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INSTRUCTIONS RELATING
TO
NAVAL COURTS, 1919

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NOTE.—This Edition supersedes all previous Instruction relating to Naval Courts issued by the Board of Trade.

INSTRUCTIONS
RELATING TO
NAVAL COURTS.

With Forms.

ISSUED BY THE BOARD OF TRADE AND APPROVED BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS AND THE LORDS COMMISSIONERS OF THE ADMIRALTY.

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(Transfer of Functions) Order,
By virtue of the Minister of Shipping (Minister of War Transport) Order,
1939 and the Ministers of the Crown (Minister of Shipping, 1941, the words " Board of Trade " as read as " Minister (or Ministry) of War Transport." should where appropriate be read as " Minister (or Ministry) of War Transport."

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**INSTRUCTIONS
RELATING TO
NAVAL COURTS.
WITH FORMS.**

INTRODUCTORY.

Naval Courts are tribunals convened by Naval or Consular Officers to investigate cases connected with British shipping and seamen in places out of His Majesty's dominions, when occasion demands the prompt intervention of British authority.

The following Instructions, not being issued under any statutory enactment, are merely intended for the guidance and assistance of Naval or Consular Officers in carrying out their duties, and the statutory provisions relating to Naval Courts (see Appendix V, p. 57) should always be studied by Officers before they exercise the powers thereby conferred upon them

Whenever it is practicable, a consultation between a Naval Officer and a Consul before a Naval Court is summoned.

For the purposes of a hearing or investigation, a Naval Court may administer an oath, summon parties and witnesses, and compel their attendance and the production of documents.

Throughout these Instructions the words " shipping casualty " refer to the wreck, abandonment or loss of a ship.

I. SUMMONING OF NAVAL COURTS.

Decision as to whether a Naval Court should be Summoned.

1. Before a Naval Court can be held it is essential that the question at issue should be within the limits prescribed by Section 480 of the Merchant Shipping Act, 1884 (see p. 69) ; that is to say

(a) a complaint must be made by the master, or by the mate, or by one or more of the crew ; or

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(b) the interest of the owner of the ship or cargo must require that a Court should be held ; or

(c) a shipping casualty must have happened.

(a) Cases of loss of, or danger to health and life used not be inquired into by a Naval Court unless they are attended by suspicious circumstances, or are clearly the result of neglect or carelessness.

(b) Cases of danger or damage to property in ships or cargoes when unattended with danger to health or life,

Or misconduct on the part of the master or officers, will rarely require to be settled by a Naval Court, but a Court may be held in these cases at the express request of those interested in the property, when it can serve a useful Purpose not otherwise to be accomplished, such as the exposure of fraud, or the elucidation of facts which may be of importance in the public interest. Serious offences against discipline, such as desertion of a wholesale character, or at such a critical time as to imperil the ship, or insubordination, disobedience to orders nearly amounting to mutiny, and general bad discipline on board the ship, may be considered as requiring a Naval Court to be summoned in the interests of the owner of the ship or cargo.

When circumstances appear to require the removal of the master, or the compulsory discharge of any member of the crew, a Naval Court should be summoned either under the provisions mentioned in paragraph (a) or in those mentioned in paragraph (b) above.

(c) A Naval Court need not be summoned in the case of a shipping casualty when the facts are clearly ascertained, or where the master, officers and crew are free from blame, or where no advantage to the public interest is likely to result, but in every other shipping casualty to a British ship Outside British jurisdiction, a Naval Court should, if possible, be summoned.

A Naval Court should not be summoned to investigate a shipping casualty that has already been the subject of an Inquiry in a British Possession.

When it is decided to hold a Naval Court to inquire into a shipping casualty, the Board of Trade should at once be informed that an Inquiry is contemplated.

2- In considering whether a Naval Court should be summoned to investigate a complaint, reference should be made to the provisions of Section 689 of the Merchant Shipping Act of 1894 (see p. 73). When the complaint relates to offences set out in that section, a Naval Officer may find it necessary to summon a Naval Court in order to carry out the requirements, but a Consular Officer* will only summon a Naval Court when the offence

charged is of an unusually important and exceptional character, or where he is unable to inquire into the case as directed by the Statute.

* Special directions on this point will be found in the " Instructions to Consuls (Merchant Shipping and Seamen)."

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Every complaint should be carefully considered with a view to determining whether it should be dealt with by a Naval Court under Section 480, or by a Consul under Section 689. Complaints coming within the latter section should, whenever it is possible, be dealt with by the Consul in accordance with the provisions of that section.

3. Cases may arise where the summoning of a Naval Court may be avoided by the intervention of a Naval Officer or Consul between the complainant and the person or persons in respect of whose conduct the complaint is made. If a dispute should be referred to a Naval or Consular Officer for settlement by arbitration, the consent of both parties should be obtained, and the award or decision should be in writing.

4-If a complaint is made which discloses only an offence against the Merchant Shipping Acts which is not of a serious nature, it is probably not a case requiring immediate investigation within the meaning of Section 480 (i). If the offence is of a serious nature it will probably come within the provisions of (i) or (ii), or a combination of the two sub-sections.

By whom a Naval Court is to be Summoned.

5-A Naval Court must be summoned by an officer in command of one of His Majesty's ships on a foreign station, or in the absence of such an officer, by a Consular Officer. The expression " Consular Officer " includes Consular-General, Consul, Vice-Consul, Consular Agent, and any person for the time authorised to discharge the duties of Consul-General, Consul, or Vice-Consul (Interpretation Act 1889).

Constitution of Court.

6-A Naval Court must consist of not less than three and not more than five members, and may include the officer by whom it is summoned. An officer in the Naval service of His Majesty, not below the rank of Lieutenant, a Consular Officer, and a master of a British merchant ship, should always be members of the Court whenever it is possible to procure their attendance.

If a Naval or a Consular Officer attends, he will be the President of the Court ; if both attend , the officer holding the higher rank will preside.

The other members of the Court will be officers in the Naval service of His Majesty (including medical officers), masters of British merchant ships, or British merchants.

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Whenever there is reason to believe that the certificate of a master, mate, or engineer may be dealt with (*e.g.*, in investigations into shipping casualties, and complaints against persons who hold certificates) it is desirable that two masters of British ships should be members of the Court.

Subject to these provisions, a Naval Court may be composed as follows, and the officer summoning the Court should endeavour to arrange for the attendance of the members in the order named. Failing to obtain the members referred to in paragraph (*a*) he will endeavour to arrange for the attendance of those mentioned in paragraph (*b*), and so on :

a-Naval Officer, Consular Officer, master or merchant.

b-Naval Officer, master, merchant.

c-Naval Officer, and two masters or two merchants.

d- Consular Officer, master, merchant.

e- Consular Officer, and two masters or two merchants.

Persons who cannot be Summoned as Members of Naval Courts.

7-The following persons cannot be summoned as members of Naval Courts:—

The master and the consignee of the ship to which the parties complaining or complained against belong.

A person who holds a master's certificate, but who is not at the time master of a British ship. It is further not advisable that a master of a ship who does not hold a Master's certificate should be summoned as a member of a Naval Court.

More than one Consular Officer cannot sit on a Naval Court.

Expert Witnesses.

Neither a doctor, nor an engineer, nor a surveyor can be summoned as a member of a Court, but where

medical opinion, or technical advice relating to machinery, shipbuilding, local navigation or other matter, is required by the Court, experts may be called as witnesses and they may be examined upon the evidence given which may be read over to them for that purpose.

Penalty for Obstruction.

The Penalty to which any person is liable for without due Cause preventing or obstructing the making of any complaint to an officer empowered to summon a Naval Court will be found in Section 485 of the Merchant Shipping Act, 1894 (see page 72).

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If any person wilfully and without due cause prevents or obstructs the conduct of any hearing or investigation by a Naval Court, he should be warned of the power of the Court to fine or imprison him.

Summons to Members.

When a Naval Court is to be summoned, a summons convening the Court in the Form A or B in Appendix IV (see pages 33 and 35) should be drawn up by the Naval or Consular Officer.

Summonses to Parties.

(a) Shipping Casualties.

11-A form of summons (Form C) to a party to an investigation into a shipping casualty will be found in the Appendix (p. 35) .

A summons in this form should be served on the master of the vessel in every case, on any of the officers or engineers whose conduct may have caused or contributed to the casualty, and on any other person who may have an interest in the proceedings or whom it may be considered desirable to summon as a party.

12-In addition, the master, and any officers or engineers whose conduct may have caused or contributed to the casualty, must be served with a notice (see Form I) in the Appendix, p. 36) containing a copy of the report or statement of the case upon which the investigation has been ordered, together with a copy of any charge it is intended to make, before the commencement of the investigation, and the date and place of such service should be carefully recorded .

The master should be served with this notice in every case, but the officer summoning the Naval Court may in some cases experience difficulty in deciding before the investigation is held as to whether the officers and engineers, or some of them, should be served with these notices. If he cannot obtain sufficient information beforehand . to enable him to arrive at a conclusion it will be desirable to cause all the certificated officers to be served with notices. Cases are very rare in which the conduct of an engineer will have caused or contributed to a casualty, except it be in connection with a failure to work the engines properly, steam steering gear, steam pumps or other machinery or damage to boiler; when a shipping casualty is attended with any of these circumstances, the engineers should be served with notices.

Whenever it is possible to do so, charges should be formulated in specific terms. Some examples of charges will be found in the Form G. (Appendix, p. 38).

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(b) Complaints.

13. The form of summons to a party (Form C in the Appendix, p. 35) should be served on

a-The person or persons making the complaint.

b-The person or persons against whom the complaint is made.

c-Any person againstwhom it is intended to make a charge

d-Any other person who may have an interest in the proceedings, or whom it may be considered desirable to summon as a party,

Together with a copy of the report or statement of the case upon which, the investigation was ordered, and a notice containing a copy of the complaint or charge.

In this connection, special attention is directed to Section 470 (4) of the Merchant Shipping Act (p. 69) as it is essential that the copy of the report or statement of the case there referred to should be furnished in all cases in which it appears likely that an officer's certificate may have to be suspended or cancelled.

(c) Offences.

14. A form of summons to a master or member of a crew charged with an offence against the Merchant Shipping Act will be found in the Appendix, p. 37 (Form E). These summonses should set out the complaint, and they should state, as far as possible in the language of the statute, the precise nature of the offence alleged to have been

committed.

Summonses to Witnesses.

15. Summonses to witnesses should be issued in the Form F (Appendix, p. 37).

Summonses to be Served Personally.

16. All summonses to parties and to witnesses should, if possible, be served personally.

Assembly.

II—PROCEDURE IN COURT.

17. At the time and place appointed for the hearing, the members of the Naval Court will assemble.

Court Open to the Public.

18. The Court should be open to the public, except in very special circumstances on the application of one of the parties interested.

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Preliminary Proceedings.

19. A person should be appointed as Clerk to the Court, and he should read—

a-The Order convening the Court.

b-The complaint upon which the Court was convened; or

c-A statement of the circumstances in which the Court was convened ; or

d- A copy of ,the report or statement of the case upon which the Court was convened.

e- The notice or notices containing copy of the complaint or charge, with the names of the persons upon whom such notices have been served.

f) Any other document or documents material to the case.

The parties should then be named, and each one should be asked whether he has been served with the summons and the notice referred to in paragraphs 11, 12, 13 and 14.

Service to be Proved in certain Cases.

20-If the parties are not present, or deny having received the summons or notice, the officer by whom such summons and notice were served should be called as a witness to prove the service.

Any other persons interested in the proceedings should then be asked whether he desires to become a party, and, if so, to state the nature of his interest.

Right of Audience.

21-The Court has, in general, inherent power to control the right of audience before it but it is difficult to conceive circumstances which would justify it in refusing to permit any party or person accused to be represented by an advocate.

Where any party or person accused is not represented by an advocate, he should be allowed to be present when the evidence is taken, to cross-examine the witnesses, to examine any witnesses whose evidence he desires to place before the Court, and to make a statement in defence.

Any witnesses summoned at the instance of a party or person accused may be examined by him, cross-examined by any other party, re-examined by the party or person accused at whose instance they have been summoned, and may be finally examined by the Court.

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Pleading.

22-The President of the Court should ask the person accused or charged whether he pleads guilty or not guilty. The party concerned may plead guilty; or not guilty, or he may refuse to plead.

In cases of an investigation into a shipping casualty-, however, the primary object of the Naval Court is the elucidation of the cause of the casualty, rather than the punishment of anyone found in default, and even although charges may have been made out in the circumstances mentioned in paragraph 12, it will not be necessary to call upon the master, officers or engineers to plead guilty - or not guilty.

Withdrawal of Witnesses.

23-Witnesses other than parties to the proceedings may be ordered to withdraw.

Hearing.

24-In the event of an accused person pleading guilty, the Court should hear sufficient evidence to prove the nature of the charge.

Evidence.

25-Witnesses should be called, sworn (Form of Oath in the Appendix, p. 39), and examined and cross-examined in such order as the Court may direct, and the accused party will then produce his witnesses, who should be examined in the manner indicated in paragraph 21.

Employment of Interpreter.

26-If a witness is unacquainted with the English language, an interpreter should be sworn (Form of Interpreter's oath in the Appendix, p. 40).

Depositions of Evidence to be Signed.

27-All depositions of witnesses should be written down and duly signed and attested in the manner prescribed in Forms I, J, and K (Appendix, pp. 40-42).

Parties to be Allowed to Address the Court.

28-When the witnesses have been examined, the Court should invite the accused, or any party whose conduct may be called in question, to make a statement, or his advocate to address the Court in his defence.

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Investigations into Shipping Casualties.

29. In cases of shipping casualty it is always most important that the fullest possible inquiry should be made as to

- 1-The cause of the casualty, and the circumstances connected with it ;
- 2-The conduct of the master, officers, and crew.

Whenever it is alleged that the casualty is due to a defect in a ship, her machinery or equipment, the stowage of the cargo, overloading, undermanning, &c., the allegation should be fully investigated.

When a shipping casualty has been attended with loss of life, the circumstances in which such life was lost should be fully investigated and carefully reported upon in the public interest as well, as in the interests of the relatives.

Where there is reason to believe that the casualty has been due to unseaworthiness every effort should be made to ascertain the character and cause of the unseaworthiness, and the time and date of its origin or discovery. Whenever the unseaworthiness appears to have been due to culpable neglect on the part of the master, the Court will be able to cancel or suspend his certificate, but when it appears to be due to the culpable neglect of the owners, the Court should carefully weigh the evidence, in order to determine whether it is such as to require their special recommendation to the Board of Trade to institute a prosecution for a misdemeanour. In that event the Naval or Consular Officer is desired to endeavour to assist the prosecution by sending home the necessary witnesses.

Loss of, or Danger to, Life.

30. In cases of loss of, or danger to, life, the Court may, if they consider it necessary, cause the ship and stores to be surveyed with a view to ascertaining whether the provisions of the Sections 198 to 206, 209 and 210 of the Merchant Shipping Act, 1894, and Sections 25-27 of the Merchant Shipping Act, 1906 (see Appendix, pp. 58, 75), relating to provisions, health, and accommodation have been complied with.

In these cases it is desirable that a medical officer of the Royal Navy should be a member of the Court, and, when necessary, medical experts may be called in and examined as witnesses.

When loss of, or 'danger to, life has been caused by defective equipment, the Court can only inquire and report, unless loss of life has been caused by the wrongful act of the master, mate or engineer. In that event the Court can exercise the jurisdiction conferred upon it by Section 470 (1) (a) of the Act of 1894 (p. 68) .

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Adjournment.

31-The sittings of the Court may be adjourned and resumed as circumstances may require, and the Court may order parties and witnesses to withdraw, in order to discuss the evidence and to consider their finding and order.

Finding to be read in the Presence of the Parties.

32-The Court will then resume all parties and witnesses should be admitted, and the finding of the Court will then be read in the presence of the parties.

Whenever the case involves a question as to the cancellation or suspension of a certificate of competency, the Court shall, at the conclusion of the case, or as soon afterwards as possible, state in open Court the decision to which they have come with respect to the certificate (Section 470, sub-section (2), of the *Merchant Shipping Act, 1894, p. 69*).

III.—ORDERS OF NAVAL COURTS.

Drafting.

33-Great care should be taken to frame the orders of the Court fully and distinctly, and, whenever it is possible, they should follow the language of the Statute, so that their authority may not be questioned in any particular when produced in any subsequent legal proceedings. It is essential that this instruction should be most carefully followed as, subject to the right of appeal to the High Court in certain cases, all orders duly made by Naval Courts in virtue of the powers conferred upon them are in any subsequent proceedings conclusive as to the rights of the parties (Section 483 (2) of the *Merchant Shipping Act, 1894*, as amended by Section 68 of the *Merchant Shipping Act, 1906*). By the latter Section a person aggrieved by a decision of a Naval Court as to wages, fines, or forfeitures may appeal to the High Court. If the decision of the Naval Court is quashed, sub-section (2) of Section 483 of the Merchant Shipping Act, 1894, does not have effect ; if the decision is varied, sub-section (2) operates as if the order as so varied were the order of the Naval Court. A form giving examples of findings and orders of Naval Courts will be found in the Appendix (p. 43).

Orders to be Entered in the Official Log.

34-Every order made by the Court should be entered in the Official Log Book of the ship to which the parties to the proceedings before the Court belong, and such order must be signed by the President of the Court.

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The order so entered must be carefully framed and duly signed, as it is an entry required by the Statute to be made in the Official Log, and is therefore admissible in evidence (Section 239 of the Merchant Shipping Act, 1894, p. 65 of the Appendix).

Costs.

35-The power of the Court in relation to costs will be found in Section 483 (1) (k) of the Merchant Shipping Act, 1894 (Appendix, p. 71), and it should be observed that Naval Courts have no power to order the costs of the proceedings before them to be paid by any persons except actual parties to the proceedings, and owners cannot be considered for this purpose to be parties unless present or specifically represented by an advocate.

Exercise of Powers as to Costs.

36It is not necessary that in every case a party to the proceedings should , be ordered to pay the costs of the Court, as provision is made in Paragraph 42 of these Instructions for the payment of expenses when no order is made ; but whenever a Naval Court is held solely in the interests of owners of property and such owners are parties to the proceedings, the Court should carefully exercise its powers relating to costs.

Recovery of Costs.

37-It will be observed that any costs or compensation ordered by a Naval Court to be paid, may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from wages due.

It is difficult to enforce in England an order made with respect to costs by a Naval Court abroad, and it will be desirable, whenever it is possible, that the Naval or Consular Officer should obtain payment of the amount of the order from the party against whom the order is made.

Expenses.

38-No expenses should be incurred which are not necessary for the investigation of the case before the Court.

Allowance to Witnesses.

39-No allowance can be authorized to witnesses, except in cases of great hardship or where experts are called to assist the Court by their evidence (*vid e* Paragraph 8: P. 6).

When seaman witnesses have been detained a long time at considerable and direct loss to

themselves, the Court may make them an allowance not exceeding the rate of pay they were last receiving, provided that they have not been in receipt of wages during that time, and have been

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detained solely for the purposes of the Court, and have no immediate interest in the investigation.

When seamen, for whose expenses shipowners are liable under the provisions of the Merchant Shipping Acts, are detained as witnesses, their subsistence expenses for the time beyond which they could have been shipped or sent to a proper return port should be charged as part of the expenses of the Court and not included with the relief expenses on the Board of Trade Form, C. 20.

For expert witnesses the allowance should be £1 ls. or £2 2s. a day, according as the Court may think right.

Allowances to Members of Court and Officials.

40. British shipmasters or merchants who sit as members of the Court should receive a fee of £2 2s. a day. Naval officers acting as members of the Court should be allowed expenses necessarily incurred. No fee should be charged by, or can be allowed to, a Consul for presiding over the Court.

The Clerk of the Court is entitled to a fee of £2 if the Court sit for only one day, but in the event of the proceedings lasting for more than one day, his remuneration should be £1 10s. for each day (including the first) ; this allowance is to include copying expenses and all clerical work necessary before and after the Court sits.

A petty officer of the Royal Navy may be paid 5s. a day for acting as Provost Marshal.

Interpreters, surveyors, medical men, and translators, when not holding appointments under His Majesty's Government, may be paid the charges customary at the port.

No charges should be made for the serving, of summonses, except money actually paid out of pocket for boathire and other necessary expenses incurred in serving them.

Charges for stationery should be shown separately in the account of expenses.

Expenses to be Entered in Report.

41-All expenses including any sums that may be allowed to seamen witnesses should be entered in the report of the Court as part of the costs, and no expenses will be allowed unless so entered (fide Forms L and N, pp. 43, 53).

Payment of Expenses

42-When a court is held at or near a port where there is a British Consul, the Consul will pay the expenses of the court unless otherwise ordered (Vide para 36; p13) and will charge them in his account with the Board of Trade . When there is no British Consul at hand, the

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expenses will be paid by the Paymaster of His Majesty's ship, under the authority of the senior Naval Officer.

IV. REPORTS OF NAVAL COURTS.

Report to be Drawn Up in Proper Form.

43. A full report of the proceedings of the Naval Court should be drawn up in the form prescribed (see Form AI p. 50), and the attention of the Naval or Consular Officer is particularly invited to the various steps in the procedure as therein set out.

What the Report should Contain.

44. This report should contain

- (1) A statement of the proceedings of the Court;
- (2) A certified copy of the complaint or statement of the circumstances which caused the summoning of the Court, and in the case of a shipping casualty a copy of the report or statement of the case (vide Paragraph 12; p. 7);
- (3) A certified copy of the notice served upon any complained against, or upon any person whom a charge was made;
- (4) A certified copy of the summons served upon the parties;
- (5) The depositions and any other evidence taken before the Court signed by the witnesses and endorsed by the President of the Court. (vide Forms I, J, & K, p. 40-42) ;
- (6) The finding and order made by the Court;
- (7) account of the wages of any seaman or apprentice , who is discharged by the Court from the ship;

(8) An account of the expenses of the Court. Statement of the Proceedings.

45. The statement of the proceedings of the Naval Court should be drawn up in the form prescribed Form M, p. 50) and should show the action taken by the Naval or Consular Officer and the names and descriptions of the persons composing the Court. It should also contain in every case a definite statement that a copy of the or statement of the case upon which the investigation was ordered had been duly served on all certificated officers whose certificates might be dealt with.

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Finding of the Court.

(a) Shipping Casualties.

46. It is the practice of the Board of Trade to publish the findings of Naval Courts in cases of Shipping Casualties, and this fact should be borne in mind the form prescribed. The finding should be drawn up and should contain a narrative of the events leading up to the casualty and a statement of the opinion of the Court as to the cause thereof with such remarks on the conduct of the master and crew as the circumstances require, observations the Court may think fit as to how such casualties might be prevented

(b) Loss of or Danger to Life.

47. In the case of loss of, or danger to, health or life the finding of the Court should state the cause of the loss at which the Court has arrived as or danger, and as to the parties, if any, whose conduct has caused or contributed to such loss or danger, together with its decision upon any one or more of the following points

- 1- The provisions or revisions of the law that have not been complied with;
- 2-The names of any seamen discharged;
- 3-The payment of wages, and the fines of, or compensation to, the seamen as the case may be ;
- 4-The liability of the owners or seamen to pay expenses of illness;
- 5-The payment of the expenses of the Court.

Signing of the Report.

48 The report of the Court must be signed by the President of the Court. His official title should follow the signature, and if he be a Consul, the Consular Seal, should be attached.

The Finding and Order of the Court must be signed by all the members of the Court, including the President, as provided for in the Form prescribed.

Documents.

49 Depositions of evidence and all documents annexed or referred to in the Report must be originals. If, however, for any reason particular documents cannot possibly be annexed to the report, certified copies should be forwarded.

Report Admissible in Evidence.

50 It is most important that the instructions with regard to the drawing up and signing of reports should be carefully observed, as the report of a Naval Court, signed by the President, is admissible in evidence under the provisions of Section 484 of the Merchant Shipping Act of 1894.

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Report to be Sent to Board of Trade.

51. The report must be sent at the first opportunity to the Board of Trade with a covering letter from the President or Consul.

Disposal of Certificates.

52. When a certificate has been suspended or cancelled, it should be sent to the Board of Trade or to any other Authority which granted it, unless such a course would delay the return of the certificate beyond the period for which it was suspended. When the period of suspension does not permit of the certificate being sent to the Board of Trade or to any other Authority that granted it, regard may be had to the wishes of the owner of the certificate as to where the certificate should be returned to him at the expiration of the period of suspension, and the certificate should be forwarded to a Consul or responsible Shipping Officer at the port named with full directions as to when it should be returned.

When a Colonial certificate is dealt with, a full report of the case, together with a copy of the evidence, should be sent to the Authority which granted the certificate.

Whenever a certificate which has been suspended or cancelled is not forwarded to the Board of Trade, the covering letter from the President of the Court or Consul should state fully how it has been disposed of.

V.—EXERCISE OF POWERS.

Powers.

53 The powers -which may be exercised by a Naval Court are enumerated in Section 483 coupled with 470 (1) (a) and (c) of the Merchant Shipping Act, 1894.

Removal of Master.

54 The power to remove a master and appoint another person to act in his stead can only be exercised when the Court is unanimous that the safety of the ship or crew or the interests of the owner absolutely require it.

The Court has also power to appoint a new master, but no such appointment is to be made without the consent of the consignee of the ship, if there is a consignee at the place where the case is heard. Generally speaking, the Court will no doubt be in a position not only to remove the master but to appoint another in his stead, but there may be circumstances in which it will only be necessary to exercise the power of removal, the consignee having the authority and instructions of the owners to appoint a new master without the assistance of the Court in this respect, or the owners preferring to appoint and send out a new master.

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When the master of a registered British ship is changed, the President of the Court is required to endorse and sign on the ship's certificate of registry a memorandum of the change and also to report it to the Registrar-General of Shipping and Seamen (vide Section 19 of the Merchant Shipping Act, 1894 Appendix, p. 57). The change should also be noted on the ship's agreement.

The master so superseded or removed must deliver up to his successor the various documents relating to the navigation of the ship, and to the crew thereof, which are in his custody, and his successor must immediately on assuming command of the ship enter, in the official Log Book a list of the documents so delivered to him.

Whenever any master has been superseded or removed his certificate may be cancelled or suspended.

Cancellation or Suspension of Certificates.

55. A Naval Court may suspend the certificate of any master, mate, or engineer in which they are authorised to do so by the Merchant Shipping Act, subject to the provisions of the Act being duly observed.

The certificates which a Naval Court has jurisdiction to cancel or suspend are those granted by the Board of Trade and certain Colonies (vide List in Appendix III, P. 31).

The authority for a Naval Court to deal with certificates of competency is contained in Section 470 (1) (a) and (c) of the Merchant Shipping Act, 1894 (see Appendix, pp 68 and 69).

(a) Cases other than Shipping Casualty. •

56. It will be seen that in cases other than competency investigations into shipping casualties certificates can be cancelled or suspended by Naval Courts summoned under Section 480 (i) or (ii) only when the provisions of Section 470 (1) (c) have first been complied with, i.e., when the holders of the certificates have been superseded or removed by the Court. This course should not be adopted for lesser offences than those indicated in section 470 (1) (b). In drawing up the Order of the Court in such cases, great care should be taken to make it clear that a master or mate or engineer had been superseded or removed before his certificate was dealt with.

In cases where gross misconduct or incompetency is proved, it is desirable that in lieu of suspending a certificate the Naval Court should consider the question of cancelling it, with or without a recommendation to the Board of Trade to return it at a stated time upon being satisfied by- certificates of good conduct or by examination that the officer is again fit to be in possession of it.

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The power to deal with certificates of competency in cases of misconduct should be exercised with the greatest discretion, since although Section 68 of the Merchant Shipping Act of 1906 allows an appeal against the decision of a Naval Court in certain circumstances, there is no appeal against the suspension or cancellation of a certificate of competency by such a Court.

(b) 'Shipping Casualties.

57. It will be observed that the jurisdiction to suspend or cancel the certificate of a master, mate, or engineer is dependent upon the finding of the Court that the loss or abandonment of, or serious damage to, a ship or loss of life has been caused by his wrongful act or default. The Court must be satisfied that the wrongful act or

default, and the loss or serious damage in consequence, has been clearly established by the evidence, and their finding should be expressed in the language of the Statute.

The Court may consider when suspending a certificate, whether the officer may fairly be entrusted with a certificate of a lower grade during the period of suspension and make a recommendation accordingly, but this course should only be taken in cases of shipping casualty when there is no question of drunkenness or misconduct on the part of the holder of a certificate.

Discharge of Seamen from Ship.

58 The term " Seaman " includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board ship.

When discharging a seaman the Court should decide what wages are due to him, and the dischargé should be duly entered in the ship's agreement.

Forfeiture of Wages.

59 A Naval Court has power to forfeit the wages of a seaman discharged from his ship. This power should not be exercised when the seaman is fined or sentenced to undergo imprisonment at the port where the Court is held, but in cases where seamen are sent to the –United Kingdom for imprisonment, the Court should carefully consider the question of ordering the whole or some part of the prisoners' wages to be forfeited and paid to the Exchequer as a set-off against the cost of conveyance to the –United Kingdom which falls on Public Funds.

Wages, Fines or Forfeitures.

60 Where a Naval Court is called upon to decide any questions as to wages or fines or forfeitures arising be-

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tween any of the parties to the proceedings, accounts of wages should be furnished by the master, and no deduction should be allowed which is not entered on these accounts.

No deduction should be allowed for the time a seaman accounts.

is oft duty from illness unless it is proved that such illness was caused by his own wilful act or default.

Wages should be reckoned by the calendar month, and the day upon which the wages commenced and the day of discharge should both be included in the computatori. Advances of money made abroad should be made at the current rate of exchange.

Fines inflicted on a seaman under the terms of his agreement should not be allowed unless on entry thereof has been made in the Official Log and duly signed and a copy of the entry has been furnished to the seaman or the entry read over to him. An act of misconduct for which any fine has been inflicted and paid by or deducted from the wages of a seaman cannot be otherwise punished under the Merchant Shipping Act.

Cost of Imprisonment

61. in cases where it is proposed to direct that costs incurred by the master or owner in procuring the imprisonment of a seaman or apprentice in a foreign port, and of maintaining, him whilst so imprisoned, shall be paid out of and deducted from wages then or subsequently earned by the seaman, a complete account should be rendered by the master before this power is exercised.

Offences.

(a) Of a Serious Character.

62. Naval Courts can exercise the powers given to Consular Officers by Section 689 of the Merchant Shipping Act, 1894 (see Appendix, p. 73), with regard to offences committed at. sea and abroad.

Where the evidence is sufficient to establish a charge of murder or manslaughter or mutiny or assault of a serious character, the prisoner should be sent for trial either to the United, Kingdom or to the nearest British Possession in-which there is a Court capable of taking cognizance of the offence, whichever may be the nearer or more accessible

When this course is taken,' it is very important that formality in procedure should be strictly observed, and that the depositions should be taken in the presence of the accused and properly signed by the witnesses.

When the evididence has been taken the accused may be asked whether he wishes to say anything in answer to the charge, and he should be cautioned that he need not say anything unless he wishes, but that whatever he does say will be taken down in writing, and may be used in evidence against him. The exact words of the accused should then be taken down in writing and read over to him, and the statement may be signed by him if he wishes to sign it.

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If the offender is sent for trial in the United Kingdom, an order (Form Q in Appendix IV, p. 55) should be issued for his conveyance by a British ship bound to the United Kingdom, or if he is sent for trial in a British Possession the order must be issued for his conveyance by British ship bound to that Possession. If he is sent in a vessel bound elsewhere than to the United Kingdom or to the British Possession in question, the Order of the Court would be exhausted, and there would be no authority to further detain the offender or to transfer him in custody to another ship to complete the voyage to the United Kingdom or to the British Possession, as the case may be. The words " bound to the -United Kingdom " do not necessarily exclude vessels which may call incidentally at some intermediate port.

In all cases a formal order, specifying the offence and the direction of the Naval Court, should be signed by the Court and sent with the offender.

It should be carefully borne in mind that it is useless to send prisoners for trial unless the proceedings of the Naval Court have been perfectly formal, and unless sufficient witnesses are sent to procure a conviction,

(b) Of a Less Serious Character.

63 With regard to offences of a less grave character, including mutiny unaccompanied by violence or assault without a serious consequence, committed under great provocation, circumstances such as the expense, delay, and difficulty attending a prosecution in the United Kingdom or a British Possession may make it desirable that such cases should be punished by the Naval Court, and the accused persons discharged from the ship or otherwise dealt, with in order to preserve discipline or prevent danger to the crew.

Offences against the Merchant Shipping Act.

64 A Naval Court can punish a master or member of a crew for an offence against the Merchant Shipping Acts and a list of the cases in which this power may be exercised will be found in Appendix II. (p. 27). Whenever this power is exercised reference should be made to the section of the Act prescribing the offence, and special care should be taken not to inflict a penalty greater than the maximum penalties specified in the list on p. 27 and following pages.

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When a fine is inflicted the Court should not also order wages to be forfeited, but it may exercise the powers conferred upon it in regard to costs.

The powers of the Court with regard to the sentencing of offenders to imprisonment are dealt with in .Para- graphs 67-76.

When the person complained against is a master or mate or engineer and holds a certificate of competency, the Court may consider the question of cancelling or suspending the certificate in lieu of convicting for the offence, but care should be taken that the requirements ,preliminary to the cancellation or suspension of certificates (*see* Paragraph 13) have been fully complied with.

Survey of Ship.

65 The power of a 'Court to order a survey of a ship should always be exercised when the complaint alleges unseaworthiness or otherwise when it appears expedient.

Costs.

66 Suggestions with reference to the exercise of powers of Naval Courts in regard to costs will be found in Paragraphs 35-37.

VI.--IMPRISONMENT.

Powers.

67 The power of imprisonment conferred upon Naval Courts is the same as that conferred upon Courts of Summary Jurisdiction for offences under the Merchant Shipping Act, 1894. in the United Kingdom, in respect of the offences enumerated in Appendix II, p. 27. It is to be observed, however, that only very few of the offences mentioned in the list are ever likely to form the subject of proceedings before a Naval Court, and as regards some of them the circumstances are hardly conceivable in which it would be necessary or proper that they should.

It must be borne in mind that this jurisdiction is only given when a Naval Court is summoned in the circumstances mentioned in Paragraph 1 of these Instructions.

Offenders may not be Sent to a British Possession for Imprisonment.

68 The Provisions of Section 67 of the Merchant Shipping Act, 1906 (*see* Appendix V, p. 78)

have not been applied by Order in Council to any British Possession, so that Naval Courts have only power under that section to send offenders to the United Kingdom for imprisonment.

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Local Imprisonment Desirable.

69 When an offender is sentenced to imprisonment by a Naval Court the imprisonment should whenever possible take place in the country in which the Court is held, provided the laws of the country permit of it, and the place of confinement is fit and proper and the mode of treatment is humane.

In this connection special attention is directed to the provisions of Section 483 (1) (h) of the Merchant Shipping Act, 1894 (page 71), and copies of all sentences of fine or imprisonment passed by any Naval Court should be sent to the Commander-in-Chief or to the senior Naval Officer of the Station.

When an offender is committed to prison in the country in which the Court is held, any wages due to him or money found in his possession should be handed over to the British Consul for disposal in accordance with the Merchant Shipping Act. On release from prison, the seaman should be instructed to apply to the British Consul who will, if necessary, make arrangements for his repatriation.

Procedure.

70 Naval Courts should, therefore, only have recourse to their powers under Section 67 of the Act of 1906 when the laws or the prison accommodation of the country do not enable effect to be given to the sentences of imprisonment passed by Naval Courts and when a sentence of imprisonment is the only means of dealing adequately with the case. If, however, the Naval Court deems it advisable to send an offender to the United Kingdom for imprisonment the Order should be drawn up as provided in Form L (page 43), but the latter part of the Order for imprisonment must be drawn up in the form indicated on p. 48. Special attention is called to this point, as an Order drawn up in any other form will not be recognised as valid in the United Kingdom. The Order of the Naval Court speaks from its date, so that the term of imprisonment must purport to commence from the date of the Order, although it may not be able to do so in fact, and this point should be borne in mind by the Court when considering whether the prisoner should be sent to the United Kingdom. It is of course useless to send a prisoner to the United Kingdom if his term of imprisonment will be on the point of expiring when he arrives at his destination.

Conveyance of Offenders to the United Kingdom.

71 Naval Courts will observe that Section 67 provides that they shall have the same powers as respects the Orders which may be given to masters of ships as a Consular Officer has for the purpose of sending an offender for trial under Section 689 of the Merchant Shipping Act and that Sub-sections (2),(4) and(5) of that Section shall apply with the necessary modification.

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for trial under Section 689 of the Merchant Shipping Act, and that Sub-sections (2), (4) and (5) of that Section shall apply with the necessary modification.

Order for Conveyance.

72 When the master of a British ship bound to the United Kingdom is ordered by a Naval Court in virtue of the provisions of Section 689 (2), as made applicable by, Section 67 of the Act, 1906, to receive on board an offender sentenced to imprisonment, an Order for conveyance drawn up in the form shown in Form O (p. 55) and signed by the President of the Court, together with the Order of the Court sentencing the offender to imprisonment should be handed to him by the President or in his absence by the Consular Officer at the port.

Endorsement.

73 An endorsement in the form shown in Form P (p. 55) should at the same time be triode on the agreement of the conveying ship as required by Section 689 (2) of the Act of 1894.

Procedure on Arrival in the United Kingdom.

74 The master of the conveying ship should be warned that a police constable on duty at a harbour in the "United Kingdom may not always be able to accept custody of a prisoner. In this event the master should either take the prisoner to a police station or communicate with the police station in order that an escort may be sent for him.

Order for Imprisonment.

75 The order for imprisonment to be handed to the Master of the conveying ship is a distinct and separate document from the report required under Section 484 of the Merchant Shipping Act, 1894. in other words, the

actual order must practically be in duplicate, as it must also be set out in the report sent to the Board of Trade.

Notification to be Sent to the Board of Trade.

76 When offenders are sent to the United Kingdom for imprisonment, an intimation of their being sent to this country should be transmitted to the Board of Trade by telegraph, and in this connection the word " Zorzalero in the Government Telegraph Code should be used.

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APPENDIX I

STATUTORY RULES AND ORDERS, 1908.

No. 446 /L. 15

SUPREME COURT, ENGLAND.

Procedure.

THE MERCHANT SHIPPING RULES, 1908, DATED JUNE 3, 1908, AS TO APPEALS UNDER SECTION 68 OF THE MERCHANT SHIPPING ACT, 1906 (6 EDW. 7, c. 48).

The following Rules may be cited as the Merchant Shipping Rules, 1908 :—

1. Every Appeal shall be to a Divisional Court of the, Probate Divorce and Admiralty Division of the High Court and shall be conducted in accordance with the conditions and regulations following (namely) :—

(a) The appellant shall, within the time hereinafter mentioned, serve on such of the other parties to the proceedings as he may consider to be directly affected by the appeal, notice in writing of his intention to appeal, and shall also, within two days after setting down the appeal, give to the said parties notice of the general grounds of the appeal.

(b) Notice of appeal shall be served within three months from the date on which the order or decision is pronounced.

(c) The Court, of Appeal may, whether the time or giving any notice has expired or not, extend such time and may order service by post or substituted service.

(d) The Court, of Appeal may order that an appeal by one or more persons aggrieved shall operate as an appeal by and bind the rights of all other persons similarly affected by the same decision.

(e) The appellant shall before the appeal is heard give, such security, if any, by deposit of money or otherwise, for the costs to be occasioned by the appeal, as the Court of Appeal may direct.

(f) The appellant shall before the expiration of the time within which notice of appeal may be given, leave with the officer for the time being appointed for that purpose by the Court of Appeal a copy of the notice of

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appeal, and the officer shall thereupon set down the appeal by entering it in the proper list.

(g) The Court of appeal may, if it thinks it necessary, be assisted by not less than two assessors to be selected, in the discretion of that Court, having regard to the nature of each case, from either or both of the following classes :--

1-Elder Brethren of the Trinity House,

2-Persons approved from time to time by the Secretary of State as assessors for the purpose of formal investigations into shipping casualties under Section 466 and 467 of the Merchant Shipping Act, 1894.

(h) The Court of Appeal may, if it thinks fit, order any other person, other than the parties served with the notice of appeal, to be added as a party or parties to the proceedings for the purposes of the appeal, on such terms with respect to costs and otherwise as the Court of Appeal may think fit. Any party to the proceedings may object to the appearance on the appeal of any other party to the proceedings as unnecessary.

(i) The evidence taken before the Naval Court from whose order or decision the appeal is brought shall be proved before the Court of Appeal by the report of the Naval Court to the Board of Trade under Section 484 of the Merchant Shipping Act, 1894, or by such other materials as the Court of Appeal thinks expedient and a copy of such report and of the notice of the general grounds of the appeal shall be left with the officer for the time being appointed for that purpose by the Court of Appeal before the appeal comes on for hearing, For the purpose of this Rule, copies of the report shall be supplied to the appellant, on request, by the Board of Trade, on payment of the usual charge for copying.

(i) The Court of Appeal shall have full power to receive further evidence on questions of fact, such evidence to be either by oral examination in Court, by affidavit, or by deposition taken before an examiner or commissioner. Evidence may also be given with special leave of the Court of Appeal as to matters which have occurred since the date of the order or discussion from which the appeal is brought.

(k) The Court of Appeal shall have power to make such order as to the whole or any part of the costs of and occasioned by the appeal as the Court may think just.

(L) Subject to the foregoing provisions of this Rule every appeal shall be conducted under and in accordance with the general rules and regulations applicable to ordinary proceedings before the Court of Appeal, but there shall not be anything in the nature of pleadings other than the notice of the general grounds of the appeal, except by special permission of the Court of Appeal.

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(m) On the conclusion of an appeal the Court of Appeal shall send to the Board of Trade a report of the case in such form as the Court of Appeal may think fit.

3rd of June, 1908.

Loreburn, C.
Alverstone, CJ
H. H. Cozens-Hardy, M.R.
Ronald L. Vaughan-Williams, L.J.
J. Gorell Barnes, P.
R. J. Parker, J.
Christopher James.

APPENDIX II.

LIST of OFFENCES against the MERCHANT SHIPPING ACTS which, when committed by the Master or a member of the crew, are punishable on summary conviction. Offences against the Acts which would not come under the jurisdiction of NAVAL COURTS are not included in this list.

THE MERCHANT SHIPPING ACT, 1894.

PART I.--REGISTRY.

Section.

7. Ship not properly marked	1001
15. Refusal to deliver certificate	1001
18. Failing to deliver provisional certificate ..	501
20. Failing to deliver certificate for endorsement	1001
21. Failing to deliver certificate on loss of ship...	1001
47. Offences in regard to name	1001
73. Hoisting improper colours	1001
74. Neglecting to hoist proper colours	1001

PART II.--MASTERS AND SEAMEN.1001

92. Going to sea without certificate, or employ- ing uncertificated officer... ..	501
113. Not entering into agreement with seamen ...	51
120. Not posting up copy of agreement	51.
124. Improperly engaging seamen abroad... ..	51.
128. Failing to give seamen certificate of discharge	101.
128. Failure to return officer's certificate ...	201.
132.. Failure to deliver account 'of wages	51.
171. Offences in regard to property of deceased seamen	501

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195. Stipulating that seaman is not to enter Navy 201.

196. Failing to deliver effects or to pay wages of
naval volunteer 20/

198. Non-supply of good provisions and water ... 20/.

198. Unreasonable complaints about provisions.

1 week's pay.

200. Not providing medicines or lime juice ... 201..

200. Not serving out lime juice • ... 5/.

201. Not keeping or using proper weights and measures 101.

202. Going to sea with insufficient medicines ... 201.

211. Not allowing seamen to make complaint ... 101.

221. Desertion 12 weeks.

221. Absence without leave... .. 10 weeks.

223. Improper arrest ,of deserter ••• •.. 201.

225. Quitting ship without leave... 1 month's pay.

225. Wilful disobedience ... 4 weeks and 2 days pay.

225. Continued wilful disobedience. 12 weeks and 6days pay.

225. Assaulting officers 12 weeks.

225. Combining to disobey 12 weeks.

225. Wilfully damaging ship, &c. 12 weeks and make good loss.

225. Smuggling make good loss and Damage

227 False statement of name or last ship ... 51

236. Persuading to desert 101.

237. Harboursing deserters • 201.

238. Harboursing foreign deserters ... •.. 101

241. Not keeping official log properly ... 51.

241. Making belated entries in official log ... 301

243. Failing to deliver log on loss of ship ... 101.

254. Failing to record or report births and deaths 51

257. Failing to deposit documents in foreign ports
And colonies 201

258. Failure of master to deliver documents to
successor 1001

PART III.----Passenger AND EMIGRANT SHIPS.

Not surrendering passenger certificate ... 101.

Not posting up passenger certificate ... 101.

281. Going to sea without certificate posted up ... 201.

283. Carrying too many passengers.

201. and additional fine.

Passenger steamer not properly equipped ... 50/.

Increasing weight on safety valve 100/.

Non-survey of emigrant ships... .. 100l,

Emigrant ships not properly equipped ... 507.

292. Carrying to many steerage passengers. 40l. for each

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Section.

293. Improper accommodation for steerage passengers ••• ••.501

295 Re-shipping condemned provisions ... 100/.

296 Water improperly carried ... -- 50/.

298. Non-observance of dietary scales 50/.

300. Not providing proper medical stores 50/.

300. Going to sea without proper medical stores ... 100/

303 Not carrying proper medical practitioner ...	100/.	
304 Not carrying cook, stewards, and interpreters	50/	
305 Emigrant ship insufficiently manned	50/.	
306. Steerage passengers not medically inspected	100/.	
311. Incorrect passenger lists	100/_	
312. Additional passengers not on passenger lists	50/.	
315. Not affording facilities for inspection	50/.	
316. Not replenishing ships which are detained ...	100/.	
322. Not producing counterpart contract ticket ...	10/	
326 Selling spirits to emigrants ...	20/.	
327 Not maintaining passengers after arrival ...	5/.	
330. Landing steerage passengers at wrong place...	501.	
361. Not posting up abstracts of Act ...		2/. per day.,

PART V -SAFETY

423. Not entering collision in official log ...	20/.
430. Breach of Life-Saving Appliances Rules ...	50/.
432 Defective compasses and fire-hose ...	50/_
433 Undue weight on safety valve...	100/.
435. Failure to provide signals of distress ...	50/_
442 Offences with regard to load-line ...	100/.
443 Breach of load-line regulations	100/
454. Not delivering grain cargo	100/

PART VI .-SPECIAL SHIPPING INQUIRIES AND COURTS.

473. Non-surrender of certificate ...	50/.
485. Obstructing Naval Court	50/. or 12 weeks..

PART XIII.-LEGAL PROCEEDINGS.

689. Not complying with Consular order .	50/.
692.. Taking detained ship to sea	100/.
692. Carrying detaining officer to sea	100/ and expenses ...

PART XIV .-SUPPLEMENTAL.

723. Impeding officers in making inquiries	20/
725. Impeding surveyors ...	5/.
726. Refusing information to surveyors ...	5/.
729. Disobeying Inspector ...	10/.
730. Impeding Inspector ...	10/

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THE MERCHANT SHIPPING ACT, 1906.

PART I.-SAFETY .

Section.

9. Failure to keep a record of boat drill, or examination of life-saving appliances ...	10/.
9. Non-production of such record ...	10/
11. Offences under the loading of grain provisions	100/.

PART II .-PASSENGER AND EMIGRANT SHIPS .

16. Carriage of passengers on more than one deck below the water line ...	500/.
18. Failure to post up scale of provisions for steerage passengers ... per day	2/.
18. Failing to produce scale of provisions for steerage passengers ... per day	2/

21. Non-compliance with provisions as to
passenger steamers ••. ... per passenger 10/.

PART III .-SEAMEN' S FOOD.

25. Failure to furnish provisions ... ••• ... 100/.

27 Failure to comply with requirements
re Certificated Cooks ...••• ••• ••• ... 25/.

PART IV .-DISTRESSED SEAMEN AND SEAMEN LEFT ABROAD.

28 Failure to comply with provisions as to dealing with wages and effects of seamen left
behind ... ••• ••• ••• ••• ... 20/.

37. Non-delivery of account of wages of seamen
left behind ... ••• ••• ••• ... 10/.

37 Delivery of false account of wages of seamen
left behind ... ••• ••• ••• ... 20/.

38 Non-payment of wages of seamen left abroad 10/.

44. Non-payment of fines imposed on seamen
Six times amount of fine.

48. Failure to comply with requirements re
conveyance of distressed seamen ••• ... 100/.

PART V .-MISCELLANEOUS .

58. Making false statem.ent.or false representation
for the purpose of obtaining a rating as A.B. ... 5/.

63. Failure to provide facilities to seamen for
remitting wages 5/

76 Failure to furnish return aq to passengers
carried ... 20/.

77 Failure to furnish return as to cattlemen
carried ... 100/.

APPENDIX III.

LIST of COLONIAL CERTIFICATES which a NAVAL COURT has power to deal with.

Colony.	Certificates.		Date of original Order in Council.	Date from which Order in Council takes effect.
	By whom granted in Colony.	Description.		
Victoria ...	*Marine Board ...	Master ; 1st Mate ; Only Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	30 Mar. 1871.	4 Jan. 1870.
Canada ...	The Minister of Marine and Fisheries.	Master ; Mate† ...	19 Aug. 1871.	19 Aug. 1871.
		1st Class Engineer ; 2nd Class Engineer.	10 Nov. 1886.	1 Jan. 1887.
New Zealand.	Marine Department.	Master ; 1st Mate ; Only Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	9 Aug. 1872.	1 May 1872.
New South Wales.	‡ Department of Navigation.	Master ; 1st Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	30 Aug. 1873.	18 June 1872.
Malta ...	The Head of the Government.	Master ; 1st Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	12 May 1874.	12 May 1874.
South Australia.	Marine Board ...	Master ; 1st Mate ; Only Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	12 May 1874.	12 May 1874.
Tasmania...	The Governor ...	Master ; 1st Mate ; Only Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	12 Feb. 1876.	1 April 1876.

*The Steam Navigation Board was superseded by the Marine Board on the 21st December, 1888. See Order in Council of 23rd November 1893.

† Equivalent to First Mate.

‡The Marine Board was superseded by the Department of Navigation on the 17th March 1900.

Colony.	Certificates.		Date of original Order in Council.	Date from which Order in Council takes effect.
	By whom granted in Colony.	Description.		
Bengal ...	Lieutenant-Governor.	Master ; 1st Mate ; Only Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	27 June 1876.	27 June 1876.
New-foundland.	Governor ...	Master ; 1st Mate ; Only Mate ; 2nd Mate.	14 May 1877.	14 May 1877.
		1st Class Engineer ; 2nd Class Engineer.	19 July 1910.	19 July 1913.
Bombay ...	Governor ...	Master ; 1st Mate ; Only Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	11 July 1877.	11 July 1877.
Queensland	Marine Board ...	Master ; 1st Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	26 Mar. 1878.	1 Oct. 1877.
Hong Kong	Governor ...	Master ; 1st Mate ; Only Mate ; 2nd Mate ; 1st Class Engineer ; 2nd Class Engineer.	31 Dec. 1883.	1 Jan. 1884.
Straits Settlements.	Governor ...	Master ; 1st Mate ; 2nd Mate.	1 May 1890.	1 June 1890.
		1st Class Engineer ; 2nd Class Engineer.	1 May 1890.	1 Aug. 1888.
*Mauritius	Governor ...	Master ; 1st Mate ; 2nd Mate.	22 Nov. 1890.	1 Jan. 1891.

*Mauritius does not issue Engineer Certificates under the Order in Council.

APPENDIX IV.
FORMS for the use of NAVAL COURTS.
FORM A.

SUMMONS OF NAVAL OFFICER CONVENING A NAVAL COURT.

Annex No.

By (a) Esquire, (b) Royal Navy,
commanding His Britannic Majesty's Ship "
now on the (c)

In pursuance of the powers contained in section 480 of the Merchant Shipping Act, 1894, I hereby
summon a Cases of collision.

Naval Court to assemble at (d) on the day of 19, at o'clock
In the noon to

[here insert purpose for which Court is summoned, selecting such one or more of the following paragraphs as
may apply to the particular case.]

A [investigate the following complaint made by the(master) (certificated mate)
(A.B. and C .D.,seamen) belonging to the British (sailing ship) (steam ship) viz.,
that E.F. (a seaman) belonging to the said ship, [here state the complaint, and if it relates to
an offence against the Merchant Shipping Act, state the offence in the words of the Act.]

To be used when
the complaint is
made under
sec.489(i) of the
Merchant
Shipping Act
1894

To be used when a complaint is made under section 480(i) of the Merchant Shipping Act 1894

B [investigate the following complaint (e) made by the (certificated mate) (A.B. and C.D., seamen),
belonging to the British (sailing ship) (steam ship) viz., that E.F.,
the (master) of the said ship, was on the day of guilty of a gross
act of (misconduct) (drunkenness) (tyranny) in (describe the (circumstances).]

To be used when
the investigation is
in respect of a gross
act of misconduct ,
drunkenness, or
tyranny on the part
of a master

C [investigate the circumstances under which A.B., a seaman of the British ship
was left behind and discharged at by the master C.D. (or as the case
may be).]

(a) Name of Officer convening Court.

(b) Rank.

(e) Name of foreign station.

(d)Here state whet..., the Court is to assemble, " British.[Vice] Consulate [General] at ," or on board
H.M.S. lying in the port of , " or " anchored off

(e) When this form is used. the master must be furnished before the commencement of the investigation with a
copy of the report of a statement of the case upon which the investigation was ordered, see section 470.
Appendix, p. 68

D. [_investigate the circumstances attending the (wreck) (loss) (abandonment) of the
British (sailing ship) (steam ship) of the port of official
number (when on a voyage from to (when anchored) at
and the cause of such (wreck) (loss) (abandonment) and to inquire into the
conduct of the master, certificated (first mate) (second mate) and crew of the said vessel.]

To be used
when the
investigation
takes place
under sec.
480(iii)

E. [investigate the circumstances attending a collision between the British (sailing ship) (steam
ship) of official number and the on
or about the day of 19 whereby the (wreck) (loss) (abandonment)
of the said ensued (whereby serious damage to ensued) (whereby loss of life
ensued) and to investigate the cause of such (wreck, &c.) and to inquire into the conduct of the Master or
Masters, &c., as in above paragraph.]

Cases of
collision

F. [investigate the charge brought, against A.B., ordinary seaman of the British sailing ship " Mary Ann," of

Shields, official number , of having murdered C.D., seaman, belonging to the said ship, on the high seas, on or about the _____ day of, _____ 19__ , last past, and generally to inquire into the circumstances, attending the death of the said C.D.]

To be used in cases under sec..

And I hereby nominate and appoint the under-mentioned persons to be members of the said court, that is to say

(g) _____ }
 _____ } Members
 _____ }

Given under my hand on board H.M. ship " _____ , a t _____ on this _____ day of 19 _____

(h).

- (g) Here insert names and descriptions of members. The President is the Naval or Consular Officer of highest rank, e.g., _____, Esquire, _____ in H.M. Navy
- _____, Esquire, _____ H.B.M. Consul at _____, or British Vice Consul at _____
- _____, British Merchant at _____
- _____, Master of the British merchant ship " _____ of official number _____

(h) Signature of Summoning Officer.

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**FORM B.
 SUMMONS OF CONSULAR OFFICER CONVENING A NAVAL COURT.**

Annex No. _____

By (a) _____ Esquire, His Britannic Majesty's Consul for (b) _____ [or British Vice-Consul at _____ in the absence of any officer in command of any ship of His Majesty.

In pursuance of the powers contained in section 480 of the Merchant Shipping Act, 1894, I hereby summon a Naval Court to assemble at (c) _____ on _____ the _____ day of _____ 19__ , at _____ o'clock in the _____ noon to (d) _____

And I hereby nominate and appoint the under-mentioned persons to be members of the said Court, that is to say, (e)

} Members.
 }

Given under my hand and seal of office at the British [Vice] Consulate [General] at _____ on this _____ day of _____, one thousand nine hundred and _____

(f)

- (a) name the officer convening Court.
- (b) District of Consul-General or Consul, or place of residence of Vice Consul.
- (c) Here state where Court is to assemble, " British [Vice] Consulate [General] at _____ " or as the case may be.
- (d) Here insert purpose for which Court is summoned as in Form A.
- (e) Here insert names and description of members, as in Form A.
- (f) Signature of summoning officer.

**FORM C.
 NOTICE OR SUMMONS TO A PARTY.**

Annex No. _____

To (a) _____ of _____

THE MERCHANT SHIPPING ACT, 1894.

TAKE NOTICE, that under and by virtue of the above Act

(a) Here describe party. e.g., " N .N. seaman of the British sailing "ship Mary Ann of shields , Official No 100"

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Naval Court has been ordered to assemble at (b/ _____ on _____ the _____ day of _____ 19__ at the hour of _____ in the _____ noon to investigate the (c)

This is to require you to appear before the said Naval Court at the time and place above mentioned in order that you may take part in the hearing and investigation.

Should you desire any person or persons to be summoned as Witnesses, you must notify to me their names and addresses.

Given under my hand at _____ on this _____ day of _____ 19____
(d)

FORM D

COPY- REPORT OR STATEMENT OF THE CASE ON WHICH THE INVESTIGATION IS ORDERED.

To
Of

THE MERCHANT SHIPPING ACT, 1894.

The following is a [copy of the Report] [Statement of the Case] upon which the Investigation by a Naval Court into the loss or abandonment of or serious damage to the

Official Number _____ of _____

has been ordered, viz. :-----

[Here set out letter from Master or extract from Log or other document on Which the Investigation is based.]

Given under my hand at the British Consulate at
this _____ day of _____ 19____

(d)

(b) Here describe precisely the place of meeting, e.g., " at the British
" [Vice] Consulate [General] at _____ on board H.M.S. _____ now anchored off
_____, " or as the case may be.

(e) State the purpose for which court is summoned from summons convening it.

(d) Signature of naval officer convening, or president of court, or of consular officer with title and seal.

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FORM E.

SUMMONS TO MASTER OR MEMBER OF CREW FOR AN OFFENCE AGAINST THE MERCHANT SHIPPING ACTS.

WHEREAS a Naval Court has been summoned by (a) for the purpose of (b)

A [And whereas you are accused of the offence of (c) _____]

B [And whereas the offence of which you are so accused as aforesaid is (c) _____] an offence against the Merchant Shipping Act (1894) (1906) which is punishable on summary conviction. These are therefore to command you to be and appear on _____ at _____ o'clock in the _____ noon at _____ before the said Court to answer to the said accusation and to be further dealt with according to law.

Given under my hand this _____ day of _____ in the year of our Lord one thousand nine hundred and _____ at _____

[Signed by the President of the Naval Court, or by the Officer by whom the Naval Court has been summoned.]

(a) Name the officer convening the Court.

(b) Here quote fully from convening summons showing that the Court was summoned to hear a complaint touching the conduct of

the master or any of the crew of the ship. See sec. 483 (1) (h).

(c) Paragraph B. is to be substituted for paragraph A., when the only complaint touching conduct which the Court is summoned to hear is that of an offence against the Merchant Shipping Act, 1894, to be tried under the powers given in section 483 (1) (h).

FORM F.
SUMMONS TO A WITNESS.

To (a)

THE MERCHANT SHIPPING ACT, 1894.

WHEREAS a Naval Court has been duly convened to assemble at (b) for the purpose of (c)

(a) Give name and full description of witness.

(b) Here describe precisely the place of meeting, e.g., " at the British " [Vice] Consulate [General] at
" on board H.M.S. now anchored off , " or as the case may be.

(c) Here state shortly the purpose for which Court is convened as given in summons convening Court, and if a person is to be tried for an offence against the Merchant Shipping Acts state the offence in the words of the Act.

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and it appears that you are likely to be able to give material evidence to the said Court.

This is to summon you to appear before the said Naval Court on the day of 19 at o'clock in the noon, to testify what you know concerning the matter aforesaid, (d)

Given under my hand on this day 19

(e)

FORM G.
SHIPPING CASUALTIES.

NOTICE.- WITH EXAMPLES OF CHARGES .

To (f) (master), (officer), (engineer) of the British

I hereby give you notice that, upon the investigation to be held by the Naval Court into the circumstances attending the (describe the casualty), you will be charge with having caused the (loss) (abandonment of) (serious damage to) the said ship (loss of life) by your wrongful act or default in that you--

- neglected to set a safe and proper course at on the and neglected to see that the course set at on the was steered thereafter,

-neglected to ascertain and verify the position of the vessel at , on the and from time to time thereafter.

-neglected to reduce the speed of the vessel at on the , or thereafter.

-neglected to comply with Article of the Regulations for Preventing Collisions at Sea

-neglected to cause a good and proper look-out to be kept.

-neglected to heave the lead with sufficient frequency.

-neglected to take Proper and sufficient measures to keep the water under and to save the vessel.

-prematurely abandoned the vessel.

-neglected to take prompt and proper measures to save life.

(d) Add when necessary "And to bring thereand then and produce to the Court the following documents in your possession "[describe them]." and any other document in your possession, custody, or control relating " to the matters aforesaid,

(e) Signature of naval, officer convening, or president of court, or of consular officer, with title and seal.

(f) Give full name.

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(To an Officer.) neglected to comply with the standing orders of the ship (enumerating them), or the order, given to you by the master at a.m., or p.m., of the day of
-neglected to steer the course set by the master.
-neglected to order a proper look-out to be kept.
-neglected to comply with Article of the Regulations for Preventing Collisions at Sea.
Dated this day of 19

Naval or Consular Officer.

**FORM H.
FORMS FOR ADMINISTERING OATH OR.
AFFIRMATION.**

Witness' Oath.

(a)

You swear that the evidence you shall give before this Court shall be the truth, the whole truth, and nothing but the truth. So help you God.

Witness' Affirmation. (b.)

(a)

You solemnly, sincerely, and truly affirm and declare that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth (*and the witness shall answer, " I do "*).

(a) Repeat name of witness.

(b) Affirmations in lieu of oaths are permitted in any court of civil judicature or in any court of criminal jurisdiction, or in the course of any criminal proceeding by any person conscientiously objecting to an oath, if the court or judge or other presiding officer is satisfied of the sincerity of such objection. In that case the above form of affirmation should be prefaced with the words following, viz., " You do solemnly, sincerely, and " truly affirm and declare that the taking of any oath is according to your religious belief unlawful, and you do also solemnly . . . etc.," as in the form of affirmation given above (17 & 18 Vict. c. 125. s. 20 ; 24 & 25 Viet. c. 66 s. 1.) In any court of justice persons objecting to or objected to as incompetent to take an oath shall, if the presiding judge is satisfied that the taking of an oath would have no binding effect on his conscience. make a promise and declaration in the following form : " I solemnly " promise and declare that the evidence given by me to the court shall be the truth, the whole truth, and nothing but the truth." (32 & 33 Vict. 2. 68. s. 4.) The words " court of justice " and the words " presiding judge" in the above enactment shall be deemed to include any person or persons having by law authority to administer an oath or the taking of evidence. (33 & 34 Vict. c. 49. s. 1.)

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Interpreter' s Oath.

(c)

You swear that you will rightly and faithfully, and to the best of your ability, interpret the oath or oaths, affirmation or affirmations, which shall be administered to each and every witness produced and examined before this Court, and also all statements, questions, by or to the witnesses, and their evidence and other matters which you shall be required to do by this Court. So help you God.

(c) Repeat name of interpreter.

**FORM I.
HEADING AND TERMINATION FOR DEPOSITIONS (a) BEFORE NAVAL COURTS WHERE NO
INTERPRETER IS REQUIRED.**

Annex No.

THE MERCHANT SHIPPING ACT, 1894.

AT a Naval Court held at (b) _____, on the (c) _____
day of 19____, (d) _____ being called (e) _____
sworn and examined (f) _____ deposed as

follows : —

[Here give the evidence of the witness in a narrative form, recording the exact terms of any particular question and answer, if deemed desirable. When his statement is concluded, if he is questioned by the Court or other party, the evidence then given should be preceded by the

(a) It is important to observe the prescribed form of heading and attestation to depositions of witnesses.

(b) Name of place.

(c) This date should be that of the day on which the witness is examined, and not necessarily the first day of the Court's meeting.

(d) Here insert the name of witness in full and description, e.g., "N.N., " Master of the British sailing ship Mary Ann, of Shields, official number " 100," or as the case may be.

(e) Here, if necessary, may be inserted " for the prosecution " or " for " the defence."

(f) In cases where the witness is permitted by law to make an affirmation or declaration omit the words " sworn and examined," and insert in lieu thereof, " having duly made an affirmation [or declaration according to law."

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words " In answer to the Court," " In answer to the accused," " In answer to the prosecutor," or as the case may be.]

(g)

I hereby certify that the foregoing is the evidence of (h) _____ taken before the Court as above described [in criminal cases add " and in the presence of the accused N.N."], and duly signed by the said witness.

Before me,

(i)

President of Naval Court.

(g) The witness must sign at the end of his deposition.

(h) Insert name of witness.

(i) Signature of president of Court with his official title, and if consular officer his official seal. -

FORM J.

HEADING AND TERMINATION FOR DEPOSITIONS BEFORE NAVAL COURTS WHEN THE WITNESS IS UNACQUAINTED WITH ENGLISH AND AN INTERPRETER IS EMPLOYED.

Annex No. _____

THE MERCHANT SHIPPING ACT, 1894.

AT a Naval Court held at (a) _____ on the (b) _____
day of 19____, (c) _____ being called (d) _____
and it appearing that he was unacquainted with English (e) _____ was sworn to interpret truly
and correctly; the witness was then also duly sworn (f) _____ and examined through
an interpreter, when he deposed as follows: _____

[Here give the evidence as indicated in Form I.]

(g)

(a) Name of place.

- (b) his date should be that of the day on which the witness is examined, and not necessarily the first day of the Court's meeting.
- (c) Here insert the name of witness in full and description. e.g., " N.N.
" Master of the British sailing ship ' Mary Ann,' of Shields, official number <' 100."
- (d) Here, if necessary, may be inserted " for the prosecution," or " for the defence."
- (e) Insert name of interpreter.
- (f) If witness was not sworn for any reason, the words " sworn and examined " are to be altered, as in note to Form I.
- (g) The interpreter must sign at the end, and the witness may sign also, but this is not essential.

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certify that the foregoing is the evidence of the witness (h) taken before this Court as above described by the aid of the interpreter (i), [in criminal cases add " and in the presence of the accused N.N."], and duly signed by the said interpreter [and witness].

Before me,

(k)

President of Naval Court.

(h) Name of witness.

(i) Insert name of interpreter.

(k) Signature of president of Court with his official title, and if a consular officer his official seal.

FORM K.

HEADING AND TERMINATION FOR DEPOSITIONS BEFORE NAVAL COURTS WHEN THE ACCUSED IS UNACQUAINTED WITH ENGLISH AND AN INTERPRETER IS REQUIRED TO INTERPRET THE EVIDENCE TO HIM.

Annex No.

THE MERCHANT SHIPPING ACT, 1894.

AT a Naval Court held, &c., (as in Form I.)-

(a)

I (b) do declare that I duly and correctly translated to the accused (c) in (d) the above evidence, as also the questions put to the above-named witness. and his replies.

(e)

I hereby certify that the foregoing is the evidence of (f) taken before the Court as above described in the presence of the accused (c) towhom it was duly interpreted by (b) duly sworn to interpret truly, and duly signed by the said witness and interpreter.

Before me,

(g)

President of Naval Court.

(a) Signature of witness at the end of his deposition, as in Form I.

(b) Insert name and description of interpreter. •

(c) Name of accused.

(d) Language with which accused is acquainted.

(e) Signature of interpreter.

(f) Name of witness.

(g) Signature of president of Court, with his official title, and if a consular officer, his official seal.

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FORM L.

FINDING AND ORDER OF A NAVAL COURT.

Finding and order of a Naval Court held at (a) on the days) of 19 , to investigate (b)

Examples of the Finding of a Naval Court.

(a) In cases of Shipping Casualty.

The _____ was a _____ vessel _____ rigged
of _____ tons registered tonnage, official number built at _____ in 19 _____, and belonging to the port
of _____

It appears from the evidence given before this Court that she sailed from on or about the _____ bound
for _____ with a cargo of _____ and a crew of _____ hands all told, as well as
_____ passengers.

[Here give a narrative of the voyage so framed as to elucidate the subsequent findings and order of the Court.]

The Court having regard to the circumstances above stated finds as follows —

That the master _____ was in error in [the loss, or abandonment of, or serious damage
to the (c) _____ or loss of life was caused by the wrongful act or default of (d) _____ in]
[approaching too near to the land when _____] [not altering his course when _____]
[leaving the deck at a time when the safety of the ship required his personal supervision] or otherwise as the
case may be

That the master _____ appears to have navigated his vessel in a seamanlike and proper manner, and
when a casualty was inevitable to have done everything in his power to avert

That the Court sees no ground for blaming the conduct of _____ after the

That _____ who holds a certificate as _____ and who was on watch at the time of the
_____ [appears to the Court to have given the proper directions, and deserves praise for the
manner in which he performed his duty].

The Court desires to place on record its high opinion of _____

(a) Place.

(b) Here state cause for which Court was ordered, as in summons convening the Court.

(c) Name of ship.

(d) The master, chief officer, second officer, or engineer, as the case may be.

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the gallant conduct fable management] [skilful navigation] of

That the crew appear to have conducted themselves properly, and used their utmost exertions to

That proper discipline appears to have been maintained on board the _____ and _____ the Court
considers that the conduct of _____ is specially worthy of notice since it appears that

_____ [give reason for remark.] That upon the evidence given the _____ vessel appears to have
been well found, sufficiently manned, and seaworthy at the time of her departure from _____ with
the exception that

That her cargo of _____ appears to have been well and properly stowed, (e) and sufficient dunnage used
[or as the case may be].

That she had [no deck cargo, [but it was]

That she was [not] overloaded. [If she was overloaded, the matter must. he fully stated and the finding of the
Court explained.]

That the log book has been well kept [or as the case may be] by _____ the

That the _____ appears to have been properly supplied with charts.

That the _____ was not supplied with recent [accurate] charts.

That the _____ was not in the opinion of the Court, provided with proper charts for the voyage on
which she was engaged [state fully reason for this remark and what charts were on board].

That the Court desires especially to direct the attention of the Board of Trade to the fact that [here insert any
matter or opinion which the Court considers should be brought to the special notice of the Board of Trade.]

[Then follow any further remarks the Court may wish to make before stating the order to be made.]

(b) In the case of crimes, misdemeanors, or offences against the Merchant Shipping Act.

EXAMPLE 1 That having heard and carefully considered the evidence given before the Court in the
presence of the [accused] [said _____] as also his statement in defence, and
having taken into consideration his plea of _____ [and having due regard to the fact that

]the Court finds.

EXAMPLE 2. That [a charge having been brought before

(e) If the ship has grain cargo shipped at a port within the limits mentioned in section 453 of the Act, insert the words "in accordance with " the provisions of the fourth part of the Merchant Shipping Act, 1894," or, "in accordance with the prescribed rules," as the case may be.

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the Court] [a complaint having been made to the Court] by (f) that A.B. [the master] [a seaman] [an apprentice] [belonging to the British ship] [who had within three months previously been employed in the British ship] had committed an offence upon the high seas [or at some place abroad, naming it] to wit that he had [describe the offence against property or person or otherwise, and if possible in the words of the statute constituting the offence] the Court has inquired into the case upon oath and finds that it is necessary to [place the said] under restraint and to] send him to the United Kingdom [or if a British possession, naming it] for the trial of the said offence.

EXAMPLE 3. That having heard and carefully considered the evidence -given before this Court touching the circumstances under which [the seaman] was left behind at] or whatever the case may be] and having duly considered the explanation of the circumstances given by the Court finds

That [] is guilty of (g)

That [] is not guilty of (g)

That [] has not only failed to substantiate the [] charges of (g) brought by him against [], but the Court considers [them to be vexatious and without foundation] [the complaint most frivolous] [there was just cause for an inquiry] [or as the ease may be].

That the Court considers that [] that met his death from accidental causes; and [as the ease may be].

That the evidence touching the death of [] is unsatisfactory and meagre, that the deceased appears to have [] but that there is no evidence to [warrant the suspicion that he was murdered] [warrant the suspicion of foul play which has been cast on []]

That [] gave his evidence in a most unsatisfactory manner.

That [] is fully acquitted of the charge (g) [brought against him by []].

That the evidence tends to show that the discipline on board the [] was [] and that [] is greatly to blame for [] [state cause].

Examples of Orders of a Naval Court.

(a) Removal of Master.

[The Court being unanimous that the safety of the ship (crew) (the interest of the owners) absolutely requires it, orders that [] be removed from the post of master

(f) Describe the complainant in the language of sub-sec. i. of sec. 480 Merchant Shipping Act, 1894.

(g) Describe the charge in the words of the statute as in the summons

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of the said ship.] A copy of the report or a statement the case upon which the investigation was ordered having been furnished to the said [] before the commencement of the investigation, the Court orders that his certificate as [] issued by [] be [cancelled, and the same is hereby cancelled] [suspended, and the same is hereby suspended for the period of [] calendar months from this day] (h).

Appointment of New Vaster if and when required.

And that [with the consent of the consignee of the Braid, ship] [the consignee of the said ship not being at the place] [] be appointed to act in the stead of as master thereof.

(b) Suspension or Cancellation of Certificate in case of Shipping Casualty. .

THE COURT in pursuance of the powers vested in it by [] section [] therefore orders : —

That a copy of the report or a statement of the case upon which the investigation was ordered having been , .
furnished to before the commencement of the investigation, his certificate' as [master]
[mate] [engineer] No. issued by the [Board of Trade] [Governor or Marine Board of
as the case may be] and dated be for the wrongful [act] or [default]
aforesaid [suspended for the period of calendar months from this day] [cancelled].

**(b 1.) Suspension or Cancellation of Certificate of Mate or
Engineer in cases other than Shipping Casualty.**

The Court orders that the said be discharged from his ship the of , and the
Court being of opinion that the said has been guilty of [e.g. a gross act of misconduct or
drunkenness or tyranny]. further orders that the certificate of the said as [mate or engineer] No.
issued by the [Board of Trade or as the case may be] and dated the be [suspended for the
period of calendar months from this day] [cancelled].

(c.) Discharge of seamen and forfeiture of wages.

The Court in pursuance of the powers vested in it by section 483 of 57 & 58 Vict. c. 60, orders that be
discharged from his ship the of

(c) The latter portion of this finding to be adopted when the Court determines to deal with the master's certificate as well as to
supersede him

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(d.) Forfeiture of wages.

The Court in pursuance of the powers vested in it by section 483 of 57 & 58 Viet, c. 60, orders that the
balance of wages due to be forfeited and [paid into the receipt of 11.31. Exchequer] [paid by
way of compensation to the owner].

(e) Settlement of wages.

The Court in pursuance of the powers vested in it by section 483 of 57 & 58 Viet. c. 60, decides that the
balance of wages due to of the is £

(f.) Order as to cost of imprisonment abroad.

The Court in pursuance of the powers vested in it by section 483 of 57 & 58 Vict. c. 60, orders that the costs
incurred by the [master] [owner] of the in procuring the imprisonment of
[seaman] [apprentice] at and his maintenance whilst so imprisoned be paid out of and
deducted from his wages already earned or hereafter to be earned.

(g.) Discharge of Seaman and order that he be sent for trial.

The Court in pursuance of the powers vested in it by
section 483 of 57 & 58 Vict. c. 60, orders that be
discharged from his ship the
of herein [a P that the sum
proceedings before the said Court he paid the by the said the pro, being one of the parties thereto, and be
deducted from his wages, and that the balance of his wages, if any, be forfeited and he paid into the receipt of
H.M. Exchequer, and further that the said be sent to the Kingdom [or a British Possession,
naming it] there to be tried for that he be (k) [retained in prison until the due on the
shall leave for] [retained in prison till some opportunity approved by H.M. Consul shall.
occur for sending him to]

Seaman discharged and ordered to be sent as witness.

That be discharged from the ship the as from the day of
paid to him up to that date] and that he be sent to [the

(k) Here describe the steps in the power of the Court for the purpose of placing the offender under necessary restraint, and of
sending him as soon as practicable in safe custody to the United Kingdom or to a British Possession in which there is a Court capable
of taking cognizance of the offence. See subsec. 1 of section 689, Merchant Shipping Act, 1894 (page 73).

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United Kingdom] [or a British Possession, naming it] as a witness to give evidence in the proceedings to be
there . taken against the said for the offence aforesaid.

(h.) Sentence of fine or imprisonment for an offence

powers vested in it by 57 & 58 Viet. c. 80, the said _____ is hereby ordered to pay to, _____
the sum of £ _____ being compensation for. [loss] [delay] caused thereby.

(g) Senior Naval or Consular Officer present at the place where the Court is held.
20392D

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Termination of Finding and Order.

The expenses of this Court, fixed at £ _____ are approved. Dated at _____ this _____ day
of _____ 19 _____

(k)

President of Naval Court 1

(L)

}
} Members.
}
}

FORM M.
REPORT OF PROCEEDINGS OF A NAVAL COURT

REPORT of the proceedings of a Naval Court convened by (a) _____ and held at (b) _____
on the _____ day of _____ 19 _____, (c) _____ to inquire into (d) _____ annex No. .
At the hour of _____ in the _____ noon on the said _____ day of _____ 19 _____, the Court
composed as follows, duly assembled, viz.:—

(e) _____ President.

} Members.

}

The summons convening the Court was read by (f) _____ who had been nominated as Clerk
of the Court.

(k) Signature of president, with official title, and, if a Consular Officer his official seal.

(L) Signatures of members of court, with titles and descriptions, e.g., ,

- H.M. Consul [General] at ,
- British Vice-Consul at _____
- Lieut., R.N., H.M.S. _____ at _____
- , -Master of the British _____,
- British Merchant at _____

- (a) Insert name and title in full of naval or consular officer summoning the court.
- (b) Here describe precisely the place of meeting as given in the summons.
- (c) If lasting more than one day insert here " and on the day or days of _____
- (d) Here state purpose for which Court was summoned, following the wording of the summons.
- (e) Insert names and description of president and members of the Court s given in the summons.
- (f) Insert name of person who acts as clerk of the Court.

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NOTE.—*To facilitate the drawing of the report the following paragraphs are added to be adapted to the circumstances of each case.*

A letter from the master of the _____ to _____ requesting that a Naval Court
might- be held to investigate _____ was read by the clerk of the Court. _____ annex (g) No
[The entry in the official log book], [or]
The complaint which gave rise to the summoning of the Court] was read by the clerk of the Court, and is

annexed hereto in [certified copy] , [original].

Annex No

. [A certified copy of the] [The original] summons served on the parties is annexed.

annex No

A certified copy of the protest made by the muster of the at the British Consulate at and sworn to by of his crew, was handed to the Court by and read by the clerk, and is annexed hereto.

Annex No.

The official log book of the was handed in to the Court by

" and portions thereof, of which a certified copy is annexed, were read by the clerk.

The handed to the (:chart the chart [describe it, giving also name of publisher and date] which has been used for the navigation of the vessel ; this was returned at the conclusion of the proceedings.

The entry in the official log, being the statement of the circumstances which gave rise to the summoning of the Court, was read by the clerk of the Court, and a certified copy is returned.

The Court having been summoned to hear the [complaint] [charge] set forth in the said summons convening the Court [being a complaint touching the conduct of the muster and or members of the crew, of the] proceeded to hear and investigate such [complaint] [charge].

The [accused] [said] [as also the prosecutor] complainant] and others being present in Court, the [accused] was asked by the president whether he pleaded guilty or not guilty to the charge of to , which he replied that he [PLEADED GUILTY, and the Court thereupon stated that they would nevertheless bear the evidence and investigate the case. [Pleaded Guilty, and the Court thereupon stated that they would bear sufficient evidence to form a just opinion of the case, and receive any statement the [accused] [said might wish to make]. •

(g) Original documents and depositions should, whenever practicable, be sent to the Board of Trade ; when not practicable, the copies must be duly certified and the reason for not sending the originals should be stated to the Board of Trade in transmitting the report.

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[Refused to Plead ; and the Court ordered the trial to proceed].

[Pleaded Not Guilty : the Court therefore ordered the trial to proceed] .

The Court then [considering it desirable] [on the application of] ordered the witnesses [other than the parties to the proceedings] to withdraw.

was called, sworn, and examined.

Annex No

was called, and being unacquainted

annex No

with English, was sworn and examined through

Annex No

who had been previously sworn as interpreter was called and examined, but not on oath since (h).

At P.M. the sitting of the Court was suspended

annex No

for , and on the Court resuming at P.M. was called, sworn, and examined.

At P.M. the Court adjourned until the day of at o'clock in the noon.

NOTE.—*The following paragraph A. to be adopted upon the trial of any offence.*

The evidence having been concluded, the president then asked the accused whether, having heard the evidence, he wished to say anything in answer to the charge, reminding him that he need not say anything unless he wished, and that whatever he did say would be taken down in writing and might be used against him, whereupon he made a statement (i) in the terms hereto annexed.

Annex No.

The evidence is hereto annexed.

Annex No.

NOTE.—*In cases of shipping casualty the following paragraphs B. and C. must be adopted.*

B A copy of the report [or statement of the case] upon which the investigation was ordered was furnished [] before the commencement of the investigation in pursuance of the statute 57 & 58 Vict. c. 60. s. 470. A certified copy is annexed, endorsed with a memorandum of service signed by the person

who served the original.

C A charge (copy of which is annexed hereto) having annex No.
been made against . he was present in Court during the whole of the proceedings, and full
opportunity of making a defence was given to him. That defence was

(h) See note (b) to Form H : p. 39.

(i) In cases confined to an enquiry into a wreck, abandonment, or loss of a ship the certificated officers are, by analogy to the procedure of formal investigations, competent witnesses. In other cases affecting certificated officers in which a charge is made of incompetency or misconduct, and in purely criminal cases in which a charge is made such as those heard under Section 483 (i) (h), the accused may elect to give evidence in their own defence but cannot be compelled to be examined as witnesses.

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The Court then ordered all persons to withdraw, and after considering the finding and order, they resumed, when, in the presence of the [accused] [said] [witnesses, and others] [the master and crew of the and others] the finding and order of the Court, which is to be deemed a part of this report (k), was read by the president; (L) and a copy is annexed. Annex No.

The Court recommends that a certificate as be issued to the said (m.)
[A copy of the conviction is annexed.]

An account of the expenses of the Court is annexed. Annex No.

[A certified copy of the wages account of being a seaman discharged by order of the Court is annexed.] annex No.

[Signature and official title of President, and, if a Consular officer, his official seal.]

President of Naval Court.

FORM N.
EXPENSES OF NAVAL COURT. (a)

Annex No.

THE MERCHANT SHIPPING ACT, 1894.

Account of the expenses of a Naval Court held at (b) on the day (c) of
19 to inquire into (d,

£ s. d. Currency.

To Mr. British Merchant, a member of the Court, days
attendance at £

Carried forward £

(k) It is necessary that the finding and order shall be made a part of the Report, in order to comply with the requirements of section 484 of the Merchant Shipping Act, 1894.

(L) See section 470 (2) and (3).

(m) The Board of Trade may grant to any person whose certificate has been cancelled or suspended a certificate of a lower grade. See section 474. It is competent for the Court, and it is a common practice, to make a recommendation accordingly. (See paragraph 57, p. 19.)

(a)-To avoid liability to disallowance by the Board of Trade this account should be drawn up and signed before delivering the finding or order of the Court, see Form L.

(b)-Name of place.

(c)- Or days.

(d)- Here state cause for which Court was ordered, as given in summons convening the Court.

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Brought forward

£ s, d. Currency.

To Mr. Master of
the a , member of the Court, days attendance at £ ...

In pursuance of the provisions of the Merchant

(a) This should, if possible, be served personally upon the master of the ship to whom it is addressed, by delivering; a copy thereof to him, but it may also be served by leaving a copy for the master on board the ship with the person being or appearing to be in command or charge of such ship. Merchant Shipping Act, 1894, s. 696 •

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Shipping Act, 1894, 57 & 58 Viet. c. 60. s. 689 (b), you are hereby required to receive on board your vessel and convey to _____ as a prisoner _____ late [seaman] of the British ship of, _____ Official Number _____, who was ordered by a Naval Court (c) convened by [following summons convening] and held at _____ on the [day] [days] of _____ [instant] [last past] to be sent to (d) _____ to be tried there for [state clearly the crime for which he is to be tried].

You will afford the prisoner a passage and subsistence during the voyage, and on your arrival you will deliver the said _____ into the custody of some police officer or constable, who shall take him before a justice of the peace or other magistrate by law empowered to deal with the matter.

You will also receive and convey to _____ aforesaid _____ the [seamen] whom the Court ordered to be sent as witnesses and afford them a passage and subsistence during the voyage. (e)

Given under _____ hand and seal [at the British [Vice] Consulate General] at _____ on this day of _____ 19 .

[Signature and title of consular officer, or three members of the Court.]

[Seal.]

FORM R.

EXPENSES INCURRED FOR A PRISONER SENT FOR TRIAL. (a)

Expenses incurred by H.M. Consul at _____ on behalf of _____, a [seaman] of the British, of _____ Official Number _____, sent to as a prisoner for trial

The power of a Naval Court to make the order for conveyance under this section is conferred by section 433 (1) (g) of the Merchant Shipping Act, 1894.

Depositions should in every case be taken whether a Naval Court is held or not, and should be sent forthwith to the **Board** of Trade or to the Governor of the British possession, as the case may be. In the latter case, if a Naval Court has been held, the report to the Board of Trade must be accompanied by certified copies of the depositions.

United Kingdom or British possession.

If possible, the fact of the prisoner and witnesses having been placed on board a vessel should be noted on the ship's articles.

(a) This account must be forwarded to the Board of Trade or to the Governor of the British possession, as the case may be.

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by order of a Naval Court held at _____ on day of _____ 19 .
£ s. d. Currency.

Expenses of Naval Court.....

Prison and Police expenses

Subsistence whilst at Police Station.....

Boat taking him on board the _____
for conveyance to ...

Subsistence of witness _____ for _____

Total £

Dated at _____ this _____ day of _____ 19

[Signature of Consular Officer.]

APPENDIX V.

**SECTIONS AND EXTRACTS FROM SECTIONS OF THE
MERCHANT SHIPPING ACTS.**

THE MERCHANT SHIPPING ACT, 1894.

19. Where the master of a registered British ship is changed each of the following persons, that is to say :—

(a) if the change is made in consequence of the sentence of a naval court, the presiding officer of that court ; and

(b) if the change is made in consequence of the removal of the master by a court under Part VI. of this Act, the proper officer of that court ; and

(c) if the change occurs from any other cause, the registrar, or, if there is none, the British consular officer, at the port where the change occurs;

Part 1
Registry

Endorsement
of change of
master on
certificate

shall endorse and sign on the certificate of registry a memorandum of the change, and shall forthwith report the change to the Registrar-General of Shipping and Seamen ; and any officer of customs at any port in Her Majesty's dominions may refuse to admit any person to do any act there as master of a British ship, unless his name is inserted in or endorsed on her certificate of registry as her last appointed master.

Part II
Master and
Seamen
Rule as to
payment of
British
Seamen in
foreign
money

139. Where a seaman has agreed with the master of a British ship for payment of his wages in British sterling or any other money, any payment of, or on account of his wages, if made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated in the agreement, for the nine being current at the place where the payment made.

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168. Where a proceeding is instituted in or before any court in relation to any dispute between an owner or master of a ship and a seaman or apprentice to the sea service, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if having regard to all the circumstances of the case, they think it just to do so, may rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the court may think just, and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

Power of court to
rescind contract
between owner
or master and
seaman or
apprentice

Provisions, Health, and Accommodation .

198.—(1.) If three or more of the crew of a British ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity, they may complain thereof to any of the following officers, namely, an officer in command of one of Her Majesty's ships, a British consular officer, a superintendent, or a chief officer of customs, and the officer may either examine the provisions or water complained of or cause them to be examined.

Complaints
as to
provisions
or water.

(2) If the officer, or person making the examination, finds that the provisions or water are of bad quality and unfit for use, or deficient in quantity, he shall signify it in writing to the master of the ship, and if the master of the ship does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity, or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable to a fine not exceeding twenty pounds.

The officer directing, or the person making, the examination shall enter a statement of the result of the examination in the official log book, and send a report thereof to the Board of Trade, and that report shall be admissible in evidence in manner provided by this Act.

(4) If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

199. In either of the following cases; (that is to say,)

(i) if during a voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced (except in accordance with any regulations for reduction by

Allowance
for short or
bad
provisions.

way of punishment contained in the agreement with the crew, and also

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except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct either on board or on shore) ; or

(ii) If it is shown that any of those provisions are or have during the voyage been bad in quality and unfit for use;

the seaman shall receive, by way of compensation for that reduction., or bad quality, according to the time of its continuance., the following sums, to be paid to him in addition to, and to be recoverable as, wages ; (that is to say,)

(a) if his allowance is reduced by not more than one third of the quantity specified in the agreement, a sum not exceeding fourpence a day;

(b) if his allowance is reduced by more than one third of that quantity, eightpence a day :

(c) in respect of bad quality as aforesaid, a sum not exceeding one shilling; a day :

But if it is -shown to the satisfaction of the court-before whom the case is tried that any provisions, the allowance of -which has been reduced, could not be procured or supplied in proper quantities, and that-proper and equivalent substitutes were supplied in lieu thereof, the court shall take those circumstances into consideration, and shall modify or refuse -compensation as the justice of the case requires.

200.—(1) The Board of Trade shall issue scales of medicines and medical stores suitable for different classes of ships and voyages, and shall also prepare or sanction books containing instructions for dispensing the same.

(2) The owner of every ship navigating between the United Kingdom and any place out of the same shall provide and Cause to be kept on board a supply of medicine and medical stores according to the scale appropriate to the ship, and also the said books or one of them.

(3) The master or owner of every such ship, except in the case of—

(a) ships bound to European ports or ports in the Mediterranean Sea ; and •

(b) Such ships or classes of ships bound to ports on the eastern coast of America, north of the thirty-fifth degree of north latitude, and to any islands or places in the Atlantic Ocean north of the same limit as the Board of Trade may exempt ;

shall provide and cause to be kept onboard a sufficient quantity of anti-scorbutics in accordance with the regulations in the fifth Schedule to this Act, and those regulations shall have effect as part of this section), and the master shall serve out the anti-scorbutics to the crew according, to the said regulations, and if a seaman or

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apprentice refuses or neglects to take the anti-scorbutics when served out, that fact shall be entered in the official log book, and the entry shall be signed by the master and by the mate or some other of the crew, and also by the medical practitioner on board if any.

If any requirements of this section with respect to the provision of medicines, medical stores, book of instruction, or anti-scorbutics is not complied with in the case of any ship, the owner or master of that ship shall, for each offence, be liable to a fine not exceeding twenty pounds, unless he can prove that the non-compliance was not caused through his inattention, neglect, or wilful default

If any requirement of this section with respect to the serving out of anti-scorbutics or making an entry in the official log-book is not complied with in the case of any ship to which the requirements apply, the master of the ship shall, for each offence, be liable to a fine not exceeding five pounds, unless he can prove that the non-compliance did not arise through any neglect, omission, or wilful default on his part.

If it is proved that some person, other than the master or owner, is in default in any case under this section, that person shall, for each offence, be liable to a fine not exceeding twenty pounds.

If any person manufactures, sells, or keeps, or offers for sale any medicines or medical stores for use on board ship which are of bad quality, he shall, for each offence, be liable to a fine not exceeding twenty pounds.

201.—(1) The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out the provisions and articles in the presence of a witness whenever any dispute arises about the quantities.

(2) If the master of a ship fails without reasonable cause to comply with this section, he shall for each

Regulations respecting medicines, anti-scorbutics, & etc;

Weights and measures on board.

offence be liable to a fine not exceeding ten pounds.

202.—(1) It shall be the duty of the medical inspector of ships for the port appointed under this Part of this Act to inspect the medicines, medical stores, and antiscorbutics with which a ship is required by this Part of this Act to be provided.

Inspection of medicines, medical stores, and anti-scorbutics.

(2) For the purpose of that inspection a medical inspector of ships shall have all the Powers of a Board of Trade inspector under this Act, and shall act, if appointed by a local Marine board, under the direction of that board (except in special cases in which the Board of Trade require an inspection to be made), and, if appointed by the Board of Trade, under the direction of the Board of Trade.

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(3) The medical inspector of ships shall make his inspection three clear days at least before the ship proceeds to sea, if reasonable notice in writing for the purpose is given to him by the master, owner, or consignee, and, where the result of the inspection is satisfactory, shall not make another inspection before the ship proceeds to sea, unless he has reason to suspect that any of the articles inspected have been subsequently removed, injured, or destroyed.

(4) If the medical inspector of ships is of opinion that the articles in question are deficient in quantity or quality, or are placed in improper vessels, he shall give notice in writing to the chief officer of customs of the port where the ship is lying, and also to the master, owner, or consignee thereof, and the master of the ship before proceeding to sea shall produce to the chief officer of customs a certificate under the hand of the same or some other medical inspector of ships, that the default found by the inspector has been remedied, and if that certificate is not so produced, the ship shall be detained until the certificate is produced and if the ship proceeds to sea, the owner, master, or consignee of the ship shall, for each offence, be liable to a fine -not exceeding twenty pounds.

203.—(1) A medical inspector of seamen appointed under this Part of this Act shall, on application by the owner or master of any ship, examine any seaman applying for employment in that ship, and give to the superintendent a report under his hand stating whether the seaman is in a fit state for duty at sea, and a copy of the report shall be given to the master or owner.

Medical inspection of seamen

(2) The applicant for that medical examination shall pay to the superintendent such fees as the Board of Trade direct, and those fees shall be paid into the mercantile marine fund.

204.—(1) The local marine board at a port may, upon being required by the Board of Trade to do so, appoint and remove a medical inspector of ships for the port, and subject to the control of the Board his remuneration, and at any port where there is no local marine board, the Board of Trade may appoint and remove a medical inspector of ships and may fix his remuneration.

Appointment of medical inspectors.

(2) The local marine board and at a port where there is no such local marine board the Board of Trade may appoint and remove a medical inspector of seamen, and that inspector shall be paid out of the mercantile marine fund such remuneration as the Board of Trade direct.

Appointment of medical inspector, and regulations as to supply of anti-scorbutics in colonies.

205. The governor of a British possession shall have the power in that possession-
(a) of appointing medical inspectors of seamen, of charging fees for medical examinations by those

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inspectors, and of determining the remuneration to be paid to those inspectors; and, subject to the laws of that possession, to make regulations concerning the supply in that possession of anti-scorbutics for the use of ships, and anti-scorbutics duly supplied in accordance with those regulations shall be deemed to be fit and proper for the use of ships.

206.—(1) In the case of ships trading or going from any port of the United Kingdom through the Suez Canal, or round the Cape of Good Hope or Cape Horn, the barrels of beef and pork, the preserved meat and vegetables in tins, and the casks of flour or biscuits, intended for the use of the crew of any such ship shall be inspected by such officer and in such manner as rules under this section direct, but before shipment whenever practicable, and, if in the

Inspection of provisions and water for crew of certain ships.

opinion of the inspecting officer they are fit for that use, that officer shall certify the same accordingly in manner directed by such rules.

(2) The inspecting officer may at any time proceed on board any such ship to ascertain whether the stores and water provided have been duly inspected, or, if not, whether they are of a quality fit for the use of the crew of the ship, and if he finds the same not to have been inspected. and to be deficient in quality, the ship shall be detained until the defects are remedied to his satisfaction.

(3) No fee for an inspection under this section shall be levied on the ship.

(4) The Board of Trade may make rules for carrying into effect this section, but all such rules shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next meeting of Parliament, and shall not come into operation until they have lain for forty days before both Houses of Parliament during the session of Parliament.

(5) The Board of Trade may appoint officers for the purposes of any inspection under this section, and may, with the concurrence of the Treasury, assign them remuneration to be paid out of moneys provided by Parliament.

209.—(1) Every foreign-going ship, having one hundred persons or upwards on board, shall carry on board as part of her complement some duly qualified medical practitioner, and if she does not the owner shall for every voyage of the ship made without a duly qualified medical practitioner be liable to a fine not exceeding one hundred pounds.

Certain ships to carry medical practitioners.

(2) Nothing in this section shall apply to an emigrant ship within the meaning of the Third Part of this Act.

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210.—(1) Every place in any British ship occupied by seamen or apprentices, and appropriated to their use, shall have for each of those seamen or apprentices a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet measured on the deck or floor of that place, and shall be subject to the regulations in the Sixth Schedule to this Act, and those regulations shall have effect as part of this section, and if any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine not exceeding twenty pounds.

(2) Every place so occupied and appropriated shall be kept free from -goods and stores of tiny kind not being the personal property of the crew in use during the voyage, and if any such place is not so kept free, the master shall forfeit and pay to each seaman or apprentice lodged in that place the SUM of one shilling for each day during which, after complaint has been made to him by any two or more of the seamen so lodged, it is not so kept free.

(3) Such fees as the Board of Trade fix shall be paid in respect Of an inspection for the purposes of this section, not exceeding the fees specified in the sixth Schedule to this Act.

223.—(1) If out of the United Kingdom, either at the commencement or during the progress of any voyage, a seaman or apprentice is guilty of the offence of desertion or of absence without leave, or otherwise absents himself from his ship without leave, the master, any mate, the owner, ship's husband, or consignee, may in any place in Her Majesty's dominions out of the United Kingdom, with or without the assistance of the local police officers or constables (and those officers and constables are hereby directed to give assistance if required)

Provisions as to arrest and imprisonment applying out of the United Kingdom.

and also at any place out of Her Majesty's dominions, if and so far as tin laws in force at that place will permit, arrest him without first procuring a warrant.

(2) A person so arresting a seaman or apprentice may in any case, and shall, in case the seaman or apprentice so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law and for that purpose may detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary hut if the seaman or apprentice does not require to be so taken before a court, or if there is.no such court at or near the place, the person arresting him may at once convey him on board his ship.

(3) If it appear to the court before whom the case is brought that an arrest under this section has been made

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on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee who made the arrest,

or caused it to be made shall be liable to a fine not exceeding twenty pounds; but the infliction of that fine shall be a bar to any action for false imprisonment in respect of the arrest.

(4.) If out of the United Kingdom a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end, his services are required on board his ship, a justice of the peace may, on the application of the master or of the owner or his agent, notwithstanding that the period of imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate, of the ship, or to the owner or his agent, to be by them so conveyed.

Power of court to order offender to be taken on board ship.

224.—(1.) Where a seaman or apprentice is brought before a court on the ground of the offence of desertion, or of absence without leave, or of otherwise absenting himself without leave, the court, if the master or the owner or his agent so require, may (and if out of the United Kingdom in lieu of committing him to prison) cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master, or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or, by virtue of his then existing engagement, may afterwards earn.

228.—If any offence within the meaning of this Act, of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine, and it is intended to enforce the fine—

(a) an entry of the offence or act shall be made in the official log book, and signed by the master, and, also by the mate or one of the crew ; and

(b) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of the entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and

Entry of offences in official log.

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(c) a statement of a copy of the entry having been so furnished, or of the entry having been so read over, and in either case, the reply (if any) made by the offender shall likewise be entered and signed in manner aforesaid ; and

(d) in any subsequent legal proceeding the entries by this section required shall, if practicable, be produced or proved, and in default of that production or proof the court hearing the case may, in their discretion, refuse to receive evidence of the offence or act of misconduct.

235.—(3) An act of misconduct for which any fine has been inflicted and paid by, or deducted from the wages of, the seaman shall not be otherwise punished under this Act.

239.—(1) An official log shall be kept in every ship (except ships employed exclusively in trading between ports on the coasts of Scotland) in the appropriate form for that ship approved by the Board of Trade.

(2) The Board of Trade shall approve forms of official log-books, which may be different for different classes of ships, so that each such form shall contain proper spaces for the entries required by this Act.

(3) The official log may, at the discretion of the master or owner, be kept distinct from, or united with, the ordinary ship's log, so that in all cases the spaces in the official log-book be duly filled up.

(4) An entry required by this Act in an official log book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence shall be made and dated so as to show the date of the occurrence, and of the entry respecting it and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge shall not be made more than twenty-four hours after that arrival.

(5) Every entry in the official log book shall be signed by the master, and by the mate, or some other of the crew, and also—

(a) if it is an entry of illness, injury, or death, shall be signed by the surgeon, or medical practitioner on board (if any) ; and

- (b) if it is an entry of wages due to, or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master ; and
- (c) if it is an entry of wages due to a seaman who enters Her Majesty's naval service, shall be signed by the seaman, or by the officer authorised to receive the seaman into that service.

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(6) Every entry made in an official log book in manner provided by this Act shall be admissible in evidence.

Entries required in official log book.

240.—The master of a ship for which an official log is required shall enter or cause to be entered in the official log book the following matters (that is to say) :—

- (1.) Every conviction by a legal tribunal of a member of his crew and the punishment inflicted :
- (2) Every offence committed by a member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the copy or reading over of that entry , and concerning the reply (if any) made to the charge, as is by this Act required :
- (3) Every offence for which punishment is inflicted on board, and the punishment inflicted :
- (4) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars :
- (5) Every case of illness or injury happening to a member of the crew, with the nature thereof, and the medical treatment adopted (if any) :
- (6) Every marriage taking place on board, with the names and ages of the parties :
- (7) The name of every seaman or apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner, and cause thereof :
- (8) The wages due to any seaman who enters Her Majesty's naval service during the voyage :
- (9) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom :
- (10) The sale of the effects of any seaman or apprentice who dies. during the voyage including a statement of each article sold and the sum received for it
- (11) Every collision with any other ship, and the circumstances under which the same occurred : and
- (12) Any other matter directed by this Act to be entered.

258.—If during the progress of a voyage the master is removed, or superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and if he fails without reasonable cause so to do, he shall be liable to a fine not exceeding one hundred pounds; and his successor shall immediately on assuming the -command of the ship enter in the official log book a list of the documents so delivered to him.

Documents to be handed over to successor on change of master.

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422.—(1.) In every case of collision between two vessels, it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any),

- (a) to render to the other vessel, her master, crew, and passengers (if any) such
- (b) assistance as may be practicable, and may be necessary to save them from any
- (c) danger caused by the collision, and to stay by the other vessel until he has ascertained
- (d) that she has no need for further assistance ; and also

PART V. SAFETY. Duty of vessel to assist the other in case of collision

(b) to give to the master or person in charge of the other vessel the name of his own vessel, and of the port to which she belongs, and also the names of the ports from which she comes and to which- she is bound.

(2) If the master or person in charge of a vessel fails to comply with this section, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

(3) If the master or person' in charge fails without reasonable cause to comply with this section, he shall be guilty of a misdemeanour, and, if he is. a certificated officer, an inquiry into his conduct may

Survey of ships alleged by seamen to be unseaworthy

be held, and his certificate cancelled or suspended.

463.—(1) Whenever in any proceeding against any seaman or apprentice belonging to any ship for the offence of desertion, or absence without leave, or for otherwise being absent from his ship without leave, it is alleged by one-fourth, or if their number exceeds 20 by not less than five, of the seamen belonging to the ship, that the ship is, by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witnesses whose evidence they may think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall, before adjudication, cause the ship to be surveyed.

(2.) A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has, before quitting his ship, complained to the master of the circumstances so alleged in justification.

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(3) For the purposes of this section, the court shall require any surveyor of ships appointed under this Act, or any person appointed for the purpose by the Board of Trade, or, if such a surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court, and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the court think fit to put.

(4) Such surveyor or other person shall survey the ship, and make his written report to the court, including an answer to every question put to him by the court, and the court shall cause the report to be communicated to the parties, and, unless the opinions expressed in the report are proved to the satisfaction of the court to be erroneous, shall determine the questions before them in accordance with those opinions.

(5) Any person making a survey under this section, shall, for the purposes thereof, have all the powers of a Board of Trade inspector under this Act.

(6) The costs (if any) of the survey shall be determined by the Board of Trade according to a scale of fees to be fixed by them, and shall be paid in the first instance out of the Mercantile Marine Fund.

(7) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand, or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid over to the Board of Trade.

(8) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Board of Trade, and shall be liable to pay to the seaman or apprentice, who has been detained in consequence of the said proceeding before the court under this section, such compensation for his detention as the court may award.

470.—(1.) The certificate of a master, mate, or engineer may be cancelled or suspended (a) by a court holding a formal investigation into a shipping casualty under this Part of this Act, or by a naval court constituted under this Act, if the court find that the loss or abandonment of, or serious damage to any ship, or loss of life, has been caused by his wrongful act or default, provided that, if the

PART VI. SHIPPING INQUIRIES AND COURTS
Power of court of investigation or inquiry as to certificate

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court holding a formal investigation is a court of summary jurisdiction, that court shall not cancel or suspend a certificate. unless one at least of the assessors concurs in the finding of the court :

(b) by a court holding an inquiry under this Part of this Act into the conduct of a master, mate, or engineer; if they find that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that in a case of collision he has failed to render such assistance or give such information as is

required under the Fifth Part of this Act :

(c) by any naval or other court where!, under the powers given by this Part of this Act, the holder of the certificate is superseded or removed by that court.

(2) Where any case before any such court as aforesaid involves a question as to the cancelling or suspending of a certificate, that court shall, at the conclusion of the case, or as soon afterwards as possible, state in open court the decision to which they have come with respect to the cancelling or suspending thereof.

(3) The court shall in all cases send a full report on the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, send the certificate cancelled or suspended to the Board of Trade with their report.

(4) A certificate shall not be cancelled or suspended by a court under this section, unless a copy of the report, or a statement of the case on which the investigation or inquiry has been ordered, has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

Naval Courts on the High Seas and Abroad.

480. A court (in this Act called a naval court) may be summoned by any officer in command of any of Her Majesty's ships on any foreign station, or, in the absence of such an officer, by any consular officer,* in the following cases, (that is to say,)

(i) whenever a complaint which appears to that officer to require immediate investigation is made to him by the master of any British ship, or by a certificated mate, or by any one or more of the seamen belonging to any such ship ;

(ii) whenever the interest of the owner of any British ship or of the cargo thereof appears to that officer to require it ; and

(ii) whenever any British ship is wrecked, abandoned, or otherwise lost at or near the place where that

*The expression " consular officer," includes consul-general, consul, vice-consul, consular agent, and any person for the time authorised to discharge the duties of consul-general, consul. or vice-consul.

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officer may be, or whenever the crew or part of the crew of any British ship which has been wrecked, abandoned, or lost abroad arrive at that place.

481.--(1.) A naval court shall consist of not more than five and not less than three members, of whom, if possible, one shall be an officer in the naval service of Her Majesty not below the rank of lieutenant, one a consular officer, and one a master of a British merchant ship, and the rest shall be either officers in the naval service of Her Majesty, masters of ships, or British merchants, and the court may include the officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against belong.

Constitution
of naval
courts.

(2.) The naval or consular officer in the court, if there is only one such officer, or, if there is more than one, the naval or consular officer who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of the court.

482.—(1.) A naval court shall hear the complaint or other matter brought before them under this Act, or investigate the cause of the wreck, abandonment, or loss, and shall do so in such manner as to give every person against whom any complaint or charge is made an opportunity of making a defence.

Functions
of naval
courts

(2.) A naval court may, for the purpose of the hearing and investigation, administer an oath, summon parties and witnesses, and compel their attendance and the production of documents.

483.—(1.) Every naval court may, after hearing and investigating the case, exercise the following powers; (that is to say,)

(a) the court may if unanimous that the safety of the ship or crew or the interest of the owner absolutely requires it, remove the master, and appoint another person to act in his stead ; but no such appointment shall be made without the consent of the consignee of the ship if at the place where the case is heard :

Powers
of
naval
courts

(b) the court may, in cases in which they are authorised by this Act and subject to the provisions of this Act, cancel or suspend the certificate of any master, mate, or engineer :

(c) the court may discharge a seaman from his ship :

(d) the court may order the wages of a seaman so discharged or any part of those wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the Exchequer, in the same manner as fines under this Act :

(e) the court may decide any questions as to wages or

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fines or forfeitures arising between any of the parties to the proceedings :

(e) the court may direct that all or any of the costs incurred by the master or owner of any ship in procuring

(f) the imprisonment of any seaman or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of that seaman or apprentice, whether then or subsequently earned :

(g) the court may exercise the same powers with regard to persons charged before them with the commission of offences at sea or abroad as British consular officers can under the Thirteenth Part of this Act :

(h) the court may punish any master of a ship or any of the crew of a ship respecting whose conduct a complaint is brought before them for any offence against this Act, which, when committed by the said master or member of the crew, is punishable on summary conviction, and shall for that purpose have the same powers as a court of summary jurisdiction would have if the case were tried in the United Kingdom : provided that—

(i) where an offender is sentenced to imprisonment, the senior naval or consular officer present at the place where the court is held shall in writing confirm the sentence and approve the place of imprisonment, whether on land or on board ship, as a proper place for the purpose ; and,

(ii) copies of all sentences passed by any naval court summoned to hear any such complaint as aforesaid shall be sent to the commander-in-chief or senior naval officer of the station :

(j) the court may, if it appears expedient, order a survey of any ship which is the subject of investigation to be made, and such survey shall accordingly be made, in the same way, and the surveyor who makes the same shall have the same powers as if such survey had been directed by a competent court in pursuance of the Fifth Part of this Act, in the course of proceedings against a seaman or apprentice for the offence of desertion :

(k) the court may order the costs of the proceedings before them, or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby ; and any costs or compensation so ordered to be paid

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shall be paid by that person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from the wages due to that person.

(2) All orders duly made by a naval court under the powers hereby given to it shall in any subsequent legal proceedings be conclusive as to the rights of the parties.

(3) All orders made by any naval court shall, whenever practicable, be entered in the official log book of the ship to which the parties to the proceedings before the court belong, and signed by the president of the court.

484.—(1.) Every naval court shall make a report to the Board of Trade containing the following particulars; (that is to say,)

(a) a statement of the proceedings of the court, together with the order made by the court, and a report of the evidence;

(b) an account of the wages of any seaman or apprentice who is discharged from his ship by the court ;

(c) if summoned to inquire into a case of wreck or abandonment, a statement of the opinion of the court as to the cause of that wreck or abandonment, with such remarks on the conduct of the master and crew as the circumstances require.

(2.) Every such report shall be signed by the president of the court, and shall be admissible in evidence in manner provided by this Act.

Report of proceedings of naval courts.

485. If any person wilfully and without due cause prevents or obstructs the making of any complaint to an officer empowered to summon a naval court, or the conduct of any hearing or investigation by any naval court, he shall for each offence be liable to a fine not exceeding fifty

Penalty for preventing complaint or obstructing investigation

pounds, or be liable to imprisonment, with or without hard labour, for any period not exceeding twelve weeks.

486.-(1) The provisions of this Part of this Act with regard to naval courts on the high seas and abroad shall apply to all sea-going ships registered in the United Kingdom, with the exception, in their application elsewhere than in Scotland, of fishing boats exclusively employed in fishing on the coasts of the United Kingdom and to all ships registered in a British possession, when those ships are out of the jurisdiction of their respective governments, and where they apply to a ship, shall apply to the owners, masters and crew of that ship.

Application of provisions as to naval courts.

2.) For the purposes of the said provisions an unregistered British ship shall be deemed to have been registered in the United Kingdom.

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680.—(1.) Subject to any special provisions of this Act and to the provisions hereinafter contained with respect to Scotland,—

PART XIII. LEGAL PROCEEDINGS. Prosecution of offences.

(a) an offence under this Act declared to be a misdemeanour, shall be punishable by fine or by imprisonment, not exceeding two years, with or without hard labour, but may, instead of being prosecuted as a misdemeanour, be prosecuted summarily in manner provided by the Summary Jurisdiction Acts, and if so prosecuted shall be punishable only with imprisonment for a term not exceeding six months, with or without hard labour, or with a fine not exceeding one hundred pounds;

(b) an offence under this Act made punishable with imprisonment for any term not exceeding six months, with or without hard labour, or by a fine not exceeding one hundred pounds, shall be prosecuted summarily in manner provided by the Summary Jurisdiction Acts.

(2.) Any offence committed or fine recoverable under a byelaw made in pursuance of this Act may be prosecuted or recovered in the same manner as an offence or fine under this Act.

689.—(1.) Whenever any complaint is made to any British consular officer—

(a) that any offence against property or person has been committed at any place either ashore or afloat, out of Her Majesty's dominions by any master, seaman, or apprentice, who at the time when the offence was committed, or within three months before that time, was employed in any British ship, or that any offence on the high seas has been committed by any master, seaman, or apprentice belonging to any British ship, or

(b) that consular officer may inquire into the case upon oath, and may if the case so requires, take any steps in his power for the purpose of placing the offender under the necessary restraint, and of sending in safe custody to the United Kingdom, or to any British possession in which there is a court capable of taking cognizance of the offence in an to Her Majesty or to any of Her subject ship

Conveyance of offenders and witnesses to United Kingdom or British possessions

ts, to be belonging there

proceeded against according to law.

(2.) The consular officer may order the master of any ship belonging to any subject of Her Majesty bound to

the United Kingdom or to such British possession as aforesaid to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the

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witnesses, so that the master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of that tonnage; and the consular officer shall endorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the Board of Trade require.

Any master of a ship to whose charge an offender has been so committed shall, on his ship's arrival in the United Kingdom, or in such British possession as aforesaid, give the offender into the custody of some police officer or constable, and that officer or constable shall take the offender before a justice of the peace or other magistrate by law empowered to deal with the matter, and the justice or magistrate shall deal with the matter as

in cases of offences committed upon the high seas.

If any master of a ship, when required by any British consular officer to receive and afford a passage and subsistence to any offender or witness, does not receive him and afford a passage and subsistence to him, or does not deliver any offender committed to his charge into the custody of some police officer or constable as herein-before directed, he shall for each offence be liable to a fine not exceeding fifty pounds.

The expense of imprisoning any such offender and of conveying him and the witness to the United Kingdom or to such British possession as aforesaid, in any manner other than in the ship to which they respectively belong, shall, where not paid as part of the costs of the prosecution, be paid out of moneys provided by Parliament.

729.—(1.) An inspector so appointed (in this Act referred to as a Board of Trade Inspector) and any person having the powers of a Board of Trade Inspector—

- (a) may go on board any ship and inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, without unnecessarily detaining or delaying her from proceeding on any voyage; and
- (b) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make; and
- (c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report, and may require answers or returns to any inquiries he thinks fit to make; and

PART XIV.
POWERS of
INSPECTORS

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- (d) may require and enforce the production of all books, papers, or documents which he considers important for the purpose of his report; and
- (e) may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination .

(2) Every witness summoned under this section shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before any court of record, or if in Scotland to a witness attending on citation the Court of Justiciary ; and in case of any dispute as to the amount of those expenses, the same shall be referred in England or Ireland to one of the masters or registrars of the High Court, and in Scotland to the Queen's and Lord Treasurer's Remembrancer, and the officer shall, on request made to him for that purpose under the hand of the inspector or person having the powers of an inspector, ascertain and certify the proper amount of those expenses.

(3.) If any person refuses to attend as a witness before a Board of Trade inspector or before any person having the powers of a Board of Trade inspector, after having been required to do so in manner provided by this section and after having a tender made to him of the expenses (if any) to which he is entitled under this section, or refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which an inspector or person having the powers of an inspector is hereby empowered to require, that person shall for each offence be liable to a fine not exceeding ten pounds.

THE MERCHANT SHIPPING ACT, 1906.

25.—(1) The master of every ship for which an agreement with the crew is required under the Merchant Shipping Act shall, if the agreement is made after the first day of June nineteen hundred and seven, furnish provisions to every member of the crew (who does not furnish his own provisions) in accordance with the scale set out in the First Schedule to this Act, and for the purposes of section one hundred and ninety-nine of the principal Act (which provides for compensation in the case of short or bad provisions) every such member of the crew of the ship shall be deemed to have stipulated by his agreement for provisions in accordance with that scale.

(2) The power of the court to modify or refuse compensation under section one hundred and ninety-nine of

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the principal Act shall be extended to cases where a member of the crew claiming compensation, although he has not been supplied with the provisions actually required by the scale, has been supplied with provisions containing on the whole the same or a greater amount of wholesome nutriment in their place.

(3) If the master of a ship fails to furnish provisions in accordance with this section, and the court before

which the case is tried consider that the failure was due to the neglect or default of the master, the master shall be liable on summary conviction, in addition to paying compensation under section one hundred and ninety-nine of the principal Act, to a fine not exceeding one hundred pounds.

(4) His Majesty may by Order in Council vary or add to the First Schedule to this Act.

(5) This section shall not apply in the case of lascars or natives of India or others not accustomed to a European dietary, with whom an agreement is entered into providing an adequate scale of provisions suited to their needs and uses.

26.—(1) An inspecting officer appointed under section two hundred and six or the principal Act may inspect (either on board the ship or before shipment) any provisions or water intended for the use of the crew of any British ship which is going from any port in the United Kingdom and for which an agreement with the crew is required under the Merchant Shipping Acts (other than provisions provided by the crew themselves), and if he finds that the provisions or water are in any respect deficient in quality, the ship shall be detained until the defects are remedied to his satisfaction :

Inspection
of
Provisions
and water

Provided that any inspection of provisions or water under this section shall be made before shipment whenever practicable, and, if the master, owner, or agent of a ship gives notice to the inspecting officer that any provisions or water for the ship are ready for inspection, the inspecting officer shall not have power to inspect any such provisions or water under this section, if they are at a convenient place for inspection, except within forty-eight hours after the notice is given, without prejudice to the power of the inspecting officer to inspect any provisions or water not specified in the notice or without unnecessarily delaying the ship to proceed on board the ship in order to satisfy himself that there has been no evasion of the requirements of this section by the substitution of other provisions or water for those which have been inspected on shore or specified in a notice as being the provisions or water for the ship. or otherwise.

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(2) Where any provisions or water are found deficient in quality under this section, the master of the ship shall be liable on summary conviction to a fine not exceeding a hundred pounds, unless the court. before which the case is tried think that the finding of the inspecting officer was not justified ; but if the master of the ship shows to the satisfaction of the court that the responsibility for the defects in the provisions or water rests either with the owner of the ship, or any agent of the owner of the ship, or with the person who has supplied the provisions or water, that agent, owner, or person shall be liable to conviction for the offence instead of the master, and the master shall be exempt.

(3) The master of the ship and any other person having charge of any provisions or water liable to inspection under this section shall give the inspecting officer every reasonable facility for the purpose of his inspection under this section, and, if he refuses or fails to do so shall be liable for each offence on summary conviction to a fine not exceeding ten pounds.

27.—(1) After the thirtieth day of June nineteen hundred and eight, every British foreign -going ship of a thousand tons and upwards gross tonnage, going to sea from any place in the British Islands or on the continent of Europe between the River Elbe and Brest inclusive, shall be provided with and carry a duly certificated cook who is able to prove one month's service at sea in some capacity.

Certificated
cooks for
foreign –
going ships

(2) A cook shall not be deemed to be duly certificated within the meaning of this section unless he is the holder of a certificate of competency in cooking granted by the Board of Trade or by some school of cookery or other institution approved for the purpose by that Board, or is the holder of certificates of discharge showing at least two years' service as cook previously 'to the said thirtieth day of June nineteen hundred and eight.

(3) The cook shall be rated in ship's articles as ship's cook, or in the case of ships of not more than two thousand tons gross tonnage, or ships in which the crew, or the majority of the crew, provide their own provisions, either as ship's cook or as cook and steward.

(4) In the case of an emigrant ship, the ship's cook shall be in addition to the cook required by section three hundred and four of the principal Act.

(5) If the requirements of this section are not complied with in the case of any ship, the master or owner of the ship shall, if there is no sufficient reason for the failure to comply with the requirements for each offence be liable on summary conviction to a fine not exceeding twenty five pounds .

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67.—(1) The powers of a naval court under section four hundred and eighty-three of the principal Act (which deals with those powers) shall include a power to send an offender sentenced by the court to imprisonment either to the United Kingdom or to any British possession to which His Majesty by Order in Council has applied this section, as appears to them most convenient for the purpose of being imprisoned, and the court may take the same steps, and for that purpose shall have the same powers, as respects the orders which may be given to masters of ships as a consular officer has for the purpose of sending an offender for trial under section six hundred and eighty-nine of the principal Act, and sub-sections (2), (4), and (5) of that section shall apply with the necessary modification.

(2) Any master of a ship to whose charge an offender is committed under this section shall, on his ship's arrival in the United Kingdom or in a British possession, as the case may be, give the offender into the custody of some police officer- or constable, and the offender shall be dealt with as if he had been convicted and sentenced to imprisonment by a court of competent. jurisdiction in the United Kingdom or in the British possession, as the case may be.

(3) His Majesty may by Order in Council apply this section to any British possession the Legislature of which consents to that application.

68.—(1) Any person aggrieved by an order of a naval court ordering the forfeiture of wages , or by a decision of a naval court Of a question as to wages, fines, or forfeitures, may appeal to the High Court in such manner and subject to such conditions and provisions as may be provided by rules of court, and on any such appeal the High Court may confirm, quash, or vary the order or decision appealed against as they think just.

Appeal
from
naval courts

(2) Subsection (2) of section four hundred and eighty-three of the principal Act shall not have effect with respect to any order of a naval court which is quashed on an appeal under this section, and, where an order of a naval court is varied on appeal, shall apply as if the order as so varied were the order originally made by the naval court.

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