

subject proposed

TRINIDAD AND TOBAGO.

No. 7.—1916.

File 42 - 1916.

I ASSENT,

[L.S.]

S. W. KNAGGS,
Acting Governor.

1st May, 1916.

AN ORDINANCE to consolidate and amend the law relating to Merchant Shipping.

[On Proclamation.]

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Merchant Ship- Short Title.
ping Ordinance, 1916.

PART I.—PRELIMINARY.

2. In the construction of this Ordinance the following ^{Interpreta-} terms shall have the respective meanings hereinafter ^{tion.} assigned to them, that is to say:—

“Board of Trade” means the Lords of the Committee for the time being of the Privy Council appointed for the consideration of matters relating to trade and for foreign plantations;

“The Act” means the Merchant Shipping Act, 1894, of the Imperial Parliament;

“Master” includes every person (except a pilot) having command or charge of any ship ;

“Receiver” means any person appointed Receiver of Wreck in pursuance of this Ordinance ;

“Ship” includes every description of vessel used in navigation ;

“Foreign-going Ship” includes every ship employed in trading or going between some place or places in the Colony and some place or places beyond the Colony ;

“Statute Adult” signifies any person of the age of twelve years or upwards or two persons between the age of one and twelve years ;

“Wreck” includes all jetsam, flotsam, lagan or derelict found in or on the shores of the sea or any tidal water ;

“Salvage” includes all expenses properly incurred by the Salvor in the performance of the salvage services ;

“Consular Officer” means any consul-general, vice-consul, consular-agent, or other officer recognised by the Governor as a consular officer of a foreign State.

Fees payable
to Registrar
of Shipping.

3.—(1.) The fees authorised to be taken for duties performed by the Registrar of British ships under the First Part of the Act shall be taken by the Registrar of Ships in this Colony in respect of all duties performed by him under the First Part of the Act, and the Registrar of Ships may refuse to perform any such duty unless the fee payable for the same be first paid.

(2.) All such fees, when received, shall be paid into the Public Treasury.

PART II.

Engagement of Seamen.

Prohibition of
engagement of
seamen with
insufficient
knowledge of
English.

4. The Harbour Master or other officer, before whom a seaman is engaged to be entered on board any British ship at any port in the Colony shall not allow a seaman to sign the agreement if in his opinion the seaman does not possess a sufficient knowledge of the English language to understand the necessary orders that may be given to him in the course of the performance of his duties ; but nothing in

this section shall apply to any British subject or inhabitant of a British protectorate or to any lascar.

Provided that where a seaman has been allowed to sign an agreement after the commencement of this Ordinance, either in the Colony or elsewhere, and is discharged before the Harbour Master or other officer, the Harbour Master or officer shall note the fact on his certificate of discharge in manner directed by the Governor, and the Harbour Master or other officer shall not under this section refuse to allow a seaman who holds a certificate so noted either by such Harbour Master or other officer or by any superintendent or other officer directed to make such note under the provisions of the Merchant Shipping Act 1906 of the Imperial Parliament, to sign an agreement unless the Harbour Master or other officer considers that there are special reasons for the refusal, and in that case he shall make a special report of the matter to the Governor.

5.—(1.) The Harbour Master or other officer before whom a seaman is engaged to be entered on board any ship, British or Foreign, shall not, if such seaman is a British subject and is a native of or domiciled in Trinidad, allow him to sign any agreement which involves his discharge at any port outside the Colony other than a port in the West Indies or British Guiana, unless the master shall enter into a bond to His Majesty with two good and sufficient sureties in the sum of £25 in the form A in Schedule I hereto.

Bond to repatriate seaman in certain cases.

(2.) The Harbour Master or other officer shall at the time of the engagement of any seaman in accordance with the provisions of the preceding sub-section give to him a certificate in the form B in Schedule I hereto; provided always that such Harbour Master or other officer shall not give a certificate to any such seaman to whom a certificate of British nationality has already been given, unless he can satisfactorily account for not having the same in his possession.

PART III.—PASSENGER TRADE.

6. For the purposes of this Part of this Ordinance the word "passenger" shall include any person carried in a passenger ship other than the master and crew and the

Definition of "passenger" and "passenger ship."

owner ; and the expression "passenger ship" shall include every ship carrying more than two passengers and proceeding from any place within the Colony on a voyage declared in manner hereinafter mentioned to be a voyage in the passenger trade.

Power of
Governor as
to passenger
ships.

7. It shall be lawful for the Governor by Proclamation to declare what shall be voyages in the passenger trade and what shall be deemed for the purposes of this Ordinance to be the length of such voyages, and to prescribe such scale of diet and water for the use of the passengers as he thinks fit : provided that the requirements of this Ordinance respecting the issue of provisions and water shall not, except as to the issue of water and the provision of a reserve supply of biscuit, be applicable to passenger ships carrying passengers who have contracted to furnish their own provisions.

Appointment
of surveyors.

8. The Governor may from time to time appoint such fit and proper persons to be Surveyors of passenger ships as he thinks proper, and may at any time remove any such Surveyor, and may from time to time fix and alter the fees to be paid for the survey of passenger ships.

Regulations as
to surveys.

9. Surveyors shall execute their duties under the Collector of Customs, who shall make regulations as to the manner in which the surveys hereinafter mentioned shall be made, and as to the notice to be given to the Surveyors when surveys are required, and as to the amount and payment of any travelling or other expenses incurred by Surveyors in the execution of their duties.

Passenger
ships to be
surveyed every
six months.

10. The owner of every passenger ship shall cause the same to be surveyed once in every six months by a Surveyor appointed as aforesaid, and such Surveyor if he is satisfied that the said ship is in good condition in hull machinery and equipments shall furnish the Collector of Customs with a declaration containing statements of the following particulars :—

(1.) That the hull machinery and equipments of the ship are in good condition and that she is in all respects fit to be employed as a passenger ship ;

(2.) That proper provision is made for the carriage of a sufficient supply of fresh water ;

revision (3.) The limits (if any) beyond which as regards the hull and equipments the ship is not fit to ply ; *ind. 42/1915*

(4.) The number of passengers the ship is in his judgment capable of carrying, not to exceed the proportion of one statute adult for every ton of her tonnage as ascertained according to the Act.

11. The Collector of Customs shall on receipt of the declaration hereinbefore mentioned and on payment to the Receiver-General of the fees for survey, issue a certificate in such form as he thinks fit, which certificate shall state the limits (if any) beyond which according to the declaration of the Surveyor such ship is not to be allowed to ply and the number of passengers which according to the said declaration such ship is to be allowed to carry, and such certificate shall be in force for six months from the date thereof, but no certificate is to be in force after notice is given by the Collector of Customs to the owner, master or agent of the ship to which the same relates that he has cancelled or revoked the same. Rules as to issue of certificates.

12. The Collector of Customs may revoke and cancel such certificates in any case in which he has reason to believe :— Collector may revoke and cancel certificates.

- (1.) That the declaration of the sufficiency and good condition of the hull machinery and equipments of any passenger ship has been fraudulently or erroneously made ;
- (2.) That such certificate has been otherwise issued upon false or erroneous information ;
- (3.) That since the making of such declaration the hull machinery or equipments of such ship have sustained any injury or are otherwise insufficient ;

And in every such case the Collector of Customs may if he thinks fit require the owner to have such ship again surveyed, and shall require from the Surveyor a further declaration of the sufficiency and good condition thereof before issuing any certificate or granting a fresh one in lieu thereof.

Surveyors
may inspect
passenger
ships.

13. It shall be lawful for any Surveyor to go aboard any passenger ship at all reasonable times and to inspect the same or any part thereof or any of the machinery or equipments thereof, and if in consequence of any accident to any such ship or for any other reason he considers it necessary so to do to require the ship to be placed in such a position that the whole of her hull may be examined, and any person who hinders a Surveyor from going aboard any such ship or otherwise impedes him in the execution of his duty shall on summary conviction thereof before a Magistrate incur a penalty not exceeding twenty-five Pounds.

Passenger
ship not to go
to sea without
certificate
provisions
and water.

14. No passenger ship shall proceed to sea upon any voyage with any passenger aboard, and no officer of Customs shall grant clearance to any such ship, unless the master or owner thereof has received from the Collector of Customs such a certificate as is hereinbefore provided, such certificate being applicable to the voyage upon which such ship is about to proceed, nor without being supplied with provisions and water according to the scale prescribed as hereinbefore provided; and if any passenger ship clears out or proceeds or attempts to go to sea without being provided with such certificate or having on board a larger number of persons than is allowed by such certificate or not being supplied with provisions and water as aforesaid, such ship shall be forfeited to His Majesty and the master shall be liable on summary conviction before a Magistrate to a penalty not exceeding £200. Any such ship if found within two years from the commission of the offence within the limits of this Colony may be seized by any officer on full pay in the Naval or Military service of His Majesty or by any officer of the Government, and shall thereupon be dealt with in the same manner as if she had been seized as forfeited for an offence incurring forfeiture under any of the laws for the time being in force relating to the Customs: Provided that it shall be lawful for the Governor to release if he thinks fit any such forfeited ship from seizure and forfeiture on payment by the owner, charterer or master thereof to the Receiver-General for the use of His Majesty of such sum not exceeding two thousand pounds as the Governor may by writing under his hand specify.

15. Any Officer of Customs or of Police may require the master of any passenger ship to produce the certificate granted under this Ordinance, and may examine such ship and the passengers aboard thereof, and if the master refuses to produce such certificate or if such ship has on board a larger number of persons than is allowed by such certificate, such Officer of Customs or Police may detain the ship until proceedings for the penalty incurred are taken.

Customs or
Police may
require
production
of certificate
and examine
ship and
passengers.

16. The following offenders, that is to say :—

- (1.) Any person who after having been refused admission into any passenger ship by the owner or other person in his employ on account of such ship being full and who after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same ;
- (2.) Any person having got on board any such ship who upon being requested on the like account by the owner or any person in his employ to leave such ship and having had the full amount of his fare (if he has paid the same) returned or tendered to him, does not comply with such request ;
- (3.) Any person who being drunk or disorderly has on that account been refused admittance into any passenger ship by the owner or other person in his employ, and who, after having had the amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter such ship ; and
- (4.) Any person who travels or attempts to travel in any such ship with intent to avoid payment of his fare ;

shall for every such offence upon conviction thereof before a Magistrate be liable to a penalty not exceeding Ten Pounds or to imprisonment with or without hard labour for a period not exceeding three months.

PART IV.—SAFETY.

Life Saving Appliances.

Foreign ship coming in under stress of weather, etc.

17. Nothing contained in Sections 18 to 21 (both inclusive) and Sections 24 to 33 (both inclusive) of this Ordinance shall affect any foreign ship not bound to a port of the Colony which comes into any such port for any purpose other than the purpose of embarking or landing passengers, or taking in or discharging cargo or taking in bunker coal or oil.

Rules as to life-saving appliances.

18. Any rules made by the Board of Trade relating to life saving appliances under the powers conferred by Section 427 of the Act shall apply to all foreign ships while they are within any port of the Colony, except in the case of a ship of a foreign country in respect of which His Majesty has by Order in Council made under Section 4 of the Merchant Shipping Act, 1906, of the Imperial Parliament directed that those rules shall not apply, on proof that the provisions of the law of such foreign country relating to life saving appliances are complied with in the case of ships of such country.

Duties of owners and masters as to carrying life-saving appliances.

19. It shall be the duty of the owner and master of every British or foreign ship to see that his ship is provided, in accordance with the rules for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

Penalty for breach of rules.

20.—(1.) In the case of any ship—

- (a) if the ship, whether British or foreign, is required by the rules for life-saving appliances to be provided with such appliances, and proceeds from a port within the Colony, on any voyage or excursion without so being provided in accordance with the rules applicable to the ship; or

- (b) if any of the appliances with which a British or foreign ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master and are still missing or unfit for service when such ship is within the territorial waters of the Colony; or
- (c) if the master of a British or foreign ship wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion and within the territorial waters of the Colony; or
- (d) if such appliances are not kept while the ship is within the territorial waters of the Colony, so as to be at all times fit and ready for use;

then the owner of the ship (if in fault) shall for each offence be liable on conviction before a Magistrate to a fine not exceeding one hundred pounds, and the master of the ship (if in fault) shall for each offence be liable on conviction before a Magistrate to a fine not exceeding fifty pounds.

(2.) Nothing in the foregoing enactments with respect to life-saving appliances shall be deemed to prevent any person from being liable under the provisions of the Merchant Shipping Acts, 1894 to 1906, of the Imperial Parliament, or otherwise, to any other or higher fine or punishment than is provided by those enactments, provided that a person shall not be punished twice for the same offence.

(3.) If the court before whom a person is charged with an offence punishable under those enactments thinks that proceedings ought to be taken against him for the offence under the provisions of the Merchant Shipping Acts, 1894 to 1906, or otherwise, the court may adjourn the case to enable such proceedings to be taken.

21.—(1.) The Collector of Customs or any officer of Customs authorised in writing by him either generally or in a particular case may inspect any British or foreign ship for the purpose of seeing that she is properly provided with life-saving appliances in conformity with the conditions

Survey of ship
with respect to
life-saving
appliances.

laid down in this Part of this Ordinance, and for the purpose of that inspection shall have all the powers of a principal Officer of Customs under this Ordinance.

(2.) If the Collector of Customs or such officer as aforesaid finds that the ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(3.) The ship shall be detained until the Collector of Customs shall certify that the ship is properly provided with life-saving appliances in conformity with this Ordinance.

Entry in
log-book of
boat drill.

22.—(1.) The master of every British ship shall enter or cause to be entered in the official log book a statement, or if there is no official log book, cause a record to be kept, of every occasion on which boat drill is practised on board the ship, and on which the life-saving appliances on board the ship have been examined for the purpose of seeing that those appliances are fit and ready for use.

(2.) The master shall, if and when required by the Collector of Customs or any officer of Customs, produce for inspection any record kept by him for the purposes of this section.

(3.) If the master of a ship fails to comply with any requirements of this section, he shall be liable on conviction before a Magistrate to a penalty not exceeding £10.

Marking of Load Line.

Application of
provisions as
to Load Lines
to foreign
ships.

23. The provisions of this part of this Ordinance relating to Load Lines shall, so far as a foreign ship is concerned, apply only while such ship is within any port of the Colony, and subject to any order or direction made or given by His Majesty in Council under Section 1 of the Merchant Shipping Act, 1906, of the Imperial Parliament.

Marking of
deck lines.

24.—(1.) Every ship, British or foreign (except ships under eighty tons register employed solely in the coasting trade, not being steamships, ships employed solely in fishing, and pleasure yachts) shall be permanently and conspicuously marked with lines (in this Ordinance called deck lines) of

not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships, or as near thereto as is practicable, and indicating the position of each deck which is above water.

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

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

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

25.—(1.) The owner of every ship, British or foreign, proceeding to sea from a port in the Colony (except ships under eighty tons register employed solely in the coasting trade, not being steamers, ships employed solely in fishing, and pleasure yachts) shall, before the time hereinafter mentioned, mark upon each of her sides, amidships within the meaning of the last preceding section, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with an horizontal line eighteen inches in length drawn through its centre. Marking of load-line.

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

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

Exemption of steamships.

26. The provisions of the two preceding sections shall not apply to any class of steamships, so long as they do not carry cargo, which by any rule or regulation of the Board of Trade are excepted from the provisions of Sections 437 and 438 of the Act under the powers conferred by Section 7 of the Merchant Shipping Act, 1906, of the Imperial Parliament.

Ship with submerged load-line deemed unsafe.

27. If a ship, British or foreign, is so loaded as to submerge in salt water the centre of the disc indicating the load-line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereafter contained in this part of this Ordinance, and such submersion shall be a reasonable and probable cause for the detention of the ship.

Time for marking load-line in case of foreign-going vessels.

28.—(1.) (a.) Where a ship, British or foreign, proceeds on any voyage from a port in this Colony, the disc indicating the load-line shall be marked, before entering her outwards, or, if that is not practicable, as soon afterwards as may be, or in a case where a ship need not be entered outwards, then as provided by Sub-section 2 hereof.

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

(c.) The master of the ship, if British, shall enter a copy of that statement in the agreement with the crew before it is signed by any member of the crew, and the Harbour Master or other officer shall not proceed with the engagement of the crew until that entry is made.

(d.) The master of the ship, if British, shall also enter a copy of that statement in the official log book.

(e.) When a British ship to which this section applies has been marked with a disc indicating the load-line, she shall be kept so marked, or if the mark has been altered abroad in accordance with regulations made by the Board of Trade for the purpose, marked with the mark as so altered until her next return to a port of discharge in the United Kingdom or in this Colony.

(2.) In the case of a ship which the owner is not required to enter outwards:—

Ships not required to be entered outwards.

- (a.) the disc indicating the load line shall be marked before clearance for the ship is demanded;
- (b.) the master shall prepare a statement similar to that required to be inserted in the form of entry under Sub-section 1 (b) of this section, and in the case of a British ship shall enter a copy of the statement in the agreement with the crew and in the official log book, and Sub-section 1 (c) and (d) of this section shall apply accordingly;
- (c.) the master shall deliver a copy of the statement to the officer of Customs from whom a clearance for the ship is demanded, and a clearance shall not be granted until the statement is so delivered.

(3.) Where the certificate referred to in Sub-section (4) of Section 31 of this Ordinance is required to be delivered, the provisions of this section as to the statement to be prepared by the master shall not take effect.

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

Time, etc., for marking of load-line in case of coasting vessels.

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

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

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

Penalty for offences in relation to marking load-line.

30.—(1.) If—

(a.) any owner or agent of the owner or master of a British or foreign ship fails without reasonable cause to cause his ship to be marked as by this part of this Ordinance required, or to keep her so marked, or allows the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load-line; or

(b.) any person conceals, removes, alters, defaces or obliterates or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

he shall for each offence be liable on conviction before a Magistrate to a penalty not exceeding one hundred pounds.

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

Regulations as to load-line.

31.—(1.) The Governor shall appoint the Collector of Customs to approve and certify on his behalf from time to time the position of any disc indicating the load-line, and any alteration thereof, and may appoint fees to be taken in respect of any such approval or certificate.

(2.) The Governor may make regulations—

(a.) determining the lines or marks to be used in connection with the disc, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that this part of this Ordinance is to have effect as if any such line were drawn through the centre of the disc; and

- (b.) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise; and
- (c.) as to the alteration of marks on ships abroad; and
- (d.) as to the mode of application for, and form of certificates under this section; and
- (e.) requiring the entry of those certificates, and other particulars as to the draught of water and freeboard of the ship, in the official log-book of the ship, or other publication thereof on board the ship, and requiring the delivery of copies of those entries.

(3.) All such regulations shall, while in force, have effect as if enacted in this Ordinance, and if any person fails without reasonable cause to comply with any such regulation made with respect to the entry, publication, or delivery of copies of certificates or other particulars as to the draught of water and freeboard of a ship, he shall for each offence be liable on conviction before a Magistrate to a penalty not exceeding one hundred pounds.

(4.) Where in pursuance of the regulations any such certificate is required to be delivered, a statement in writing as to the disc and deck-lines of a ship need not be inserted in the form of entry or transmitted or delivered to the Collector of Customs under the provisions hereinbefore contained.

Carriage of Grain.

32.—(1.) Where a grain cargo is laden on board any British or foreign ship in a port in this Colony, all necessary and reasonable precautions (whether mentioned in this part of this Ordinance or not) shall be taken in order to prevent the grain cargo from shifting.

Obligations
to take
precautions
to prevent
grain cargo
from shifting

(2.) If those precautions have not been taken in the case of any ship mentioned in the preceding sub-section, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea, shall each be liable to a fine not exceeding three

hundred pounds, and the owner of the ship shall also be liable to the same fine, unless he shows that he took all reasonable means to enforce the observance of this section, and was not privy to the breach thereof.

(3.) If after the commencement of this Ordinance a foreign ship laden with grain cargo arrives at any port in the Colony having the grain cargo so loaded that the master of the ship would be liable to a penalty under this Ordinance, the master of that foreign ship shall be liable to a fine not exceeding three hundred pounds.

Power to enforce provisions as to carriage of grain.

33.—(1.) For securing the observance of the provisions of this part of this Ordinance with respect to grain cargo, any officer having authority in that behalf from the Governor, either general or special, shall have power to inspect any grain cargo, and the mode in which the same is stowed, and for that purpose shall have all the powers conferred upon a principal officer of Customs under the provisions of this Ordinance.

(2.) This section shall only apply to a foreign ship laden with grain if she discharges all or any part of her cargo at a port in the Colony.

Definition grain, etc.

34. For the purpose of the provisions of this part of this Ordinance with respect to grain cargo—

The expression “grain” means any corn, rice, paddy, pulse, seeds, nuts, or nut kernels.

The expression “ship laden with a grain cargo” means a ship carrying a cargo of which the portion consisting of grain is more than one-third of the registered tonnage of the ship, and that third shall be computed, where the grain is reckoned in measures of capacity, at the rate of one hundred cubic feet for each ton of registered tonnage, and where the grain is reckoned in measures of weight, at the rate of two tons weight for each ton of registered tonnage.

Recovery of penalty under Section 32.

35. Any penalty provided for in Section 32 of this Ordinance may be prosecuted and recovered in the manner prescribed by the Crown Suits Ordinance, 1913, or summarily before a Magistrate, but the penalty to which a person is liable shall not in the latter case exceed £100.

Loading of Timber.

36.—(1.) If a ship, British or foreign, arrives between the last day of July and the sixteenth day of April in any year at any port in the Colony from any port out of the Colony carrying any heavy or light wood goods as deck cargo (except under the conditions allowed by this section), the master of the ship, and also the owner, if he is privy to the offence, shall, on conviction before a Magistrate, be liable to a fine not exceeding five pounds for every hundred and fifty cubic feet of space in which wood goods are carried in contravention of this section.

Loading of
timber.

(2.) The conditions under which heavy wood goods may be carried as deck cargo are as follows:—

- (a.) that they must only be carried in covered spaces; and
- (b.) that they must be carried only in such class of ships as may from time to time be approved by the Board of Trade for the purpose under the provisions of Section 10 of the Merchant Shipping Act, 1906, of the Imperial Parliament; and
- (c.) that they must be loaded in accordance with regulations made from time to time by the Board of Trade with respect to the loading thereof under the said Act.

(3.) The conditions under which light wood goods may be carried as deck cargo are as follows:—

- (a.) Each unit of the goods must be of a cubic capacity not greater than fifteen cubic feet; and
- (b.) The height above the deck to which the goods are carried must not exceed
 - (i.) in the case of an uncovered space on a deck forming the top of a break, poop, or other permanent closed-in space on the upper deck, three feet above the top of that closed-in space; and

- (ii.) in the case of an uncovered space, not being a space forming the top of any permanent closed-in space on the upper deck or a space forming the top of a covered space, the height of the main rail, bulwark, or plating, or one-fourth of the inside breadth of the ship, or seven feet, whichever height is the least; and
 - (iii.) in the case of a covered space, the full height of that space;
 - (c.) All regulations made from time to time by the Board of Trade for the protection of seamen from any risk arising from the carriage of the goods in any uncovered space to the height allowed under this section, must be complied with on the ship.
- (4.) A master or owner shall not be liable to any fine under this section—
- (a.) in respect of any wood goods which the master has considered it necessary to place or keep on deck during the voyage on account of the springing of any leak, or of any other damage to the ship received or apprehended; or
 - (b.) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at the said port in the Colony, but was prevented from so arriving by stress of weather or circumstances beyond his control; or
 - (c.) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the sixteenth day of April as allowed a reasonable interval according to the ordinary duration of the voyage for the ship to arrive after that day at the said port in the Colony, and by reason of an exceptionally favourable voyage arrived before that day.

(5.) For the purposes of this section—

(a.) the expression “heavy wood goods” means—

(i.) any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak or other heavy wood goods whatever; or

(ii.) any more than five spare spars or store spars, whether or not made, dressed and finally prepared for use; and

(b.) the expression “light wood goods” means any deals, battens, or other light wood goods of any description; and

(c.) the expression “deck cargo” means any cargo carried either in any uncovered space upon deck or in any covered space not included in the cubical contents forming the ship’s registered tonnage; and

(d.) the space in which wood goods are carried shall be deemed to be the space limited by the superficial area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods.

(6.) Nothing in this section shall affect any ship not bound to a port in the Colony which comes into any port of the Colony under stress of weather, or for repairs, or for any purpose other than the delivery of her cargo.

Unseaworthy Ships.

37. Every person who sends or attempts to send, or is party to sending or attempting to send, a British ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanour and be liable to be imprisoned for any period not exceeding two years with or without hard labour, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

Sending unseaworthy ship to sea.

Every master of a British ship who knowingly takes the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of a misdemeanour and shall be liable to be imprisoned for any period not exceeding two years with or without hard labour, unless he proves that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

A prosecution under this section shall not be instituted except with the consent of the Governor.

A misdemeanour under this section shall not be punishable upon summary conviction.

Obligation of
ship-owner
to crew with
respect to
sea worthiness.

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

Detention of
unsafe ships.

39. Where a British ship, being in any port of the Colony, is, by reason of the defective condition of her hull, equipments or machinery, or by reason of undermanning, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, any such ship (hereinafter referred to as "unsafe") may be provisionally detained for the purpose of being surveyed, or of ascertaining the sufficiency of her crew, and either finally detained or released, as follows:

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

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

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

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

(5.) Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes such survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the Court of Survey, and in such case if the surveyor and assessor agree, the Governor shall cause the ship to be detained or released accordingly, but if they differ, the Governor may act as if the requisition had not been made, and the owner and master shall have the like appeal, touching the report of the surveyor, as is before provided by this section.

(6.) Where a ship has been provisionally detained, the Governor may at any time, if he thinks it expedient, refer the matter to the Court of Survey.

(7.) The Governor may at any time, if satisfied that a ship detained under this Ordinance is not unsafe, order her to be released either upon or without any conditions.

(8.) For the better execution of this section, the Governor may from time to time appoint a sufficient number of fit officers, and may remove any of them.

(9.) Any officer so appointed (in this Ordinance referred to as a detaining officer) shall have the same power as the Governor has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.

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

(11.) A detaining officer shall have for the purposes of his duties under this Ordinance the same powers as a principal officer of Customs making inquiry under Part II of this Ordinance.

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

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

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

(15.) The provisions of Part V of this Ordinance with respect to persons who wilfully impede a principal officer of Customs, or disobey a requisition or order of a principal officer of Customs, shall apply as if those provisions were enacted in this Part, with the substitution for the principal officer of Customs of any officer or surveyor who under this Part has the same powers as a principal officer of Customs or has authority to survey a ship.

40.—(1.) If it appears that there was no reasonable and probable cause for the provisional detention of the ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of
Government
in respect of
detention.

(2.) If a ship is finally detained under this Ordinance, or if it appears that a ship provisionally detained was at the time of such detention unsafe within the meaning of this Ordinance, the owner of the ship shall be liable to pay to the Colony the costs of and incidental to the detention and survey of the ship, and those costs shall without prejudice to any other remedy, be recoverable as salvage is by this Ordinance recoverable.

(3.) For the purposes of this Ordinance the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Government, shall be deemed to be part of the costs of the detention and survey of the ship, and any dispute as to the amount of costs under this Ordinance may be referred to one of the Judges of the Supreme Court, who, on request made to him for that purpose by the Governor, shall ascertain and certify the proper amount of such costs.

An action for costs or compensation payable by the Government under this section may be brought against the Attorney-General by his official title in the manner prescribed by the Crown Suits Ordinance, 1913.

41.—(1.) Where a complaint is made to the Governor or a detaining officer that a British ship is unsafe, the Governor or officer may, if he think fit, require the complainant to give security to his satisfaction for the costs and compensation which he may become liable to pay as hereinafter mentioned.

Security for
costs.

(2.) Provided that where the complaint is made by one fourth, being not less than three, of the seamen belonging to the ship, and is not, in the opinion of the Governor or officer, frivolous or vexatious, such security shall not be

required, and the Governor or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained under this Ordinance.

(3.) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Ordinance to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

Foreign Ships, Overloading.

Application to
foreign ships
of provisions as
to detention.

rule 42/1916

42. Where a foreign ship is at a port in the Colony, and is whilst at that port unsafe by reason of the defective condition of her hull, machinery or equipments, ~~or by reason of the defective condition of her hull, equipments or machinery,~~ or by reason of overloading or improper loading, or by reason of undermanning, the provisions of this Ordinance with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications :

- (1.) If there is a Consular officer for the State to which the ship belongs, a copy of the order for the provisional detention of the ship shall be forthwith served on him ;
- (2.) Where a ship has been provisionally detained, the Consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Governor to survey the ship shall be accompanied by such person as the Consular officer may select, and in such case, if the surveyor and such person agree, the Governor shall cause the ship to be detained or released accordingly, but if they differ, the Governor may act as if the requisition had not been made, and the owner and master shall have the appeal to the Court of survey touching the report of the surveyor which is before provided by this Ordinance ; and

- (3.) Where the owner or master of the ship appeals to the Court of survey, the Consular officer, on the request of such owner or master, may appoint any competent person, subject to the Governor's approval of such person, who shall be assessor in such case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Governor.

PART V.—SPECIAL SHIPPING INQUIRIES AND COURTS.

Inquiries and Investigations as to Shipping Casualties.

43. In any of the cases following, viz. :—

- Whenever any ship is lost, abandoned, stranded or damaged on or near the coasts of the Colony or in the course of a voyage to a port within the Colony ;
- Whenever any ship causes loss or material damage to any other ship on or near such coasts ;
- Whenever any ship causes loss or material damage to any other ship, and such ships are, or either of them is, in the course of a voyage to a port within the Colony ;
- Whenever by reason of any casualty happening to or on board of any ship on or near such coasts, or in the course of a voyage to a port within the Colony, loss of life ensues ;
- Whenever any such loss, abandonment, stranding, damage or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in the Colony ;
- Whenever any such loss, abandonment, stranding, damage or casualty occurs in any part of the world to a British ship registered in the Colony ;
- it shall be lawful for the principal officer of Customs residing at or near the place where such loss, abandonment, stranding, damage or casualty occurred, if the same occurred on or near the coasts of the Colony, but if elsewhere at or near the place where such witnesses as aforesaid arrive or are

Inquiry to be instituted in case of wreck and casualty.

found or can conveniently be examined, or for any other person appointed for the purpose by the Governor, to make enquiry respecting such loss, abandonment, stranding, damage or casualty.

Powers of
officers making
enquiry.

44. A principal officer of Customs, or person appointed for the purpose of making enquiry pursuant to this Ordinance, shall have the following powers (that is to say),

- (1.) He may go on board any ship, and may 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 Ordinance apply, not unnecessarily detaining or delaying her from proceeding on any voyage :
- (2.) He 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 :
- (3.) He may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make :
- (4.) He may require and enforce the production of all books, papers or documents which he considers important for such purpose :
- (5.) He 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.

And every witness so summoned as aforesaid shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before any Court of Record ; and in case of any dispute as to the amount of such expenses the same shall be referred by the principal officer of Customs to a Judge of the Supreme Court, who, on a request made to him for that purpose under the hand of the said principal officer of Customs, shall ascertain and certify the proper amount of such expenses ; and every person who refuses to

attend as a witness before any such principal officer of Customs after having been required so to do in the manner hereby directed, and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make and subscribe any declaration which any such principal officer of Customs is hereby empowered to require, shall for each such offence incur on conviction before a Magistrate, a penalty not exceeding Twenty-five Pounds.

45. Every person who wilfully impedes any principal officer of Customs or person making enquiry pursuant to this Ordinance in the execution of his duty, whether on board any ship or elsewhere, shall on conviction before a Magistrate incur a penalty not exceeding Twenty-five Pounds, and may be seized and detained by such principal officer of Customs or other person or by any person or persons whom he may call to his assistance until such offender can be conveniently taken before some Justice of the Peace or other Officer having proper jurisdiction.

Obstructing
officer making
enquiry.

46. If it appears to such Officer or person as aforesaid either upon or without any such preliminary inquiry as aforesaid, that a formal investigation is requisite or expedient, he shall apply to a Magistrate to hear the case; and such Magistrate shall thereupon make order for such investigation and proceed to hear and try the case, and shall for that purpose, so far as relates to the summoning of parties, compelling the attendance of witnesses, and the regulations of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which he has power to make a summary conviction or order, or as near thereto as circumstances permit; and it shall be the duty of such Officer or person as aforesaid to superintend the management of the case, and to render such assistance to the Magistrate as is in his power; and, upon the conclusion of the case, the Magistrate shall send a report to the Governor containing a full statement of the case and of his opinion thereon, accompanied by such report of or extracts from the evidence and such

Formal inves-
tigation before
Magistrate.

observations (if any) as he may think fit. The Governor shall forward every report sent to him under this section to the Colonial Office for transmission to the Board of Trade.

Assessors and procedure on formal investigation.

47. A Magistrate holding a formal investigation into a shipping casualty shall hold the same with the assistance of an assessor or assessors of nautical engineering or other special skill or knowledge, to be appointed by the Governor.

The Governor, when of opinion that the investigation is likely to involve the cancellation or suspension of the certificate of a master, mate or engineer, shall appoint not less than two persons having experience in the merchant service to be assessors.

Each assessor shall either sign the report made on the investigation, or report to the Governor his reason for his dissent therefrom.

Costs.

48. The Magistrate may make such order with respect to the costs of such investigation or any portion thereof as he may deem just, and such costs shall be paid accordingly, and shall be recoverable in the same manner as other costs incurred in summary proceedings before him; and the Governor out of the Colonial Treasury may, if in any case he think fit so to do, pay the expense of any such investigation, and may pay to such assessor or assessors as aforesaid such remuneration as he thinks fit.

General power as to incompetency or misconduct.

49. If the Governor has reason to believe that any master, mate or engineer is from incompetency or misconduct unfit to discharge his duties, he may, when the incompetency or misconduct has occurred on board of a British ship on or near the coasts of the Colony or on board of a British ship in the course of a voyage to a port within the Colony, or when the incompetency or misconduct has occurred in any part of the world on board a British ship registered in the Colony, or when the master, mate or engineer of a British ship who is charged with incompetency or misconduct on board of such British ship is found in the Colony, direct the Magistrate to institute an investigation, and such Magistrate shall conduct the investigation, and may summon the master, mate or engineer to appear, and shall give him full opportunity of making a defence either in person or

otherwise, and such Magistrate shall for the purpose of such investigation have all the powers given by Section 44 of this Ordinance to a principal Officer of Customs, and such Magistrate may make such order with respect to the costs of such investigation as he may deem just.

50. A Magistrate making an investigation under this Ordinance may cancel or suspend the certificate of any master, mate or certificated engineer whose conduct is called in question in the course of such investigation, if it appears to such Magistrate that such master, mate or certificated engineer has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, abandonment or stranding of, or serious damage to, any ship, or loss of life has been caused by his wrongful act or default: Provided that

Magistrate
may suspend
certificates.

(1.) The Magistrate shall at the conclusion of the case or as soon afterwards as possible state in open court the decision to which he may have come with respect to cancelling or suspending certificates, and shall in all cases send the Governor a full report upon the case with the evidence, and shall also, if he determines to cancel or suspend any certificate, forward such certificate to the Governor, and such report and evidence together with the certificate (if any) shall forthwith be forwarded by the Governor to the Colonial Office for transmission to the Board of Trade:

(2.) It shall be lawful for the Board of Trade, if they think the justice of the case requires it, to reissue and return any certificate which has been cancelled or suspended or to shorten the time for which it is suspended or to grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended:

(3.) No certificate shall be cancelled or suspended under this section, unless a copy of the report or a statement of the case upon which the investigation is ordered, has been furnished to the owner of the certificate before the commencement of the investigation, nor unless one assessor at least expresses his concurrence in such cancellation or suspension:

(4.) Every formal investigation into a shipping casualty shall be conducted in such manner that if a charge is made against any person, that person shall have the opportunity of making a defence :

(5.) Such investigations shall be held in some public building or other suitable place not being a Court ordinarily used as a Police Court, unless no other suitable place is available.

Powers of
Court of
inquiry.

51. The Court or Tribunal authorized by Sections 47 and 50 of this Ordinance to make enquiry or to hold investigations shall have the same jurisdiction as such Court or Tribunal would have had if such loss, abandonment, stranding, damage or casualty, or incompetency or misconduct had occurred within the ordinary jurisdiction of such Court or Tribunal, but subject to all provisions, restrictions and conditions which would have been applicable if they had so occurred : Provided that no enquiry shall be held under this Ordinance into any loss, abandonment, stranding, damage or casualty, or into any charge of incompetency or misconduct, which has once been the subject of such an enquiry and has been reported on by any competent Court or Tribunal in any part of His Majesty's Dominions, or in respect of which the certificate of a master, mate or engineer has been suspended or cancelled by a Naval Court, and provided also that where any enquiry has been commenced in the United Kingdom, no enquiry shall be made in the same case under the authority of this Ordinance.

Power to
require
delivery of
certificate.

52. Every master or mate or engineer whose certificate is suspended or cancelled in pursuance of this Ordinance shall upon demand of the Governor or the Court or Tribunal by which the case is investigated or tried, deliver his certificate to him or them, and such certificate shall be forwarded to the Colonial Office for transmission to the Board of Trade. If any master, mate or engineer fails to deliver his certificate when required so to do under this section, he shall incur a penalty not exceeding Fifty Pounds.

Limitation
of power
to inquire.

53. So much of this Ordinance as relates to inquiries into wrecks, casualties, incompetency and misconduct shall not apply to any ships belonging to or in the service of His Majesty or belonging to any foreign Prince or State.

Courts of Survey.

54.—(1.) The Court of Survey for the Colony shall consist of a Judge sitting with two Assessors. Constitution of court of survey.

(2.) The Judge shall be such Magistrate as may be appointed by the Governor either generally or in each case.

(3.) The assessors shall be persons of nautical engineering or other special skill and experience; one of them shall be appointed by the Governor, either generally or in each case, and the other shall be summoned in accordance with the Rules under this Ordinance by the Registrar of the Supreme Court out of a list of persons periodically nominated for the purpose by resolution of the Legislative Council, or, if there is no such list, shall be appointed by the Judge.

(4.) The Registrar of the Supreme Court, or such other fit person as the Governor may from time to time appoint, shall be the Registrar of the Court, and shall, on receiving notice of an appeal or a reference from the Governor, immediately summon the court in the prescribed manner to meet forthwith.

(5.) The name of the Registrar and his office, together with the rules made under this Ordinance relating to the Court of Survey, shall be published in the prescribed manner.

55. With respect to the Court of Survey the following provisions shall have effect: Powers and procedure of court of survey.

(1.) The case shall be heard in open court;

(2.) The Judge and each Assessor may survey the ship, and shall have for the purposes of this Ordinance all the powers of a principal officer of Customs making inquiry under Part V of this Ordinance, and the provisions of that Part with respect to persons who wilfully impede a principal officer of Customs or disobey a requisition or order of a principal officer of Customs shall apply to persons wilfully impeding or disobeying the requisition or order of a Judge or Assessor;

(3.) The Judge may appoint any competent person or persons to survey the ship and report thereon to the court;

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

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

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

Rules for court
of survey.

56. The Governor may from time to time make, and when made revoke, alter and add to general rules to carry into effect the provisions of this Ordinance with respect to the Court of Survey, and in particular with respect to the summoning of and procedure before the court, the requiring on an appeal of security for costs and damages, the amount and application of fees, and the publication of the rules.

All such rules while in force shall have effect as if enacted in this Ordinance, and the expression "prescribed" in the provisions of this Ordinance relating to the detention of ships or court of survey means prescribed by such rules.

PART VI.—WRECK AND SALVAGE.

Appointment and Duties of Receivers.

Superinten-
dent of Wreck.

57. The Collector of Customs shall have the general superintendence of all matters relating to wreck, and he may with the approval of the Governor appoint any Officer of Customs, or when it appears to him more convenient, any other person, to be a Receiver of Wreck in any district and to perform the duties in this Part of this Ordinance mentioned, and he shall give due notice of every such appointment.

Receiver's
fees.

58.—(1.) There shall be paid to every Receiver the expenses properly incurred by him in the performance of his duties, and also, in respect of the several matters specified in Schedule II to this Ordinance, such fees not

exceeding the amounts therein mentioned as may be directed by the Governor, but a Receiver shall not be entitled to any remuneration other than those payments.

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

(3.) Whenever any dispute arises as to the amount payable to any Receiver in respect of expenses of fees, that dispute shall be determined by the Governor, whose decision shall be final.

(4.) All fees received by a Receiver in respect of any services performed by him as a Receiver shall be paid into the Treasury, provided always that in the case of any person appointed Receiver other than the Collector of Customs the Governor may either generally or in a particular case authorise such person to retain the whole or a portion of the fees received by him under this Ordinance.

59.—(1.) Whenever any ship or boat is stranded or in distress at any place on the shore of the sea or of any tidal water within the limits of the Colony, the Receiver of the district within which such place is situated shall, upon being made acquainted with such accident, as soon as possible proceed to such place and upon his arrival there take the command of all persons present, and assign such duties to each person and issue such directions as he may think fit with a view to the preservation of such ship or boat and the lives of the persons belonging thereto, and the cargo and apparel thereof; and if any person wilfully disobeys such directions he shall, on conviction before a Magistrate, forfeit a sum not exceeding fifty pounds, but it shall not be lawful for such Receiver to interfere between the master of such ship or boat and his crew in matters relating to the management thereof, unless he is requested so to do by such master.

Duty of Receiver when ship is stranded or in distress.

(2.) The Receiver may, with a view to such preservation of the ship or boat, persons, cargo and apparel, do the following things:—

(a.) Summon such number of men as he thinks necessary to assist him:

- (b.) Require the master or other person having the charge of any ship or boat near at hand to give such aid with his men, ship or boat as may be in his power :
- (c.) Demand the use of any waggon, cart or horses that may be near at hand :

And any person refusing without reasonable cause to comply with any summons, requisition or demand so made, for every such refusal shall on conviction before a Magistrate incur a penalty not exceeding One Hundred Pounds.

Articles washed ashore, or lost, or taken from ship to be delivered to Receiver.

60. All cargo and other articles belonging to such ship or boat as aforesaid, that may be washed on shore or otherwise be lost or taken from such ship or boat, shall be delivered to the Receiver; and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article or refuses to deliver the same to the Receiver or to any person authorized by him to demand the same, shall on conviction before a Magistrate incur a penalty not exceeding One Hundred Pounds; and it shall be lawful for such Receiver or other person as aforesaid to take such cargo or article by force from the person so refusing to deliver the same.

Suppression of plunder and disorder.

61. Whenever any such accident happens to any ship or boat and any person plunders, creates disorder, or obstructs the preservation of such ship, boats, lives or cargo as aforesaid, it shall be lawful for the Receiver to cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder or obstruction as aforesaid, with power to command all His Majesty's subjects to assist him in the use of such force; and if any person is killed, maimed or hurt by reason of his resisting the Receiver in the execution of the duties hereby committed to him, or any person acting under his orders, such Receiver or other person shall be freely and fully indemnified as well against the King's Majesty His Heirs and Successors as against all persons so killed, maimed or hurt and their representatives and all other persons whomsoever.

62. During the absence of the Receiver from the place where any such accident occurs, or in a place where no Receiver has been appointed under this Ordinance, the following Officers in succession, that is to say, any Principal Officer of the Customs, Warden, Inspector of Police or any Commissioned Officer on full pay in His Majesty's Navy or Army, may do all things and matters hereby authorised to be done by the Receiver, and any Officer so acting shall be considered as the Agent of the Receiver and shall place any goods or articles belonging to any such ship or boat in the custody of the Receiver.

Certain officers to exercise powers of Receiver in his absence.

63. Whenever any such accident occurs to any ship or boat, all persons may for the purpose of rendering assistance to such ship or boat or saving the lives of the persons on board the same or the cargo or apparel thereof, unless there is some public road equally convenient, pass and re-pass either with or without carriages or horses over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also on the like condition deposit on such lands any cargo or other article recovered from such ship or boat; and all damage that may be sustained by any owner or occupier in consequence of any passing or re-passing or deposit shall be a charge on the ship, boat, cargo or article in respect of or by which such damage was occasioned, and shall in default of payment be recoverable in the same manner as salvage is by this Ordinance made recoverable, and the amount payable in respect thereof if disputed, shall be determined in the same manner as the amount of salvage is by this Ordinance in case of dispute directed to be determined; and if the owner or occupier of any land over which any person is hereby authorised to pass or re-pass for any of the purposes hereinbefore mentioned impedes or hinders any such person from passing or re-passing or impedes or hinders the deposit of any cargo or other article recovered from any such ship or boat as hereinbefore mentioned, he for every such offence shall on conviction before a Magistrate incur a penalty not exceeding One Hundred Pounds.

Power in case of ship in distress to pass over adjoining land.

Dealing with Wreck.

Rules to be
observed by
persons finding
wreck.

64. The following rules are to be observed by any person finding or taking possession of wreck within the Colony, or finding or taking possession of wreck outside the Colony and bringing it within the Colony :

- (1.) If the person so finding or taking possession of the same is the owner, he shall as soon as possible give notice to the Receiver of the district within which such wreck is found, or in the case of wreck found or taken possession of outside the Colony, to the Collector of Customs, stating that he has so found or taken possession of the same, and he shall describe in such notice the marks by which such wreck is distinguished :
- (2.) If any person not being the owner finds or takes possession of any wreck, he shall as soon as possible deliver the same to such Receiver or to the Collector of Customs as aforesaid.

And any person making default in obeying the provisions of this section shall forfeit all claim to salvage and shall on conviction before a Magistrate incur a penalty not exceeding One Hundred Pounds, and in default of payment be imprisoned with or without hard labour for any period not exceeding six months.

Notice of
wreck to be
given by
Receiver.

65. Every Receiver shall within four days after taking possession of any wreck cause to be posted up in the Custom House of the port within which such wreck was found or seized a description of the same and of any marks by which it is distinguished, and shall also if the value of such wreck exceeds Twenty Pounds but not otherwise transmit a similar description to the agent of the Committee of Lloyds, and such agent shall post up the description so sent or a copy thereof in some conspicuous place for the inspection of all persons desirous of examining the same.

Receiver may
seize concealed
wreck.

66. If any Receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof or otherwise improperly dealt with, he may apply to any Magistrate or Justice for a warrant, and such Magistrate or Justice shall have power

to grant a warrant by virtue whereof it shall be lawful for the Receiver to enter into any house or other place wherever situate and also in any ship or boat and to search for and to seize and detain any such wreck as aforesaid there found, and if any such seizure is made in consequence of information that may have been given by any person to the Receiver, the informer shall be entitled by way of salvage to such sum as the Collector of Customs may allow.

67. If any goods, merchandize or articles of any kind belonging to any ship or vessel in distress, or wrecked, stranded or cast on shore are found in the possession of any person or on the premises of any person with his knowledge, and such person being taken or summoned before a Magistrate does not satisfy the Magistrate that he came lawfully by the same, then the same shall by order of the Magistrate be forthwith delivered over to the Receiver to be disposed of according to law, and the offender shall on conviction of such offence before the Magistrate be liable to a penalty not exceeding Twenty Pounds or to be imprisoned with or without hard labour for any period not exceeding six months.

68. Every person who within the limits of the Colony does any of the following acts :—

- (1.) Wrongfully carries away or removes any part of any ship or boat stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof or any wreck ; or,
- (2.) Endeavours in any way to impede or hinder the saving of such ship, boat or cargo, apparel or wreck ; or,
- (3.) Secretes any wreck or obliterates or defaces any marks thereon,

shall on conviction before a Magistrate, in addition to any other penalty or punishment he may be subject to under this or any other Ordinance, be liable to a penalty not exceeding Fifty Pounds or to be imprisoned with or without hard labour for a period not exceeding six months.

Penalty for
taking wreck
to foreign ports
for sale.

69. If any person takes into any foreign port or place any ship or boat stranded, derelict or otherwise in distress on or near the shore of the sea or of any tidal water within the limits of the Colony, or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found within such limits as aforesaid, with intent to sell the same, he shall be guilty of a misdemeanour and on conviction thereof shall be imprisoned with or without hard labour for any period not exceeding two years.

Unclaimed
wreck.

70. In the event of no owner establishing a claim to wreck found in any part of the Colony before the expiration of a year from the date at which the same came into the possession of the Receiver, the Receiver shall forthwith sell the same and after payment of all expenses attending such sale and deducting all expenses incurred by him and paying to the salvors such amount of salvage as the Collector of Customs may in each case or by any general rule determine, shall pay the proceeds of the sale to the Receiver-General for the use of His Majesty: Provided that in cases where any wreck in the custody of a Receiver is under the value of Five Pounds or is of so perishable a nature or so much damaged that the same cannot in his opinion be advantageously kept, the Receiver may sell the same before the expiration of the period hereinbefore mentioned, and the proceeds of such sale, after paying the expenses thereof, shall be paid to the Receiver-General to be held by him for the same purposes and subject to the same claims for and to which the article sold would have been held and liable if it had remained unsold.

Salvage.

Salvage.

71. Whenever any ship or boat is stranded or otherwise in distress on the shore of any sea or tidal water situate within the limits of the Colony and services are rendered by any person

- (1.) In assisting such ship or boat,
- (2.) In saving the lives of the persons belonging to such ship or boat,
- (3.) In saving the cargo or apparel of such ship or boat or any portion thereof,

(4.) In saving any wreck, there shall be payable by the owner of such ship or boat, cargo, apparel or wreck, to the person by whom such services or any of them are rendered, or by whom such wreck is saved, a reasonable amount of salvage to be determined in case of dispute in manner hereinafter mentioned.

72. Whenever any dispute arises between the owners of any such ship, boat, cargo, apparel or wreck as aforesaid and the salvors as to the amount of salvage, and the parties to the dispute cannot agree as to the settlement thereof by arbitration or otherwise,

- (1.) If the sum claimed does not exceed One Thousand Pounds, such dispute shall be referred to the arbitration of the Collector of Customs and a Magistrate, hereinafter called the Arbitrators;
- (2.) If the sum claimed exceeds One Thousand Pounds, such dispute may with the consent of the parties be referred to the arbitration of the Arbitrators, but, if they do not consent shall be decided by the Colonial Court of Admiralty.

Every dispute with regard to salvage may be heard and adjudicated upon on the application either of the salvor or of the owner of the property salvaged or of their respective agents.

73. Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew, and other persons in the service of any foreign vessel, the amount shall be apportioned by the court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

74. Whenever any salvage question arises, the Receiver for the district may upon application from either of the parties appoint a valuer to value the property in respect of which the salvage claim is made, and shall when the valuation has been returned to him give a copy of the valuation to both parties; and any writing purporting to be a copy of such valuation and to be signed by the valuer and attested by the receiver shall in any subsequent proceeding be *prima facie* evidence of such valuation

without proof of the signature or official character of the valuer or Receiver; and there shall be paid to the valuer in respect of such valuation by the party applying for the same such fee as the Collector of Customs may direct.

Manner in which Arbitrators may decide disputes.

75. Whenever in pursuance of this Ordinance any dispute as to salvage is referred to the Arbitrators they may, if they think fit, call to their assistance any person conversant with maritime affairs as assessor, or they may if a difference of opinion arises between them, appoint some person conversant with maritime affairs as umpire to decide the point in dispute. Such Arbitrators shall make an award as to the amount of salvage payable within four days after such dispute has been referred to them, and such umpire shall give his decision within forty-eight hours after his appointment, with power nevertheless for such Arbitrators or umpire by writing under their or his hands to extend the periods aforesaid.

Costs of arbitration.

76. There shall be paid to every assessor and umpire who may be appointed as aforesaid in respect of his services such sum not exceeding ten pounds as the Governor may direct, and all the costs of such arbitration, including any such payments as aforesaid shall be paid by the parties to the dispute in such manner and in such shares and proportions as the Arbitrators shall direct by their award.

Arbitrators may call for documents and administer oaths.

77. The Arbitrators may call for the production of any documents in the possession or power of either party which they may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose.

Appeal to Colonial Court of Admiralty.

78. If any person is aggrieved by the award made by such Arbitrators he may appeal to the Colonial Court of Admiralty, but no such appeal shall be allowed unless the sum in dispute exceeds Fifty Pounds, nor unless within ten days after the date of the award the appellant gives notice to the Arbitrators of his intention to appeal, nor unless the appellant within twenty days from the date of the award takes such proceedings as according to the practice of the Court are necessary for the institution of such an appeal.

The Chief Justice with the concurrence of a Puisne Rules.
 Judge may from time to time make such general rules as
 he thinks fit for regulating the procedure and practice upon
 appeals under this section. Such rules shall be published
 in the *Royal Gazette*.

79. Whenever any salvage is due to any person under Enforcing
 payment of
 salvage.
 this Ordinance the Receiver shall act as follows :—

- (1.) If the same is due in respect of services rendered in assisting any ship or boat, or in saving the lives of persons belonging to the same or the cargo or apparel thereof, he shall detain such ship or boat and the cargo and apparel thereof until payment is made or process has been issued by some competent Court for the detention of such ship, boat, cargo or apparel :
- (2.) If the same is due in respect of the saving of any wreck, and such wreck is not sold as unclaimed in pursuance of the provisions of this Ordinance, he shall detain such wreck until payment is made or process has been issued in manner aforesaid.

But it shall be lawful for the Receiver, if at any time previously to the issue of such process security is given to his satisfaction for the amount of salvage due, to release from his custody any ship, boat, cargo, apparel or wreck so detained by him as aforesaid ; and in cases where the claim for salvage exceeds Two Hundred Pounds it shall be lawful for the Colonial Court of Admiralty to determine any question that may arise concerning the amount of the security to be given or the sufficiency of the sureties.

80. Whenever any ship, boat, cargo, apparel or wreck Receiver may
 sell property
 salvaged in case
 of non-pay-
 ment.
 is detained by any Receiver for non-payment of any sums
 so due as aforesaid, and the parties liable to pay the same
 are aware of such detention :—

- (1.) In cases where the amount is not disputed and payment is not made within twenty days after the same has been claimed :

- (2.) In cases where the amount is disputed but no appeal lies from the first tribunal to which the dispute is referred, and payment thereof is not made within twenty days after the decision of such first tribunal:
- (3.) In cases where the amount is disputed and an appeal lies from the decision of the first tribunal to some other tribunal, and payment thereof is not made within such twenty days as last aforesaid or such proceedings as according to the practice of such other tribunal are necessary for the prosecution of an appeal are not instituted within such twenty days:

the Receiver may forthwith sell such ship, boat, cargo, apparel or wreck or a sufficient part thereof, and out of the proceeds of the sale after payment of all expenses thereof defray all sums of money due in respect of all expenses fees and salvage, paying the surplus (if any) to the owners of the property sold or other the parties entitled to receive the same.

Subject to payment of expenses and salvage owner entitled to wreck.

81. Subject to the payment of such expenses fees and salvage as aforesaid, the owner of any wreck who establishes his claim thereto to the satisfaction of the Collector of Customs within one year from the date at which such wreck has come into the possession of the Receiver shall be entitled to have the same delivered up to him.

Disputed title to wreck.

82. If any dispute arises between the Collector of Customs and any person as to the validity of his claim to wreck, or if divers persons claim to be entitled to wreck found at the same place, the matter in dispute may be decided by Arbitrators in the same manner in which disputes as to salvage coming within the jurisdiction of Arbitrators are hereinbefore directed to be determined, with the substitution as one of such Arbitrators of any Magistrate or Justice to be nominated by the Governor in the place of the Collector of Customs. If any party to such dispute is dissatisfied with the decision of such Arbitrators he may within three months from the date of such decision,

but not later, take such proceedings as he may be advised in any Court of Law, Equity or Admiralty having jurisdiction in the matter for establishing his title.

83. Upon the delivery of wreck or the proceeds of wreck by the Collector of Customs to any person in pursuance of the provisions of this Ordinance, such Collector of Customs shall be discharged from all liability in respect thereof, but such delivery shall not be deemed to prejudice or affect any question concerning the right or title to the said wreck which may be raised by third parties.

Collector of
Customs
discharged
from liability
on delivery of
wreck.

84. Whenever any articles belonging to or forming part of any foreign ship which has been wrecked on or near the coasts of the Colony or belonging to or forming part of the cargo thereof are found on or near such coasts or are brought into any port in the Colony, the Consular Officer of the country to which such ship, or in the case of cargo to which the owners of such cargo, may have belonged, shall in the absence of the owner of such ship or articles and of the master or other agent of the owner, be deemed to be the agent of the owner so far as relates to the custody or disposal of such articles.

In case of
wreck of
foreign ship
Consular
Officer to be
deemed agent
of owner.

PART VII.—MISCELLANEOUS.

85. When in any information or action relating to any seizure or detention, judgment is given for the claimant and it appears to the Judge or Magistrate before whom the same was heard that there was a probable cause of seizure or detention and such Judge or Magistrate certifies so on the record or other written proceedings, such certificate shall be a bar and may be pleaded as such to any action, indictment or other proceeding against the seizer or detainer; and in case any action, indictment or other proceeding is brought to trial against any person on account of any seizure or detention (whether any information is brought to trial for the condemnation of the same or not) and judgment is given for the plaintiff, if the Judge or Magistrate before whom such action, indictment or other proceeding is tried certifies on the record or other written proceedings that there was probable cause for such seizure or detention, the plaintiff

Effect of
certificate of
probable
cause.

shall not be entitled to more than two-pence damages nor to any costs, nor shall the defendant be fined more than one shilling; and the production of such certificate or a copy thereof verified by the signature of the officer of the Court having charge thereof shall be sufficient evidence of such certificate.

Enforcing
detention of
ship.

86. Where under this Ordinance a ship is authorised or ordered to be detained, any commissioned officer on full pay in the Naval or Military Service of His Majesty or any officer of the Government may detain the ship, and if the ship after such detention or after service on the master of any notice of or order for such detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner and any person who sends the ship to sea, if such owner or person be party or privy to the offence, shall forfeit and pay to His Majesty on conviction thereof before a Magistrate, a penalty not exceeding one hundred pounds.

Taking officer
to sea.

87. Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorized to detain the ship or any surveyor or officer of the Government, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea and also a penalty on conviction before a Magistrate, not exceeding one hundred pounds, or if the offence is prosecuted in the manner provided by the Crown Suits Ordinance, 1913, not exceeding ten pounds for every day until the officer or surveyor returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and such expenses may be recovered in like manner as the penalty.

Service of
order on
master, &c.

88. Where any order, notice, statement or document requires, for the purpose of any provisions of this Ordinance, to be served on the master of a ship, the same shall be served, where there is no master, on some agent of the owner residing in the Colony, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or in the case of a master by leaving it for him on board the ship with the person being or appearing to be in command or charge of such ship.

Any person who obstructs the service of any order, notice, statement or document on the master of a ship, shall on conviction before a Magistrate incur a penalty not exceeding ten pounds, and if the owner or master of the ship is party or privy to such obstruction he shall be guilty of a misdemeanour.

89. Any party complaining of any illegal seizure or detention of any ship or goods may proceed against the Officer by whom such seizure or detention was made by plaint in any Court having jurisdiction in petty civil actions within the district where the cause of action arose: Provided that the sum claimed for damages by the party so complaining shall not exceed the amount to which the jurisdiction of such Court is limited. Action for illegal seizure.

90. Every person giving false evidence upon an oath administered under this Ordinance, or falsely making and subscribing any declaration required under this Ordinance, shall be liable to the pains and penalties of perjury. False evidence.

91. All offences made punishable under this Ordinance, by or before any Magistrate or Justice shall be punishable on summary conviction, and the provisions of the Summary Conviction Offences (Procedure) Ordinance (No. 1) shall be applicable. Procedure.

92. The Merchant Shipping Ordinance (No. 182) is hereby repealed. Repeal.

93. This Ordinance shall come into operation on a day to be fixed by the Governor by Proclamation in the *Royal Gazette*. Commencement.

Passed in Council this Twenty-eighth day of April, in the year of Our Lord one thousand nine hundred and sixteen.

J. M. FARFAN,
Acting Clerk of the Council.

2-7-1917
DND. 24/1917

SCHEDULE I.

FORM A.

KNOW ALL MEN BY THESE PRESENTS that we A. B. of
 (master) and C. D. of and E. E. of (sureties)
 are held and firmly bound unto Our Sovereign Lord the King in
 the sum of £25 to be paid to Our said Sovereign His Heirs and
 Successors for which payment well and truly to be made we bind
 ourselves and every of us jointly and severally and our heirs, executors,
 administrators and every of them firmly by these presents.

Whereas G. H. has agreed to serve on board the ship
 of of which is the master, in the capacity of
 on a voyage from Trinidad to

And Whereas the said A. B., master, has agreed that the cost of
 repatriating the said G. H. shall in the event of his being discharged at a
 port other than a port in the West Indies or British Guiana and of his
 being conveyed to Trinidad at any time within months from the
 date of these presents at the cost of the Government of the Colony be
 repaid to the Government by the said A. B. master;

The condition of the foregoing obligation is that if the said A. B.
 master or his heirs executors or administrators shall pay to the Receiver-
 General of the said Colony the amount expended by the Colonial
 Government in re-conveying the said G. H. to Trinidad, then the said
 obligation shall be void, but otherwise shall remain in full force and virtue.

Dated at this day of 19 .

Witnesses

(Signatures of obligors).

FORM B.

I, of
 Harbour Master (or other officer authorised to sign on crews) at the port
 of in the Colony of Trinidad hereby certify
 that A. B., the person to whom this certificate has been issued, is a
 British subject and that he is a native of (or is domiciled in) Trinidad.

C. D.

Harbour Master (or other officer)

Dated this day of

191 .

 SCHEDULE II.

 Maximum Fees and Remuneration of Receivers.

For every examination on oath instituted by a receiver with respect to any ship which may be or may have been in distress, a fee not exceeding £1 0 0

But so that in no case shall a larger fee than £2 be charged for examinations taken in respect of the same ship and the same occurrence, whatever may be the number of the deponents.

For wreck taken by the receiver into his custody, a percentage of 5 per cent. upon the value thereof.

But so that in no case shall the whole amount of percentage so payable exceed £20.

In cases where any services are rendered by a receiver, in respect of any ship in distress, not being wreck, or in respect of the cargo or other articles belonging thereto, the following fees instead of a percentage, that is to say

If that ship with her cargo equals or exceeds in value £600, the sum of £2 for the first, and the sum of £1 for every subsequent day during which the receiver is employed on that service, but if that ship with her cargo is less in value than £600, one moiety of the above-mentioned sum.
