

suspension, or to grant a certificate in place thereof, and section 475, providing for a rehearing or an appeal, apply also to the case of an inquiry under section 471.

Jurisdiction of Colonial Courts.

A colonial Court has no jurisdiction except under Imperial legislation to inquire into casualties or misconduct occurring to or on board of British ships outside the territorial limits of the British possession. This question was raised and so decided in 1881 by a colonial Court in the case of a casualty happening to a British ship off the coast of Australia, upon her arrival with her crew at one of the Australian Colonies, and the inquiry was thereupon stayed. The Law Officers of the Crown, having advised that the decision was right, an Act was passed in 1882 to extend the jurisdiction of the colonial Courts, and its provisions are now incorporated in "The Merchant Shipping Act, 1894."

The necessary authority and jurisdiction are conferred upon colonial Courts by section 478, which provides in subsection (1) that the Legislature of any British possession may authorise any Court or tribunal to make inquiries into shipwrecks or other casualties affecting ships, or as to charges of incompetency for misconduct on the part of masters, mates, or engineers of ships in the following cases, namely:—

- (a.) Where a shipwreck or casualty occurs to a British ship on or near the coasts of the British possession, or to a British ship in the course of a voyage to a port within the British possession.
- (b.) Where a shipwreck or casualty occurs in any part of the world to a British ship registered in the British possession.
- (c.) Where some of the crew of the British ship which has been wrecked, or to which a casualty has occurred, and who are competent witnesses to the facts, are found in the British possession.
- (d.) Where the incompetency or misconduct has occurred on board a British ship on or near the coasts of the British possession, or on board a British ship in the course of a voyage to a port within the British possession.
- (e.) Where the incompetency or misconduct has occurred on board a British ship registered in the British possession.
- (f.) Where the master, mate, or engineer of a British ship who is charged with incompetency or misconduct on board that British ship is found in the British possession.

The tribunal has the same jurisdiction, but subject to the same conditions as if the matter in question had occurred within its ordinary jurisdiction.

No inquiry is to be held into any matter already inquired into and dealt with by a competent Court in any part of Her Majesty's dominions, or by a Naval Court, or where an inquiry has already been commenced in the United Kingdom.

A tribunal holding an inquiry under this section shall have the same power of cancelling and suspending certificates, and shall exercise those powers in the same manner as a Court holding a similar investigation or inquiry in the United Kingdom.

The Board of Trade are empowered to order a rehearing as in the case of an inquiry in the United Kingdom, but if an application for rehearing either is not made or is refused, an appeal shall be from any order or finding to the High Court in England, except where the ship is registered in a British possession, or the decision affects the certificate of a ship's officer not granted under Imperial authority pursuant to "The Merchant Shipping Act, 1894."

The appeal shall be conducted under rules made under the powers contained in section 479.

The Lord Chancellor is empowered by section 479 to make general rules for carrying into effect the enactments relating to formal investigations, and to the rehearing of an appeal from any investigation or inquiry held under Part VI. of "The Merchant Shipping Act, 1894," and in particular with respect to the appointment and summoning of Assessors, the procedure, the parties and persons allowed to appear, the notice to those parties or persons or to persons affected, the amount and application of fees, and the place in which formal investigations are to be held.

Any rule made under this section while in force is to have effect as if it were enacted in this Act. (Subsection 2.)

By subsection (3) the rules made with regard to the rehearing of or appeals from any investigations or inquiries as to the appointment of Assessors, and as to the place in which formal investigations are to be held, are required to be laid before both Houses of Parliament as soon as may be after the rules are made.

Points to be kept in View.

The points to be kept in view in colonial legislation on this subject may be gathered from the foregoing review of the provisions in the Imperial Act, but it may be convenient to summarise those points which may affect the validity of the decisions of the colonial Courts with respect to the cancelling or suspension of an Imperial certificate.

Summary of Points with respect to Investigations into Shipping Casualties.

1. A casualty to a British ship in respect of which a colonial Legislature may authorise an investigation to be held must be such as is defined in section 478, subsections (1 a), (1 b), and (1 c).
2. A colonial Court has no jurisdiction if the casualty has already been investigated and reported on by a competent Court in any part of Her Majesty's dominions, or if an investigation has already been commenced in the United Kingdom. (Section 478, subsections 3 and 4.)