arrest or detention thereof by some competent Court.

(3) The receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds two hundred pounds and any question is raised as to the sufficiency of the security, to the satisfaction of the Supreme Court.

(4) Any security may given for salvage in pursuance of this section to an amount exceeding two hundred pounds may be enforced by such Court as aforesaid in the same manner as if bail had been given in that Court.

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100. (1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases, *scilicet*

(a) where the amount is not disputed, and payment of the salvage has in fact been made within twenty days after the amount is due, or

(b) where the amount is disputed, but no appeal lies from the first court to which the dispute is referred, and payment is not made within twenty days after the decision of the first court, or

(c) where the amount is disputed and an appeal lies from the decision of the first court to some other court, and within twenty days of the decision of the first court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal.

(2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied, by the receiver in payment of the expenses, fees, and salvage, and, so far as not required for that purpose, shall be paid to the owners of the property, or any other persons entitled to receive the same.

101. (1) Whenever the aggregate amount of salvage payable in respect of salvage services has been finally ascertained, either by agreement or by the award of the arbitrator or the umpire or by the judgment of a Judge, Magistrate or Court of appeal, but a dispute arises as to the apportionment thereof amongst several claimants, then, if the amount does not exceed two hundred pounds, it shall be lawful for the party liable to pay the amount so due, to apply to the Port Captain for liberty to pay the amount so ascertained to him and the Port Captain shall, if he thinks fit, receive the same accordingly and grant a certificate under his hand stating

stating the fact of such payment and the services in respect of which it is made; and such certificate shall be a full discharge and indemnity to the person or persons to whom it is given, and to his or their ship boats, cargo, apparel, and effects, against the claims of all persons whomsoever in respect of the services therein mentioned; but if the amount exceeds two hundred pounds, it shall be apportioned in manner hereinafter mentioned.

(2) The Port Captain shall with all convenient speed distribute any amount received by him under this section among the persons entitled to the same on such evidence, and in such shares and proportions, as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(3) A distribution made by the Port Captain in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

Supreme
apportion

112. (1) When the amount of salvage payable for salvage services rendered in this Colony has been finally ascertained and exceeds two hundred pounds, then, if any dispute or delay arises as to the apportionment thereof, the Supreme Court of the Colony may cause the same to be apportioned amongst the persons entitled thereto in such manner as may be just.

(2) The Court may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be, to distribute the same or to bring the same into Court to be there dealt with as the Court may direct, and may, for the

purpose

purposes aforesaid, issue such writs or other processes as it thinks fit.

... fees.

103. (1) There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties, and also, in respect of the several matters specified in the schedule to this Ordinance, such fees not exceeding the amount therein mentioned as may be directed by the Governor.

(2) The receiver shall, in addition to all other rights and remedies for the recovery of these expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises in any part of the Colony as to the amount payable to any receiver in respect of expenses or fees, that dispute shall be determined by the Governor, and his decision shall be final.

(4) All fees received or recovered by a Receiver of Procks shall be paid into the General Revenue of the Colony but the receiver shall be entitled to be compensated for all loss and expense reasonably incurred by him in the performance of his duties under this Ordinance in addition to such sum as may be payable to him under section 88 of this Ordinance.

Jurisdiction of Supreme Court.

104. Subject to the provisions of this Ordinance the Supreme Court of the Colony shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed on the high seas or within the body

... of ... court in

body of the Colony, or partly on the high seas and partly within the body of the Colony, and whether the wreck in respect of which salvage is claimed is found on the sea or on the land, or partly on the sea and partly on the land.

PART V.

Seamen's Repatriation.

105. Every agreement entered into in the Colony for the employment of any seaman in any ship shall provide, should such agreement terminate out of the Colony for any cause whatsoever otherwise than with the consent of or through the desertion of such seaman, for the return of such seaman to the Colony at the expense of the owner of such ship, and such liability shall be deemed to include the cost of such maintenance clothing and medical treatment as may be necessary for such seaman until his arrival in the Colony.

106. (1) Where any expenses are incurred by or on behalf of the Crown on account of the return of a seaman to the Colony, such expenses shall be a charge upon the ship (whether British or foreign) on which such seaman was employed, and shall be a debt due to the Crown from the master of such ship or from the owner thereof for the time being, or, where such ship has been lost, from the owner thereof at the time of such loss, or, where such ship has been transferred to some person other than a British subject, either from the owner thereof for the time being or from the owner thereof at the time of such transfer, and also, if such ship be a foreign ship, from the person, whether principal or agent, who engaged such seaman for employment therein.

(2) In any proceedings for the recovery of such debt as aforesaid, the production of a certificate from the Treasurer of the Colony that such expenses were incurred and paid shall be prima facie evidence in their behalf.

(3) Should such expenses not be recoverable as aforesaid, they shall be borne by and debited to the General Revenue of the Colony.

107. Any person committing a breach of the provisions of Section 25 hereof shall be liable for each offence, on conviction, to a fine not exceeding fifty pounds or to imprisonment of either description not exceeding six months or to both such fine and imprisonment.

Miscellaneous Provisions.

108. All fines and penalties imposed under this Ordinance, the application of which is not otherwise provided for, shall be paid to the General Revenue of the Colony: provided that the Governor-in-Council may award such proportion of the proceeds of any fine or penalty as he shall think proper to the informer or other person through whose instrumentality the same has been recovered.

109. If any person shall contravene the provisions of this Ordinance, for the contravention of which no specific penalty is provided, he shall be liable to a penalty not exceeding fifty pounds.

110. This Ordinance shall not apply to ships plying solely on rivers or lakes: provided that it shall be lawful for the Governor-in-Council by Proclamation published in the Gazette to apply the

rule making
over.

whole or any part of this Ordinance to ships plying on all or any of the lakes and rivers of the Colony.

111. (1) The Governor-in-Council may make rules for the better carrying into effect the provisions of this Ordinance.

(2) Without prejudice to the rule-making power the Governor-in-Council may prescribe the fees to be levied and collected in respect of the provisions of this Ordinance and the efficient carrying out of the same and the fees are to be levied and collected.

(3) Where such fees are to be paid by the master of a ship, the Governor-in-Council may direct the deduction, if any, which may be made by such master from the wages of any seaman for full or partial repayment thereof.

(4) All fees levied and collected under this Ordinance shall be paid to the credit of the General Revenue of the Colony.

112. "The Merchant Shipping Fees Ordinance, 1912" is hereby repealed: provided that all fees prescribed under the said Ordinance shall remain in force until the notice prescribing them is repealed, or replaced by rules under Section 111 of this Ordinance.

Sub-section 2 (2) of the Master and Servants (Amendment) Ordinance, 1912 is hereby repealed.

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Assistant Secretary,
Tele. Marine Dept.,
Box 5
MINUTE.

No. 3928/23 of the 31st April,

1923, in which a ~~proposal~~
proposal made by the Gov.
of Kenya to provide
by local legislation
for the detention of wireless

Brick No 12
Office 12/11/24

- Mr. [unclear]
- Mr. [unclear]
- Mr. [unclear]
- Mr. Masterton Smith
- Mr. Arnold
- Mr. Thomas

wireless, and to be submitted
to the Gov. for the consideration of the

Gov. J. a copy of a ~~draft~~
draft of a proposal for Kenya from

which it will be seen that
the carrier which has now
been merged with the General

No. 1264 19/11/24
49103

Memorandum to the Shipping Ordinance

reference, I have read
the Bill to the Ordinance
to be found on the Bill.

It is to be noted that attention
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(Signed) G. GRINDLE

April 8
1925

491/2/24 Kenya

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13 April 1925

Secretary,
The Marine Dept,
Box 11

I am directed to inform you
that a copy may be referred to
by me at the end of this Office

of the 13th of November 1924
submitting a draft from
the Board a proposal

to be late for the Kenya
submitting the draft of a
to provide for the regulation

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Be to make provision with
respect to merchant shipping
matters relative thereto

...

(Signed) W. C. BOTTOMLEY

KENYA.

No. 1265.



C. O.
49104
17 JUN 1919

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

417

21st September, 1919.


Sir,

I have the honour to refer to correspondence terminating with Colonial Office despatch No. 61 of the 22nd of January, 1919, relative to the terms governing the reinstatement of certain Officers who were concerned in the Mutiny in the East Africa Maxims in 1916, and to submit for your consideration copy of a joint petition received from Messrs. L. W. Evers, R. Elliot and E. Brady requesting that their service as from the time they were allowed to rejoin the military should be reckoned as pensionable.

2. I am of opinion that the application is just and reasonable and I trust you will be prepared to give the petition your favourable consideration.

I have the honour to be,

Your most obedient, humble servant.


GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE

J. H. THOMAS, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET - LONDON, S. W.

Majesty's Forces.

3. We would respectfully request, therefore, that Military Service prior to the 16th August, 1917, be recorded as pension-sole as we re-joined the Army on the dates shown below, and remained in active service until the early months of 1919.

H.W. Brown rejoined on 16th April 1917.

R.A. Forces.

R. Elliot

R.A. Forces.

R. Brady

R.A. Forces.

Your obedient servant,

H. Brown.
W. Elliot.
R. Brady.

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all persons in the vicinity being
understood that in case of the
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2. Of the other two officials concerned
itself is not in the immediate neighborhood
presume that the reason why the point does not
in the case of it is that it is not in a
in a military capacity before the situation has