

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government of Madras.

MARINE DEPARTMENT.

Recd.

Enclosures

Regd.

1910.

Spare copies

G.O., No. 246, 3rd August 1910.

ORIGINAL.

Enquiries into Shipping Casualties.

Recording endorsement of the Government of India, department of Commerce and Industry, No. 5171—5174-36, dated 18th July 1910, forwarding for information copy of a letter to the Government of Bombay on the subject of the practice followed in the United Kingdom in summoning the officers and crews of foreign vessels to attend as witnesses at preliminary investigations into shipping casualties.

No. 246, MARINE, 3RD AUGUST 1910.

GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

READ—the following paper :—

Letter—from A. C. McWATERS, Esq., I.C.S., Under Secretary to the Government of India, Department of Commerce and Industry (Merchant Shipping).

To—the Secretary to the Government of Bombay, Political Department.
Dated—Simla, the 18th July 1910.
No.—5170-36.

With reference to the correspondence ending with your letter No. 1034, dated the 15th February 1910, I am directed to forward a copy of the correspondence with the India Office noted in the margin on the subject of the practice followed in the United Kingdom in summoning the officers and crews of foreign vessels to attend as witnesses at preliminary investigations into shipping casualties.

2. It will be observed that it is the practice of the Board of Trade to enforce, as far as possible, the attendance of foreign witnesses, where necessary, at such investigations.

ENCLOSURES.

(1)

Despatch—from the Government of India, Department of Commerce and Industry (Merchant Shipping).

To—His Majesty's Secretary of State for India.
Dated—Calcutta, the 31st March 1910.
No.—15.

Under section 6 of the Indian Merchant Shipping Act, 1883, when any Magistrate or officer appointed by the Local Government in this behalf receives credible information that a casualty has occurred to any vessel as described in that section, he is required to report the matter in writing to the Local Government. Under section 6 (4) of the same Act, the officer in question is vested with the same powers as a Board of Trade Inspector appointed under section 14 of the Merchant Shipping Act, 1854 (now section 728 of the Merchant Shipping Act, 1894). He is empowered, *inter alia*, to require, by summons under his hand, the attendance of all such persons as he thinks fit to call before him and examine for the purpose of the report which he is required to make.

2. We enclose a copy of the correspondence detailed in the attached schedule, from which your Lordship will observe that a case recently occurred of a collision between the P. & O. S.S. *Egypt* and the French S.S. *Dumbea*, and that the Captain and officers of the latter vessel were summoned by the Port Officer, Bombay (who is the officer appointed by the Local Government under section 6 of the Indian Merchant Shipping Act, 1883), to attend an enquiry into the circumstances connected with the casualty. This, however, they distinctly refused to do.

3. In view of the international aspect of the question, we should be glad to be informed of the procedure obtaining in the United Kingdom in the case of enquiries into shipping casualties in which foreign vessels are involved. We particularly desire to know what the practice is with regard to the summoning of the officers and crews of foreign vessels to attend at such enquiries, whether steps are ever taken to enforce compliance with summonses issued by Board of Trade Inspectors in this connection, and, if so, the nature of the measures employed.

No. 246, MARINE, 3RD AUGUST 1910.

(2)

Letter—from Sir T. W. HOLDERNESSE, K.C.S.I., Secretary, Revenue and Statistics Department, India Office

To—the Secretary to the Government of India, Commerce and Industry Department.

Dated—London, the 11th June 1910.

No.—R. & S. 1290.

With reference to the Government of India's letter, dated 31st March, No. 15 of 1910 (C. & I.), I forward, for information, copy of the papers noted in the margin, on the subject of the conduct of enquiries in the United Kingdom into shipping casualties involving foreign vessels.

Letter from Board of Trade, dated 9th June 1910, No. M. 9597 (with six enclosures in original).

SUB-ENCLOSURES.

Letter—from the Board of Trade, Marine Department, 7, Whitehall Gardens.

To—the Under Secretary of State, India Office.

Dated—London, S.W., the 9th June 1910.

No.—M. 9597.

I am directed by the Board of Trade to acknowledge the receipt of Sir T. W. Holderness' letter (R. & S. 884) of the 20th April last transmitting a copy of a letter from the Government of India regarding the conduct of inquiries in this country into shipping casualties involving foreign vessels.

In reply the Board of Trade desire me to enclose herewith, for the information of the Secretary of State for India in Council, a copy of a minute on the subject by their Solicitor, together with a copy of the instructions laid before, and the opinion of Counsel (Mr. H., afterwards Mr. Justice Sutton) in respect of the French vessel *Racine* and also copies of the documents referred to in those instructions.

I am to add that should further information be desired by the Secretary of State upon any point arising out of these enclosures, the Board's Solicitor will be glad to supply it, if possible.

Inquiries in the United Kingdom into shipping casualties involving foreign vessels.

ATTENDANCE OF FOREIGN CREWS.

Minute by the Solicitor to the Board of Trade.

In the case of inquiries into shipping casualties in which foreign vessels are involved, the foreign witnesses must, of course, arrive and be at a port in the United Kingdom in order to bring them within the jurisdiction. Take for instance the case of an English ship having been sunk by collision with a foreign ship at sea, after which the foreign ship has put into the nearest English port to land the English survivors. A preliminary inquiry would be held at the place where the witnesses were by the Chief Officer of Customs or other person appointed by the Board of Trade and the witnesses from both ships would be summoned to attend and make depositions. The person holding the preliminary inquiry would probably as a matter of courtesy first communicate with the Consul for the country to which the foreign ship belonged.

If after receiving the depositions the Board of Trade ordered a formal investigation to be held into the loss of the English ship, the necessary steps would be taken by their Solicitor who would at once get into communication with the Foreign Consul. The foreign witnesses would be treated in precisely the same way as English witnesses—that is to say, they would be paid subsistence allowance and would be served with summonses to attend the inquiry. On the other hand, nothing could be done to prevent a foreign witness leaving the United Kingdom, and returning to his own country before the necessary arrangements could be made for the hearing of the formal investigation ordered by the Board of Trade, and in these circumstances the only way of proceeding with the investigation would be by coming to some arrangement with the foreign witnesses to return to the United Kingdom for the purpose of giving evidence, the expenses of course being borne by the Board of Trade.

5TH JUNE 1905.

S.S. "RACINE" OF FRANCE,

Re J. L. LEGAC.

Instructions to advise.

Counsel's attention is directed to the following sections of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60):
Sections 517, 729, 680.

About 9-20 P.M. on the 22nd April last, this vessel collided with an unknown three-masted schooner about $9\frac{1}{2}$ miles north-east, $\frac{1}{4}$ east of the Foreland light in the Bristol channel whereby the schooner was lost with all hands. The "Racine" was badly damaged by the collision, the fore part filled with water and could not continue on her voyage and returned to Barry.

On Sunday the 23rd April, the Receiver of Wreck went to the custom-house, but the Master of the "Racine" refused to come up without his Agent, who was then about to start away for the Easter holidays of two days, and said he could not attend before the Tuesday.

On Tuesday the Master said he was busy with his Solicitor and could not come, although a notice was served on him, and repeated efforts were made by the Receiver of Wreck at Barry and at Cardiff through the Master's Agents and Solicitor there to obtain the attendance of the Master or any of the crew. He promised to attend before the Receiver at Cardiff on the afternoon of the 26th April, but failed to do so, and subsequently stated he had been advised by his Solicitor to decline to make any statement.

A summons was accordingly served upon the Master, a copy of which is sent herewith, accompanied by the tender of 5/- as expenses and as this was ineffectual a summons was taken out in a Court of Summary Jurisdiction, a copy of which is sent herewith.

Shortly before the summons came on for hearing before the Justices the Master tendered a formal deposition drawn up by his Solicitors but refused to answer further questions. The Receiver of Wreck was instructed not to accept the deposition so tendered. The proceeding and not a compliance with section 517. It may or may not have contained as much information as the Receiver was entitled to obtain from the Master under the section but that is not the point. An important principle is involved. It will never do for the Receiver to submit to the position of merely administering an oath as to the truth of such statement as the Master of a vessel which has been in distress thinks fit or may be advised to make. It is important to maintain the Receiver's right to examine, i.e., to question persons who come within the section.

After a long hearing the Bench convicted the defendant. There is sent herewith a certified copy of the conviction. The Court came to the conclusion that as the owners of the vessel were well known Cardiff people of high respectability the case being defended as a test case on a difficult matter of legal construction of an Act of Parliament the case would be met by a small fine.

The defence was conducted by Mr. Sankey of Counsel instructed by Messrs. Downing and Hancock. Mr. Sankey stated that those who instructed him looked upon the point as a very important one and on the decision being given against him he gave notice of appeal and asked the Magistrates to state a case, but the matter has dropped.

The evidence before the Court showed that the "Racine" herself was seriously damaged and was in fact in distress on arrival at Barry. This point was probably overlooked by the defendant's advisers in the first instance, as their arguments seemed to be addressed to the proposition that as the place where the collision occurred was more than three miles from the shore it could not be *inter fauces terrae* and that consequently the whole occurrence was outside territorial jurisdiction. But this was not the case as already stated and the question whether the place where the collision took place is within the body of a county or *inter fauces terrae* may arise on some other occasion.

There is a tendency to avoid making these depositions if possible and so the matter is of some importance.

The Board of Trade do not consider it satisfactory if a witness can avoid making a deposition by the payment of a small fine. By sub-section (3) of section 729 the largest penalty which could be imposed is £10. The Master of the "Racine" has not yet made a deposition before the Receiver of Wreck, but has paid the fine and costs and doubtless considers that there is an end of the matter. The question now arises whether non-compliance with the requirements of section 517, of the Merchant Shipping Act, 1894, can be held to be a continuing offence, or rather whether the defendant having been prosecuted and convicted for refusing to obey the summons of the Receiver of Wreck to attend for the purpose of being examined on oath relative to the matters mentioned in the section and having paid the penalty can be again called upon by the Receiver to attend and be examined, and upon refusal be prosecuted for refusing to attend the fresh summons, and so on until the defendant submits himself for examination.

In the case of the "Racine" the Receiver of Wreck summoned the Master under section 517, but possibly it would have been better in the circumstances for the Receiver to have proceeded under sections 464, 465 of the Merchant Shipping Act, but under whichever sections the proceedings were taken the immediate point now for consideration would be the same or would arise in the same way. That is to say, the person holding the examination under section 517 and the person holding the inquiry under section 465 have each the powers of a Board of Trade Inspector under the Act—see section 517 (3) and 465 (2). This brings in the provisions of section 729 under which the summons or notice is issued by the person acting under either section 465 or 517 requiring the attendance of the person to be examined. A form of summons under the provisions of sections 464 and 465 accompanies these papers.

Counsel is requested to advise the Board of Trade—

1. & 2. The mere fact that A has been summoned under sections 517 and 729 to attend for the purpose of being examined touching the matters mentioned in the former section and convicted of refusing to attend on the day mentioned does not prevent him being again summoned for some other day or days.

(1) Whether the Master of the "Racine" can again be summoned by the Receiver of Wreck at Barry or by any other Receiver in whose district the Master may happen to be, to be examined on oath concerning the distress of the "Racine" on her arrival at Barry on the 22nd April last. If yes—

(2) Whether if the Master refuses or neglects to obey such summons he is liable to be prosecuted and convicted and can this process be repeated *ad infinitum* or until the Master complies with requirements of section 517.

3. In the above respect there is, in my opinion, no difference if the proceedings were taken under sections 464, 465 and 729 of the Act and not under section 517.

(3) Will the answers to the foregoing questions equally apply if the summons issued by the Receiver at Barry had purported to be under the provisions of sections 464 and 465 or is there any distinction between the position under section 517 and the position under sections 464 and 465 in this respect and if so what is it.

(4) On any other phase of the subject dealt with in these instructions which may appear to Counsel to be of importance though not specifically brought out in the questions.

HENRY SUTTON.

Temple.

3rd July 1905.

SUMMONS to appear before a RECEIVER OF WRECK to make a DEPOSITION.

To

Christian name, surname and occupation of person.		Name and port of registry of ship in respect of which examination is to be instituted.	
Name.	Occupation or rating on board-ship.	Name.	Port of registry.
Legac	Master	S.S. "Racine"	France.

WHEREAS the French steamship "Racine" was in distress on the coasts of the United Kingdom on or about the day of April AND WHEREAS you are Master of the said ship and may be able to give an account thereof or of the cargo or stores of the said ship.

I HEREBY, by virtue of the provisions of the Merchant Shipping Act, 1894, require you to attend personally before me at the Custom-house, Barry Dock, on Wednesday the 26th instant at 4 of the clock in the afternoon for the purpose of being examined on oath relative to the matters in question.

And I also require you then and there to bring with you and produce the official log book of the ship and all other documents containing any information on the subject of the casualty.

Given under my hand at Barry Dock this 26th day of April 1905.

W. W. BOUCHER,
Receiver of Wreck.

CUSTOM HOUSE,
BARRY DOCK.

Served a true copy of this summons upon Legac, master of the S.S. "Racine", at 3-45 P.M. of Wednesday the 26th day of April 1905.

WM. TREDREE,
Chief Bt.

Glamorganshire to wit.

To Captain J. Legac,

S.S. "Racine", Barry Dock in the County
of Glamorgan.

WHEREAS information has this day been laid by William Boucher for that you the said J. Legac on the 26th day of April 1905 at the parish of Barry in the said county did unlawfully refuse to attend as a witness before a person having the powers of a Board of Trade Inspector Act, 1894, and after having had a tender made to you of the expenses if any to which you are entitled under that section against the form of the Statute in such case made and provided You ARE THEREFORE SUMMONED to appear on Friday the 12th day of May instant at 11 o'clock in the forenoon at the Police Court in the parish of Barry in the said county before the Court of Summary Jurisdiction there sitting to answer the said information.

Dated the 10th day of May 1905.

W. HENRY LEWIS (L.S.).

Justice of the Peace for the said county.

(Indorsed.)

Served a copy hereof personally on the within named Captain Legac on board the S.S. "Racine" this 10th day of May 1905.
Age 40.

HUGH FITZPATRICK,
P. C. 376.

In the County of Glamorgan, Petty Sessional Division of Dynaspowis.

Before the Court of Summary Jurisdiction sitting at Barry in the said county.
The 12th day of May 1905.

J. Legac (hereinafter called the defendant) is convicted for that he the said J. Legac on the 26th day of April 1905 at the parish of Barry in the county aforesaid did unlawfully refuse to attend as a witness before a person having the powers of a Board of Trade Inspector Act, 1894, and after having had a tender made to him of the expenses to which he was entitled under that section against the form of the Statute in such case made and provided.

And it is adjudged that the said defendant for his said offence do forfeit and pay the sum of one pound to be paid and applied according to law, and also the sum of seven shillings for costs forthwith; and in default of payment it is ordered that the said sums be levied by distress and sale of the goods and chattels of the said defendant and in default of distress that the said defendant be imprisoned in His Majesty's prison at Cardiff, in the county of Glamorgan, there to be kept for the space of seven days unless the said several sums and all costs and charges of the said distress and of the commitments sent and conveying of the said defendant to prison be sooner paid.

J. B. FERRIER (L.S.)
J. W. PYMAN (L.S.)

I certify the above to be a true copy of a conviction filed in my office, 2nd June 1905.

MANSEL FRANKLEN,
Clerk of the Peace for the County of Glamorgan.

SUMMONS.

To attend a preliminary inquiry by an officer of Customs, or Coast Guard, or by a person appointed for the purpose under section 465 of the Merchant Shipping Act, 1894.

Issued by the Board of Trade.

To

Christian name, surname and occupation of person referred to in the summons.		Name and port of registry of ship in respect of which inquiry is to be instituted.	
Name.	Occupation or rating on board-ship.	Name.	Port of registry.

TAKE NOTICE that I hereby, by virtue of the provisions of the Merchant Shipping Act, 1894, require you to attend personally before me at _____ on _____ day, the _____ instant, at _____ of the clock in the _____ noon, for the purpose of being examined on oath relative to the _____ of the said ship [And I also require you then and there to bring with you and produce the official log book of the ship, and all other documents containing any information on the subject of the casualty].

Given under my hand at
this _____ day of _____

Inspecting Officer of the Coast Guard,*
Chief Officer of Customs,*
Person appointed by the Board of Trade.*

* Obliterate the words which do not apply.

Note.—Any person neglecting or refusing to attend as required by this summons will incur a PENALTY not exceeding TEN POUNDS—*vide* section 729 of the Merchant Shipping Act, 1894. All proper and reasonable expenses in respect of a witness's attendance will be paid.

Note. This form is to be used by Inspecting officers of the Coast Guard, Chief officers of Customs, and persons appointed by the Board of Trade when witnesses refuse to attend at a preliminary inquiry under section 465 of the Merchant Shipping Act, 1894.

*Endorsement of the Government of India, Department of Commerce and Industry
(Merchant Shipping), No. 5171—5174—36, dated 18th July 1910.*

A copy of the foregoing (with its enclosures) is forwarded to the Governments of Madras and Bengal, Marine department; Burma, Commerce department, and Eastern Bengal and Assam, Public Works (Marine) department, for information.

(By Order, etc.)

A. C. MCWATTERS,
Under Secretary to the Government of India.

To the Government of Madras, Marine department.

Order—No. 246, Marine, dated 3rd August 1910.

Recorded.

(True Extract.)

W. S. MEYER,
Chief Secretary.

To the Presidency Port Officer.
" Chairman, Port Trust Board.
" District Magistrates of Maritime Districts.
" Chief Presidency Magistrate.
" Resident in Travancore and Cochin (through the Political department).
" British Consul, Pondicherry.
Copy to the Judicial Department.

57 & 58
Vict., c. 60,
ss. 465 and
729.

The words
within the
brackets only
apply in the
case of a
master or
other person
having the
charge of the
log book and
are to be
erased in all
other cases.

READ

(Mr) Enquiries into Shipping Casualties.

Recording endorsement of the Govt of India, Secy of Com & Industry
No. 571-574-36 & 18th July 1910 forwarding for information Copy of
letter to the Govt of Bombay on the subject of the practice
followed in the United Kingdom in summing up the officers and crews
of foreign vessels to assist in their cases at preliminary
investigations into shipping casualties.

Jul 8th

(Enc 868) Encl. of the Govt of India, Secy of Com & Industry, No. 571-574-36
& 18-7-10.

158

ORDER No. 246, dated 3. 8. 1910.

M.

Recorded.

Jul
1.8.10.

28-7-10

28-7-10

- To Mr PPO
- " Chairman P.T.B.
- " Secy of Narini St.
- " Chief Presidency Magistrate
- " Resident in Port (to report to
P.M. Secy)
- " British Consul, Rangoon
- " Copy to the Govt Secy.
- Not for E-7.

Despatch with Es
26-8-10

us.
Subd for
approval
15. 8. 20

Mar 30 8. 20
30 2. 20
17 AM

Mar 30 10. 8.

17 AUG 1910

Please see to queries

No. 246, MARINE, 3RD AUGUST 1910.
GOVERNMENT OF MADRAS.
MARINE DEPARTMENT.

RE
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Letter—from A. C. McWATERS, Esq., I.C.S., Under Secretary to the Government of India, Department of Commerce and Industry (Merchant Shipping).

Dated—Simla, the 18th July 1910.

No.—5170-36.

1. To Secretary of State for India, No. 15, dated the 31st March 1910.
2. From India Office, No. R. & S. 1290, dated the 11th June 1910, and enclosures.

2. It will be observed that it is the practice of the Board of Trade to enforce, as far as possible, the attendance of foreign witnesses, where necessary, at such investigations.

ENCLOSURES.

(1)

To—His Majesty's Secretary of State for India.

Dated—Calcutta, the 31st March 1910.

No.—15.

Under section 6 of the Indian Merchant Shipping Act, 1883, when any Magistrate or officer appointed by the Local Government in this behalf receives credible information that a casualty has occurred to any vessel as described in that section, he is required to report the matter in writing to the Local Government. Under section 6 (4) of the same Act, the officer in question is vested with the same powers as a Board of Trade Inspector appointed under section 14 of the Merchant Shipping Act, 1851 (now section 728 of the Merchant Shipping Act, 1894).

No. 246, MARINE, 3RD AUGUST 1910.

If after receiving the depositions the Board of Trade ordered a formal investigation to be held into the loss of the English ship, the necessary steps would be taken by their Solicitor who would at once get into communication with the Foreign Consul. The foreign witnesses would be treated in precisely the same way as English witnesses—that is to say, they would be paid subsistence allowance and would be served with summonses to attend the inquiry. On the other hand, nothing could be done to prevent a foreign witness leaving the United Kingdom, and returning to his own country before the necessary arrangements could be made for the hearing of the formal investigation ordered by the Board of Trade, and in these circumstances the only way of proceeding with the investigation would be by coming to some arrangement with the foreign witnesses to return to the United Kingdom for the purpose of giving evidence, the expenses of course being borne by the Board of Trade.

5TH JUNE 1905.

S.S. "RACINE" OF FRANCE,

Re J. L. LEGAC.

Instructions to advise.

Counsel's attention is directed to the following sections of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60):

Sections 517, 729, 680.

About 9-20 p.m. on the 22nd April last, this vessel collided with an unknown three-masted schooner about 9½ miles north-east, ¼ east of the Foreland light in the Bristol channel whereby the schooner was lost with all hands. The "Racine" was badly damaged by the collision, the fore part filled with water and could not continue on her voyage and returned to Barry.

On Sunday the 23rd April, the Receiver of Wreck went to the custom-house, but the Master of the "Racine" refused to come up without his Agent, who was then about to start away for the Easter holidays of two days, and said he could not attend before the Tuesday.

On Tuesday the Master said he was busy with his Solicitor and could not come, although a notice was served on him, and repeated efforts were made by the Receiver of Wreck at Barry and at Cardiff through the Master's Agents and Solicitor there to obtain the attendance of the Master or any of the crew. He promised to attend before the Receiver at Cardiff on the afternoon of the 26th April, but failed to do so, and subsequently stated he had been advised by his Solicitor to decline to make any statement.

A summons was accordingly served upon the Master, a copy of which is sent herewith, accompanied by the tender of £5 as expenses and as this was ineffectual a summons was taken out in a Court of Summary Jurisdiction, a copy of which is sent herewith.

Shortly before the summons came on for hearing before the Justices the Master tendered a formal deposition drawn up by his Solicitors but refused to answer further questions. The Receiver of Wreck was instructed not to accept the deposition so tendered. It was an irregular proceeding and not a compliance with section 517. It may or may not have contained as much information as the Receiver was entitled to obtain from the Master under the section but that is not the point. An important principle is involved. It will never do for the Receiver to submit to the position of merely administering an oath as to the truth of such statement as the Master of a vessel which has been in distress thinks fit or may be advised to make. It is important to maintain the Receiver's right to examine, i.e., to question persons who come within the section.

After a long hearing the Bench convicted the defendant. There is sent herewith a certified copy of the conviction. The Court came to the conclusion that as the owners of the vessel were well known Cardiff people of high respectability the case being defended as a test case on a difficult matter of legal construction of an Act of Parliament the case would be met by a small fine.

The defence was conducted by Mr. Sankey of Counsel instructed by Messrs. Downing and Hancock. Mr. Sankey stated that those who instructed him looked upon the point as a very important one and on the decision being given against him he gave notice of appeal and asked the Magistrates to state a case, but the matter has dropped.

The evidence before the Court showed that the "Racine" herself was seriously damaged and was in fact in distress on arrival at Barry. This point was probably overlooked by the defendant's advisers in the first instance, as their arguments seemed to be addressed to the proposition that as the place where the collision occurred was more than three miles from the shore it could not be *inter fauces terrae* and that consequently the whole occurrence was outside territorial jurisdiction. But this was not the case as already stated and the question whether the place where the collision took place is within the body of a county or *inter fauces terrae* may arise on some other occasion.

There is a tendency to avoid making these depositions if possible and so the matter is of some importance.

The Board of Trade do not consider it satisfactory if a witness can avoid making a deposition by the payment of a small fine. By sub-section (3) of section 729 the largest penalty which could be imposed is £10. The Master of the "Racine" has not yet made a deposition before the Receiver of Wreck, but has paid the fine and costs and doubtless considers that there is an end of the matter. The question now arises whether non-compliance with the requirements of section 517, of the Merchant Shipping Act, 1894, can be held to be a continuing offence, or rather whether the defendant having been prosecuted and convicted for refusing to obey the summons of the Receiver of Wreck to attend for the purpose of being examined on oath relative to the matters mentioned in the section and having paid the penalty can be again called upon by the Receiver to attend and be examined, and upon refusal be prosecuted for refusing to attend the fresh summons, and so on until the defendant submits himself for examination.

In the case of the "Racine" the Receiver of Wreck summoned the Master under section 517, but possibly it would have been better in the circumstances for the Receiver to have proceeded under sections 464, 465 of the Merchant Shipping Act, but under whichever sections the proceedings were taken the immediate point now for consideration would be the same or would arise in the same way. That is to say, the person holding the examination under section 517 and the person holding the inquiry under section 465 have each the powers of a Board of Trade Inspector under the Act—see section 517 (3) and 465 (2). This brings in the provisions of section 729 under which the summons or notice is issued by the person acting under either section 465 or 517 requiring the attendance of the person to be examined. A form of summons under the provisions of sections 464 and 465 accompanies these papers.

Counsel is requested to advise the Board of Trade—

1. & 2. The mere fact that A has been summoned under sections 517 and 729 to attend for the purpose of being examined touching the matters mentioned in the former section and convicted of refusing to attend on the day mentioned does not prevent him being again summoned for some other day or days.

(1) Whether the Master of the "Racine" can again be summoned by the Receiver of Wreck at Barry or by any other Receiver in whose district the Master may happen to be to be examined on oath concerning the distress of the "Racine" on her arrival at Barry on the 22nd April last. If yes—

(2) Whether if the Master refuses or neglects to obey such summons he is liable to be prosecuted and convicted and can this process be repeated *ad infinitum* or until the Master complies with requirements of section 517.

3. In the above respect there is, in my opinion, no difference if the proceedings were taken under sections 464, 465 and 729 of the Act and not under section 517.

(3) Will the answers to the foregoing questions equally apply if the summons issued by the Receiver at Barry had purported to be under the provisions of sections 464 and 465 or is there any distinction between the position under section 517 and the position under sections 464 and 465 in this respect and if so what is it.

(4) On any other phase of the subject dealt with in these instructions which may appear to Counsel to be of importance though not specifically brought out in the questions.

HENRY SUTTON.

Temple.

3rd July 1905.

SUMMONS to appear before a RECEIVER OF WRECK to make a DEPOSITION.

To

Christian name, surname and occupation of person.		Name and port of registry of ship in respect of which examination is to be instituted.	
Name.	Occupation or rating on board-ship.	Name.	Port of registry.
Legao	Master	S.S. "Racine"	France.

WHEREAS the French steamship "Racine" was in distress on the coasts of the United Kingdom on or about the 22nd day of April AND WHEREAS you are Master of the said ship and may be able to give an account thereof or of the cargo or stores of the said ship.

I HEREBY, by virtue of the provisions of the Merchant Shipping Act, 1894, require you to attend personally before me at the Custom-house, Barry Dock, on Wednesday the 26th instant at 4 of the clock in the afternoon for the purpose of being examined on oath relative to the matters in question.

No. 246, MARINE, 3RD AUGUST 1910.

And I also require you then and there to bring with you and produce the official log book of the ship and all other documents containing any information on the subject of the casualty.

Given under my hand at Barry Dock this 26th day of April 1905.

W. W. BOUCHER,
Receiver of Wreck.
CUSTOM HOUSE,
BARRY DOCK.

Served a true copy of this summons upon Legac, master of the S.S. "Racine", at 3-45 P.M. of Wednesday the 26th day of April 1905.

WM. TREDREE,
Chief Bt.

Glamorganshire to wit.

To Captain J. Legac,
S.S. "Racine", Barry Dock in the County
of Glamorgan.

WHEREAS information has this day been laid by William Boucher for that you the said J. Legac on the 26th day of April 1905 at the parish of Barry in the said county did unlawfully refuse to attend as a witness before a person having the powers of a Board of Trade Inspector after having been required so to do in manner provided by section 729 of the Merchant Shipping Act, 1894, and after having had a tender made to you of the expenses if any to which you are entitled under that section against the form of the Statute in such case made and provided You ARE THEREFORE SUMMONED to appear on Friday the 12th day of May instant at 11 o'clock in the forenoon at the Police Court in the parish of Barry in the said county before the Court of Summary Jurisdiction there sitting to answer the said information.

Dated the 10th day of May 1905.

W. HENRY LEWIS (L.S.),
Justice of the Peace for the said county.

(Indorsed.)

Served a copy hereof personally on the within named Captain Legac on board the S.S. "Racine" this 10th day of May 1905.

Age 40.

HUGH FITZPATRICK,
P. C. 376.

In the County of Glamorgan, Petty Sessional Division of Dynaspowis.

Before the Court of Summary Jurisdiction sitting at Barry in the said county.
The 12th day of May 1905.

J. Legac (hereinafter called the defendant) is convicted for that he the said J. Legac on the 26th day of April 1905 at the parish of Barry in the county aforesaid did unlawfully refuse to attend as a witness before a person having the powers of a Board of Trade Inspector after having been required so to do in manner provided by section 729 of the Merchant Shipping Act, 1894, and after having had a tender made to him of the expenses to which he was entitled under that section against the form of the Statute in such case made and provided.

And it is adjudged that the said defendant for his said offence do forfeit and pay the sum of one pound to be paid and applied according to law, and also the sum of seven shillings for costs forthwith; and in default of payment it is ordered that the said sums be levied by distress and sale of the goods and chattels of the said defendant and in default of distress that the said defendant be imprisoned in His Majesty's prison at Cardiff, in the county of Glamorgan, there to be kept for the space of seven days unless the said several sums and all costs and charges of the said distress and of the commitments sent and conveying of the said defendant to prison be sooner paid.

J. B. FERRIER (L.S.)
J. W. PYMAN (L.S.)

I certify the above to be a true copy of a conviction filed in my office, 2nd June 1905.

MANSEL FRANKLEN,
Clerk of the Peace for the County of Glamorgan.

No. 246, MARINE, 3RD AUGUST 1910.

SUMMONS.

To attend a preliminary inquiry by an officer of Customs, or Coast Guard, or by a person appointed for the purpose under section 465 of the Merchant Shipping Act, 1894. Issued by the Board of Trade.

To

Christian name, surname and occupation of person referred to in the summons.		Name and port of registry of ship in respect of which inquiry is to be instituted.	
Name.	Occupation or rating on board-ship.	Name.	Port of registry.

TAKE NOTICE that I hereby, by virtue of the provisions of the Merchant Shipping Act, 1894, require you to attend personally before me at _____ of the clock in the _____ on _____ day, the _____ instant, at _____ noon, for the purpose of being examined on oath relative to the _____ of the said ship [And I also require you then and there to bring with you and produce the official log book of the ship, and all other documents containing any information on the subject of the casualty].

57 & 58
Vict., c. 60,
ss. 465 and
729.

The words
within the
brackets only
apply in the
case of a
master or
other person
having the
charge of the
log book and
are to be
erased in all
other cases.

Given under my hand at
this _____ day of _____
19 _____
Inspecting Officer of the Coast Guard,*
Chief Officer of Customs,*
Person appointed by the Board of Trade.*

Note.—Any person neglecting or refusing to attend as required by this summons will incur a PENALTY not exceeding TEN POUNDS.—vide section 729 of the Merchant Shipping Act, 1894. All proper and reasonable expenses in respect of a witness's attendance will be paid.

Note. This form is to be used by Inspecting officers of the Coast Guard, Chief officers of Customs, and persons appointed by the Board of Trade when witnesses refuse to attend at a preliminary inquiry under section 465 of the Merchant Shipping Act, 1894.

Endorsement of the Government of India, Department of Commerce and Industry (Merchant Shipping), No. 1571—5174—36, dated 18th July 1910.

A copy of the foregoing (with its enclosures) is forwarded to the Governments of Madras and Bengal, Marine department; Burma, Commerce department, and Eastern Bengal and Assam, Public Works (Marine) department, for information.

(By Order, etc.)

A. C. McWATTERS,

Under Secretary to the Government of India.

To the Government of Madras, Marine department.

Order—No. 246, Marine, dated 3rd August 1910.
Recorded.
(True Extract.)

W. S. MEYER,
Chief Secretary.

- To the Presidency Port Officer.
- Chairman, Port Trust Board.
- District Magistrates of Maritime Districts.
- Chief Presidency Magistrate.
- Resident in Travancore and Cochin (through the Political department).
- British Consul, Pondicherry.

Copy to the Judicial Department.
Forwarded to

(By Order.)

Registrar,
Local and Muni. Dept.

G.O., No. 246, 3rd August 1910.
Enquiries into Shipping Casualties.

Recording endorsement of the Government of India, department of Commerce and Industry, No. 5171—5174—36, dated 18th July 1910, forwarding for information copy of letter to the Government of Bombay on the subject of the practice followed in the United Kingdom in summoning the officers and crews of foreign vessels to attend as witnesses at preliminary investigations into shipping casualties.

7.

PRESS SLIP.

ORDINARY.

PREFERENCE.

URGENT (a).
REC-7
4 AUG 1910
MADRAS

DEPARTMENT.

Current No. 868., dated 18.7.10 190
G.O., No. 246., dated 3.8.10 190

Number of MS. pages sent { Correspondence (b) 15
Notes (b) 10

Brief subject... *slip mi canaries*

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(a) If a paper is marked to be printed urgently, the Superintendent of the section concerned should sign the Press slip. The Superintendent should exercise a careful discretion in the matter.

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(b¹) For rules regarding printing of notes, see rule 315 of the Office Manual.

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(e) This slip, properly and completely filled in, should accompany every paper sent to Press; it will be returned by the Press when proofs are furnished; it should be sent to the Press when a call is made for revised proofs or when a corrected proof is sent for striking. When finally returned by the Press it should be filed with the original order or letter.

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(c) Signature copies of letters to the Secretary of State or to the Government of India should be printed on hand-made paper.

(d) This slip should be returned by the Press to the Secretariat when proofs are furnished; it will be sent back to the Press when proofs are returned corrected and should be finally returned to the Secretariat when struck-off copies are supplied.

C. M. SCHMIDT,
Registrar,
Chief Secretariat

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‡ To be initialed and dated.

280
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(P.T.O.)

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.....Supdt.	Supdt.	Supdt.

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